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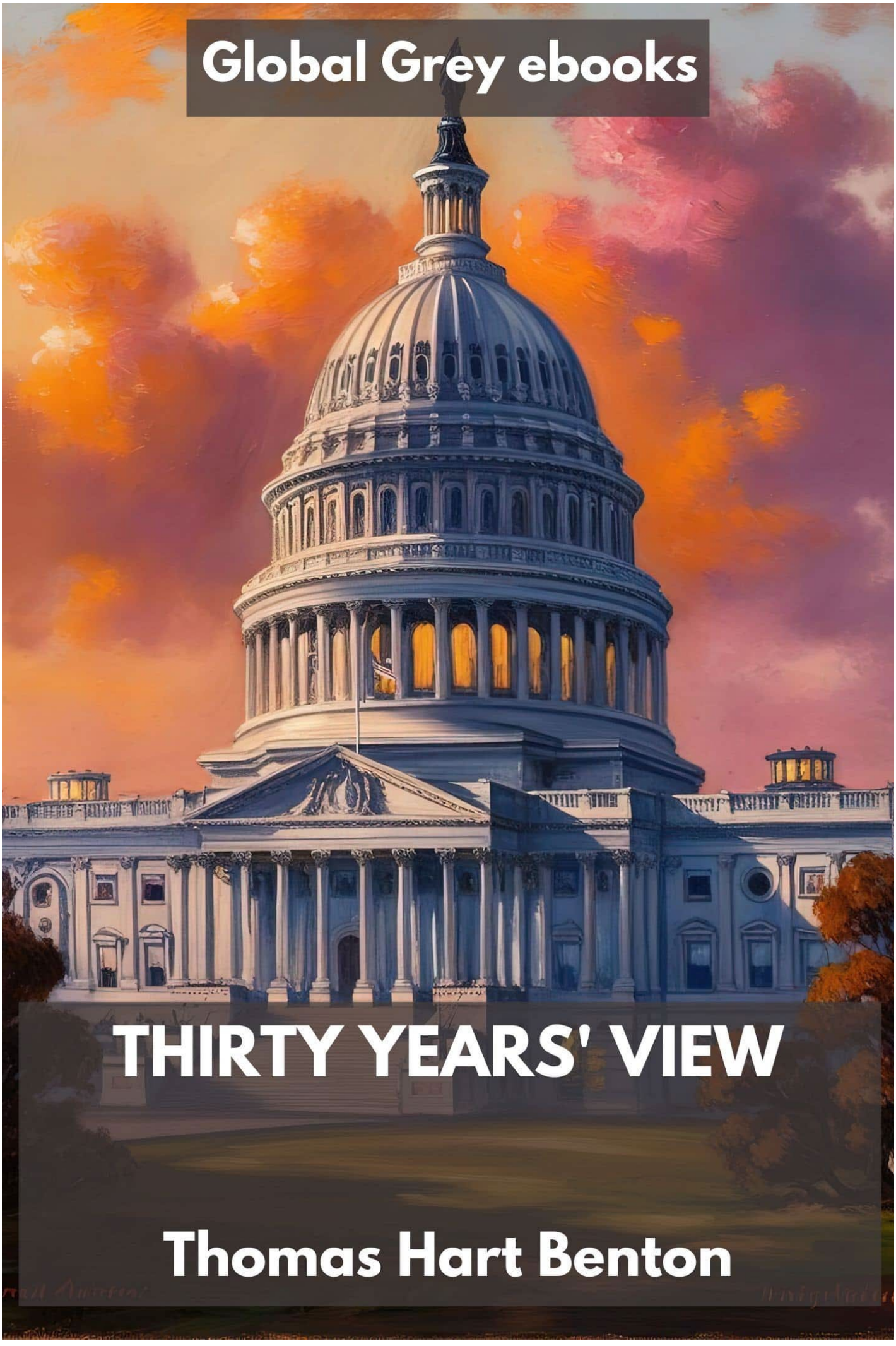

THIRTY YEARS' VIEW

Thomas Hart Benton

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THOMAS HART BENTON

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Contents

Volume I

Auto-Biographical Sketch

[The outlines of the life of the lately deceased Thomas H. Benton, which are contained in the following pages, were prepared by the author and subject of them whilst he was suffering excruciating pain from the disease that, a few weeks later, closed his earthly career. They were not intended for a Biography, properly so called, but rather to present some salient points of character and some chief incidents of life, and in respect of them, at least, to govern subsequent Biographies.]

Thomas Hart Benton, known as a senator for thirty years in Congress, and as the author of several works, was born in Orange County, near Hillsborough, North Carolina, March 14th, 1782; and was the son of Col. Jesse Benton, an able lawyer of that State, and of Ann Gooch, of Hanover county, Virginia, of the family of the Gooches of colonial residence in that State. By this descent, on the mother's side, he took his name from the head of the Hart family (Col. Thomas Hart, of Lexington, Kentucky), his mother's maternal uncle; and so became related to the numerous Hart family. He was cousin to Mrs. Clay, born Lucretia Hart, the wife of Henry Clay; and, by an easy mistake, was often quoted during his public life as the relative of Mr. Clay himself. He lost his father before he was eight years of age, and fell under the care of a mother still young, and charged with a numerous family, all of tender age—and devoting herself to them. She was a woman of reading and observation—solid reading, and observation of the men of the Revolution, brought together by course of hospitality of that time, in which the houses of friends, and not taverns, were the universal stopping places. Thomas was the oldest son, and at the age of ten and twelve was reading solid books with his mother, and studying the great examples of history, and receiving encouragement to emulate these examples. His father's library, among others, contained the famous State Trials, in the large folios of that time, and here he got a foundation of British history, in reading the treason, and other trials, with which these volumes abound. She was also a pious and religious woman, cultivating the moral and religious education of her children, and connected all her life with the Christian church; *first*, as a member of the English Episcopalian, and when removal to the Great West, then in the wilderness, had broken that connection, then in the Methodist Episcopalian—in which she died. All the minor virtues, as well as the greater, were cherished by her; and her house, the resort of the eminent men of the time, was the abode of temperance, modesty, decorum. A pack of cards was never seen in her house. From such a mother all the children received the impress of future character; and she lived to see the fruits of her pious and liberal cares—living a widow above fifty years, and to see her eldest son half through his senatorial career, and taking his place among the historic men of the country for which she had begun so early to train him. These details deserve to be noted, though small in themselves, as showing how much the after life of the man may depend upon the early cares and guidance of a mother.

His scholastic education was imperfect: *first*, at a grammar school taught by Richard Stanford, Esq., then a young New England emigrant, soon after, and for many years, and until death, a representative in Congress, noted as the life-long friend of Macon and Randolph. Afterwards he was at Chapel Hill, the University of North Carolina, but finished no course of study there, his mother removing to Tennessee, where his father had acquired great landed property (40,000 acres), and intended to make Nashville his home; and now, as the eldest of the family, though not grown, the care and management of a new settlement, in a new country, fell upon him. The family went upon a choice tract of 3000 acres, on West Harpeth, twenty-five miles south of Nashville, where for several years the main care was the opening a

farm in the wilderness. Wilderness! for such was the state of the country at that time within half a day's ride of the city of Nashville. "The widow Benton's settlement" was the outside settlement between civilization and the powerful southern tribes which spread to the Gulf of Mexico. The Indian wars had just been terminated, and the boundary which these great tribes were enabled to exact brought their frontier almost to the gates of Nashville—within 25 miles! for the line actually touched the outside line of the estate. The Indians swarmed about it. Their great war trace (the trace on which they came for blood and plunder in time of war, for trade in time of peace) led through it. Such a position was not to be maintained by a small family alone—a widow, and every child under age, only some twenty odd slaves. It required strength! and found it in the idea of a little colony—leases to settlers without price, for seven years; moderate rents afterwards. The tract was well formed for the purpose, being four miles square, with every attraction for settlement—rich land fine wood, living streams. Settlers came; the ground was covered over: it was called "Benton Town," and retains the name to this day. A rude log school-house, a meeting house of the same primitive structure, with roads and mills, completed the rapid conversion of this wilderness into an abode of civilization. The scholastic education of her son had ceased, but reading continued; and books of solid instruction became his incessant companions. He has been heard to say that, in no period of his life, has he ever read so much, nor with as much system and regularity, nor with the same profit and delight. History and geography was (what he considered) his light reading; national law, the civil law, the common law—and, finally, the law itself, so usually read by law students—constituted his studies. And all this reading, and study, was carried on during the active personal exertions which he gave to the opening of the farm and to the ameliorations upon it which comfort exacted.

Then came the law license, indulgently granted by the three Superior Court Judges—White, Overton, and Campbell—the former afterwards senator in Congress, Overton an eminent lawyer before he was a Superior Court judge, and Campbell, one of the respectable early settlers and lawyers of the State. The law license signed, practice followed, and successful—Gen. Jackson, Gen. James Robertson, Judge McNairy, Major Thomas Hardeman, and the old heads of the population giving him their support and countenance as a young man that might become useful to the State, and so deserved to be encouraged. Scarcely at the bar, and a legislative career was opened to him. He was elected to the General Assembly of the State; and, though serving but for a single session, left the impress of his mind and principles on the statute book, and on the public policy. He was the author of the Judicial Reform Act, by which the old system of Superior Courts was substituted by the circuit system, in which the administration of justice was relieved of great part of its delay, of its expense, and of much of its inconvenience to parties and witnesses. And he was the author of a humane law, giving to slaves the same full benefit of jury trial which was the right of the white man under the same accusation—a law which still remains on the statute book, but has lost its effect under the fatal outside interference which has checked the progress of Southern slave policy amelioration, and turned back the current which was setting so strongly in favor of mitigating the condition of the slave.

Returning to the practice of the law, the war of 1812 broke out. Volunteers were called for, to descend the rivers to New Orleans, to meet the British, expected there in the winter of 1812-'13, but not coming until the winter of 1814-'15. Three thousand volunteers were raised! raised in a flash! under the *prestige* of Jackson's name—his patriotic proclamation—and the ardent addresses of Benton, flying from muster ground to muster ground, and stimulating the inherent courage and patriotism of the young men. They were formed into three regiments, of which Benton was colonel of one. He had been appointed aide-de-camp to Jackson (then a major-general in the Tennessee militia), on the first symptoms of war with Great Britain, and

continued to perform many of the most intimate duties of that station, though, as colonel of a regiment, he could not hold the place. The force descended to the Lower Mississippi: the British did not come; the volunteers returned to Tennessee, were temporarily disbanded, but called again into service by Gen. Jackson at the breaking out of the Creek war. These volunteers were the foundation of all Jackson's subsequent splendid career; and the way in which, through their means, he was enabled to get into the regular army, is a most curious piece of history, not told anywhere but by Col. Benton, as a member of the House of Representatives, on the presentation of Jackson's sword (Feb. 26th, 1855). That piece of unknown history, which could only come from one who was part and parcel of the transaction, deserves to be known, and to be studied by every one who is charged with the administration of government, and by every one who would see with what difficulties genius and patriotism may have to contend—with what chances they may have to wrestle—before they get an opportunity to fulfil a destiny for which they were born.

The volunteers disbanded, Col. Benton proceeded to Washington, and was appointed by Mr. Madison a lieutenant-colonel of infantry in the army (1813); and afterwards (1814-15) proceeding to Canada, where he had obtained service, he met the news of peace; and desiring no service in time of peace, he was within a few months on the west bank of the Mississippi, St. Louis his home, and the profession of the law ardently recommenced. In four years the State of Missouri was admitted into the Union, and Col. Benton was elected one of her first senators; and, continuously by successive elections, until 1851. From that time his life was in the public eye, and the bare enumeration of the measures of which he was the author, and the prime promoter, would be almost a history of Congress legislation. The enumeration is unnecessary here: the long list is known throughout the length and breadth of the land—repeated with the familiarity of household words from the great cities on the seaboard to the lonely cabins on the frontier—and studied by the little boys who feel an honorable ambition beginning to stir within their bosoms, and a laudable desire to learn something of the history of their country.

Omitting this detail of well-known measures, we proceed to something else characteristic of Senator Benton's legislative life, less known, but necessary to be known to know the man. He never had a clerk, nor even a copyist; but did his own writing, and made his own copies. He never had office, or contract, for himself, or any one of his blood. He detested office seeking, and office hunting, and all changes in politics followed by demand for office. He was never in any Congress caucus, or convention to nominate a President or Vice-President, nor even suffered his name to go before such a body for any such nominations. He refused many offices which were pressed upon him—the mission to Russia, by President Jackson; war minister, by Mr. Van Buren; minister to France, by Mr. Polk. Three appointments were intended for him, which he would have accepted if the occasions had occurred—command of the army by General Jackson, if war took place with Mexico during his administration; the same command by the same President, if war had taken place with France, in 1836; the command of the army in Mexico, by President Polk, with the rank of lieutenant-general, if the bill for the rank had not been defeated in the Senate after having passed the House by a general vote. And none of these military appointments could have wounded professional honor, as Col. Benton, at the time of his retiring from the army, ranked all those who have since reached its head.

Politically, Col. Benton always classed democratically, but with very little regard for modern democracy, founded on the platforms which the little political carpenters reconstruct about every four years, generally out of office-timber, sometimes green and sometimes rotten, and in either case equally good, as the platform was only wanted to last until after the election. He admitted no platform of political principles but the constitution, and viewed as impertinent

and mischievous the attempt to expound the constitution, periodically, in a set of hurrah resolutions, juggled through the fag-end of a packed convention, and held to be the only test of political salvation during its brief day of supremacy.

His going to Missouri, then a Territory under the pupillage of Congress, was at a period of great interest both for the Territory and the Union. Violent parties were there, as usual in Territories, and great questions coming on upon which the future fate of the State, and perhaps of the Union, depended. The Missouri controversy soon raged in Congress, throughout the States, and into the Territory. An active restriction party was in the Territory, largely reinforced by outside aid, and a decided paper was wanting to give the proper tone to the public mind. Col. Benton had one set up, and wrote for it with such point and vigor that the Territory soon presented a united front, and when the convention election came round there was but one single delegate elected on the side of restriction. This united front had an immense effect in saving the question in Congress.

Besides his legislative reports, bills and speeches, sufficient to fill many volumes, Col. Benton is known as the author of some literary works—the Thirty Years' View of the inside working of the Federal Government; the Abridgment of Debates of Congress from 1789 to (intended) 1856; and an examination of the political part (as he deemed it) of the Supreme Court's decision in the Dred Scott case, that part of it which pronounced the abrogation of the Missouri Compromise line and the self-extension of the Constitution to Territories carrying African slavery along with it, and keeping it there in defiance of Congress or the people of the Territory. There was also a class of speeches, of which he delivered many, which were out of the line of political or legislative discussion; and may be viewed as literary. They were the funeral eulogiums which the custom of Congress began to admit, though not to the degree at present practised, over deceased members. These eulogiums were universally admired, and were read over Europe, and found their charm in the *perception of character which they exhibited*; in the perception of the qualities which constituted the man, and gave him identity and individuality. These qualities, thus perceived (and it requires intimate acquaintance with the man, and some natural gift, to make the perception), and presented with truth and simplicity, imparted the interest to these eulogiums which survives many readings, and will claim lasting places in biographies.

While in the early part of life, at Nashville and at St. Louis, duels and affrays were common; and the young Benton had his share of them: a very violent affray between himself and brother on one side, and Genl. Jackson and some friends on the other, in which severe pistol and dagger wounds were given, but fortunately without loss of life; and the only use for which that violent collision now finds a reference is in its total oblivion by the parties, and the cordiality with which they acted together for the public good in their subsequent long and intimate public career. A duel at St. Louis ended fatally, of which Col. Benton has not been heard to speak except among intimate friends, and to tell of the pang which went through his heart when he saw the young man fall, and would have given the world to see him restored to life. As the proof of the manner in which he looks upon all these scenes, and his desire to bury all remembrance of them forever, he has had all the papers burnt which relate to them, that no future curiosity or industry should bring to light what he wishes had never happened.

Col. Benton was married, after becoming Senator, to Elizabeth, daughter of Col. James McDowell, of Rockbridge county, Virginia, and of Sarah his wife, born Sarah Preston; and has surviving issue four daughters: Mrs. William Carey Jones, Mrs. Jessie Ann Benton Fremont, Mrs. Sarah Benton Jacob, and Madame Susan Benton Boilleau, now at Calcutta, wife of the French consul general—all respectable in life and worthy of their mother, who was a woman of singular merit, judgment, elevation of character, and regard for every social

duty, crowned by a life-long connection with the church in which she was bred, the Presbyterian old school. Following the example of their mother, all the daughters are members of some church. Mrs. Benton died in 1854, having been struck with paralysis in 1844, and from the time of that calamity her husband was never known to go to any place of festivity or amusement.

Preface

1.—MOTIVES FOR WRITING THIS WORK.

Justice to the men with whom I acted, and to the cause in which we were engaged, is my chief motive for engaging in this work. A secondary motive is the hope of being useful to our republican form of government in after ages by showing its working through a long and eventful period; working well all the time, and thereby justifying the hope of its permanent good operation in all time to come, if maintained in its purity and integrity. Justice to the wise and patriotic men who established our independence, and founded this government, is another motive with me. I do not know how young I was when I first read in the speeches of Lord Chatham, the encomium which he pronounced in the House of Lords on these founders of our republic; but it sunk deep into my memory at the time, and, what is more, went deep into the heart: and has remained there ever since. “When your lordships look at the papers transmitted us from America; when you consider their decency, firmness, and wisdom, you cannot but respect their cause, and wish to make it your own. For myself, I must declare and avow, that in all my reading and observation—and it has been my favorite study—I have read Thucydides, and have studied and admired the master states of the world—that for solidity of reasoning, force of sagacity, and wisdom of conclusion, under such a complication of difficult circumstances, no nation, or body of men, can stand in preference to the general congress at Philadelphia.” This encomium, so just and so grand, so grave and so measured, and the more impressive on account of its gravity and measure, was pronounced in the early part of our revolutionary struggle—in its first stage—and before a long succession of crowning events had come to convert it into history, and to show of how much more those men were capable than they had then done. If the great William Pitt—greater under that name than under the title he so long refused—had lived in this day, had lived to see these men making themselves exceptions to the maxim of the world, and finishing the revolution which they began—seen them found a new government and administer it in their day and generation, and until “gathered to their fathers,” and all with the same wisdom, justice, moderation, and decorum, with which they began it: if he had lived to have seen all this, even his lofty genius might have recoiled from the task of doing them justice;—and, I may add, from the task of doing justice to the People who sustained such men. Eulogy is not my task; but gratitude and veneration is the debt of my birth and inheritance, and of the benefits which I have enjoyed from their labors; and I have proposed to acknowledge this debt—to discharge it is impossible—in laboring to preserve their work during my day, and in now commending it, by the fruits it has borne, to the love and care of posterity. Another motive, hardly entitled to the dignity of being named, has its weight with me, and belongs to the rights of “self-defence.” I have made a great many speeches, and have an apprehension that they may be published after I am gone—published in the gross, without due discrimination—and so preserve, or perpetuate, things said, both of men and of measures, which I no longer approve, and would wish to leave to oblivion. By making selections of suitable parts of these speeches, and weaving them into this work, I may hope to prevent a general publication—or to render it harmless if made. But I do not condemn all that I leave out.

2.—QUALIFICATIONS FOR THE WORK.

Of these I have one, admitted by all to be considerable, but by no means enough of itself. Mr. Macaulay says of Fox and Mackintosh, speaking of their histories of the last of the Stuarts, and of the Revolution of 1688: “They had one eminent qualification for writing history; they had spoken history, acted history, lived history. The turns of political fortune, the ebb and

flow of popular feeling, the hidden mechanism by which parties are moved, all these things were the subject of their constant thought, and of their most familiar conversation. Gibbon has remarked, that his history is much the better for his having been an officer in the militia, and a member of the House of Commons. The remark is most just. We have not the smallest doubt that his campaigns, though he never saw an enemy, and his parliamentary attendance, though he never made a speech, were of far more use to him than years of retirement and study would have been. If the time that he spent on parade and at mess in Hampshire, or on the Treasury bench and at Brooke's, during the storms which overthrew Lord North and Lord Shelburne, had been passed in the Bodleian Library, he might have avoided some inaccuracies; he might have enriched his notes with a greater number of references; but he never could have produced so lively a picture of the court, the camp, and the senate-house. In this respect Mr. Fox and Sir James Mackintosh had great advantages over almost every English historian since the time of Burnet."—I can say I have these advantages. I was in the Senate the whole time of which I write—an active business member, attending and attentive—in the confidence of half the administrations, and a close observer of the others—had an inside view of transactions of which the public only saw the outside, and of many of which the two sides were very different—saw the secret springs and hidden machinery by which men and parties were to be moved, and measures promoted or thwarted—saw patriotism and ambition at their respective labors, and was generally able to discriminate between them. So far, I have one qualification; but Mr. Macaulay says that Lord Lyttleton had the same, and made but a poor history, because unable to use his material. So it may be with me; but in addition to my senatorial means of knowledge, I have access to the unpublished papers of General Jackson, and find among them some that he intended for publication, and which will be used according to his intention.

3.—THE SCOPE OF THE WORK.

I do not propose a regular history, but a political work, to show the practical working of the government, and speak of men and events in subordination to that design, and to illustrate the character of Institutions which are new and complex—the first of their kind, and upon the fate of which the eyes of the world are now fixed. Our duplicate form of government, State and Federal, is a novelty which has no precedent, and has found no practical imitation, and is still believed by some to be an experiment. I believe in its excellence, and wish to contribute to its permanence, and believe I can do so by giving a faithful account of what I have seen of its working, and of the trials to which I have seen it subjected.

4.—THE SPIRIT OF THE WORK.

I write in the spirit of Truth, but not of unnecessary or irrelevant truth, only giving that which is essential to the object of the work, and the omission of which would be an imperfection, and a subtraction from what ought to be known. I have no animosities, and shall find far greater pleasure in bringing out the good and the great acts of those with whom I have differed, than in noting the points on which I deemed them wrong. My ambition is to make a veracious work, reliable in its statements, candid in its conclusions, just in its views, and which cotemporaries and posterity may read without fear of being misled.

Preliminary View

FROM 1815 TO 1820

The war with Great Britain commenced in 1812 and ended in 1815. It was a short war, but a necessary and important one, and introduced several changes, and made some new points of departure in American policy, which are necessary to be understood in order to understand the subsequent working of the government, and the VIEW of that working which is proposed to be given.

1. It struggled and labored under the state of the finances and the currency, and terminated without any professed settlement of the cause for which it began. There was no national currency—no money, or its equivalent, which represented the same value in all places. The first Bank of the United States had ceased to exist in 1811. Gold, from being undervalued, had ceased to be a currency—had become an article of merchandise, and of export—and was carried to foreign countries. Silver had been banished by the general use of bank notes, had been reduced to a small quantity, insufficient for a public demand; and, besides, would have been too cumbrous for a national currency. Local banks overspread the land; and upon these the federal government, having lost the currency of the constitution, was thrown for a currency and for loans. They, unequal to the task, and having removed their own foundations by banishing specie with profuse paper issues, sunk under the double load of national and local wants, and stopped specie payments—all except those of New England, which section of the Union was unfavorable to the war. Treasury notes were then the resort of the federal government. They were issued in great quantities; and not being convertible into coin at the will of the holder, soon began to depreciate. In the second year of the war the depreciation had already become enormous, especially towards the Canada frontier, where the war raged, and where money was most wanted. An officer setting out from Washington with a supply of these notes found them sunk one-third by the time he arrived at the northern frontier—his every three dollars counting but two. After all, the treasury notes could not be used as a currency, neither legally, nor in fact: they could only be used to obtain local bank paper—itself greatly depreciated. All government securities were under par, even for depreciated bank notes. Loans were obtained with great difficulty—at large discount—almost on the lender's own terms; and still attainable only in depreciated local bank notes. In less than three years the government, paralyzed by the state of the finances, was forced to seek peace, and to make it, without securing, by any treaty stipulation, the object for which war had been declared. Impressment was the object—the main one, with the insults and the outrages connected with it—and without which there would have been no declaration of war. The treaty of peace did not mention or allude to the subject—the first time, perhaps, in modern history, in which a war was terminated by treaty without any stipulation derived from its cause. Mr. Jefferson, in 1807, rejected upon his own responsibility, without even its communication to the Senate, the treaty of that year negotiated by Messrs. Monroe and Pinkney, because it did not contain an express renunciation of the practice of impressment—because it was silent on that point. It was a treaty of great moment, settled many troublesome questions, was very desirable for what it contained; but as it was silent on the main point, it was rejected, without even a reference to the Senate. Now we were in a like condition after a war. The war was struggling for its own existence under the state of the finances, and had to be stopped without securing by treaty the object for which it was declared. The object was obtained, however, by the war itself. It showed the British government that the people of the United States would fight upon that point—that she would have war again if she impressed

again: and there has been no impressment since. Near forty years without a case! when we were not as many days, oftentimes, without cases before, and of the most insulting and outrageous nature. The spirit and patriotism of the people in furnishing the supplies, volunteering for the service, and standing to the contest in the general wreck of the finances and the currency, without regard to their own losses—and the heroic courage of the army and navy, and of the militia and volunteers, made the war successful and glorious in spite of empty treasuries; and extorted from a proud empire that security in point of fact which diplomacy could not obtain as a treaty stipulation. And it was well. Since, and now, and henceforth, we hold exemption from impressment as we hold our independence—by right, and by might—and now want the treaty acknowledgment of no nation on either point. But the glorious termination of the war did not cure the evil of a ruined currency and defective finances, nor render less impressive the financial lesson which it taught. A return to the currency of the constitution—to the hard-money government which our fathers gave us—no connection with banks—no bank paper for federal uses—the establishment of an independent treasury for the federal government; this was the financial lesson which the war taught. The new generation into whose hands the working of the government fell during the Thirty Years, eventually availed themselves of that lesson:—with what effect, the state of the country since, unprecedentedly prosperous; the state of the currency, never deranged; of the federal treasury, never polluted with "unavailable funds," and constantly crammed to repletion with solid gold; the issue of the Mexican war, carried on triumphantly without a national bank, and with the public securities constantly above par—sufficiently proclaim. No other tongue but these results is necessary to show the value of that financial lesson, taught us by the war of 1812.

2. The establishment of the second national bank grew out of this war. The failure of the local banks was enough to prove the necessity of a national currency, and the re-establishment of a national bank was the accepted remedy. No one seemed to think of the currency of the constitution—especially of that gold currency upon which the business of the world had been carried on from the beginning of the world, and by empires whose expenses for a week were equal to those of the United States for a year, and which the framers of the constitution had so carefully secured and guarded for their country. A national bank was the only remedy thought of. Its constitutionality was believed by some to have been vindicated by the events of the war. Its expediency was generally admitted. The whole argument turned upon the word "necessary," as used in the grant of implied powers at the end of the enumeration of powers expressly granted to Congress; and this *necessity* was affirmed and denied on each side at the time of the establishment of the first national bank, with a firmness and steadiness which showed that these fathers of the constitution knew that the whole field of argument lay there. Washington's queries to his cabinet went to that point; the close reasoning of Hamilton and Jefferson turned upon it. And it is worthy of note, in order to show how much war has to do with the working of government, and the trying of its powers, that the strongest illustration used by General Hamilton, and the one, perhaps, which turned the question in Washington's mind, was the state of the Indian war in the Northwest, then just become a charge upon the new federal government, and beginning to assume the serious character which it afterward attained. To carry on war at that time, with such Indians as were then, supported by the British traders, themselves countenanced by their government, at such a distance in the wilderness, and by the young federal government, was a severe trial upon the finances of the federal treasury, as well as upon the courage and discipline of the troops; and General Hamilton, the head of the treasury, argued that with the aid of a national bank, the war would be better and more successfully conducted: and, therefore, that it was "*necessary*," and might be established as a means of executing a granted power, to wit, the power of making war. That war terminated well; and the bank having been established in the mean time, got the credit of having furnished its "sinews." The war of 1812 languished under the state of the

finances and the currency, no national bank existing; and this want seemed to all to be the cause of its difficulties, and to show the necessity for a bank. The second national bank was then established—many of its old, most able, and conscientious opponents giving in to it, Mr. Madison at their head. Thus the question of a national bank again grew up—grew up out of the events of the war—and was decided against the strict construction of the constitution—to the weakening of a principle which was fundamental in the working of the government, and to the damage of the party which stood upon the doctrine of a strict construction of the constitution. But in the course of the "Thirty Years" of which it is proposed to take a "View," some of the younger generation became impressed with the belief that the constitutional currency had not had a fair trial in that war of 1812! that, in fact, it had had no trial at all! that it was not even in the field! not even present at the time when it was supposed to have failed! and that it was entitled to a trial before it was condemned. That trial has been obtained. The second national bank was left to expire upon its own limitation. The gold currency and the independent treasury were established. The Mexican war tried them. They triumphed. And thus a national bank was shown to be "unnecessary," and therefore unconstitutional. And thus a great question of constitutional construction, and of party division, three times decided by the events of war, and twice against the constitution and the strict constructionists, was decided the last time in their favor; and is entitled to stand, being the last, and the only one in which the constitutional currency had a trial.

3. The protection of American industry, as a substantive object, independent of the object of revenue, was a third question growing out of the war. Its incidental protection, under the revenue clause in the constitution, had been always acknowledged, and granted; but protection as a substantive object was a new question growing out of the state of things produced by the war. Domestic manufactures had taken root and grown up during the non-importation periods of the embargo, and of hostilities with Great Britain, and under the temporary double duties which ensued the war, and which were laid for revenue. They had grown up to be a large interest, and a new one, classing in importance after agriculture and commerce. The want of articles necessary to national defence, and of others essential to individual comfort—then neither imported nor made at home—had been felt during the interruption of commerce occasioned by the war; and the advantage of a domestic supply was brought home to the conviction of the public mind. The question of protection for the sake of protection was brought forward, and carried (in the year 1816); and very unequivocally in the *minimum* provision in relation to duties on cotton goods. This reversed the old course of legislation—made protection the object instead of the incident, and revenue the incident instead of the object; and was another instance of constitutional construction being made dependent, not upon its own words but upon extrinsic, accidental and transient circumstances. It introduced a new and a large question of constitutional law, and of national expediency, fraught with many and great consequences, which fell upon the period of the Thirty Years' View to settle, or to grapple with.

4. The question of internal improvement within the States, by the federal government, took a new and large development after the war. The want of facilities of transportation had been felt in our military operations. Roads were bad, and canals few; and the question of their construction became a prominent topic in Congress common turnpike roads—for railways had not then been invented, nor had MacAdam yet given his name to the class of roads which has since borne it. The power was claimed as an incident to the granted powers—as a means of doing what was authorized—as a means of accomplishing an end: and the word "necessary" at the end of the enumerated powers, was the phrase in which this incidental power was claimed to have been found. It was the same derivation which was found for the creation of a national bank, and involved very nearly the same division of parties. It greatly

complicated the national legislation from 1820 to 1850, bringing the two parts of our double system of government—State and Federal—into serious disagreement, and threatening to compromise their harmonious action. Grappled with by a strong hand, it seemed at one time to have been settled, and consistently with the rights of the States; but sometimes returns to vex the deliberations of Congress. To territories the question did not extend. They have no political rights under the constitution, and are governed by Congress according to its discretion, under that clause which authorizes it to "dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The improvement of rivers and harbors, was a branch of the internal improvement question, but resting on a different clause in the constitution—the commercial and revenue clause—and became complex and difficult from its extension to small and local objects. The party of strict construction contend for its restriction to national objects—rivers of national character, and harbors yielding revenue.

5. The boundaries between the treaty-making and the legislative departments of the government, became a subject of examination after the war, and gave rise to questions deeply affecting the working of these two departments. A treaty is the supreme law of the land, and as such it becomes obligatory on the House of Representatives to vote the money which it stipulates, and to co-operate in forming the laws necessary to carry it into effect. That is the broad proposition. The qualification is in the question whether the treaty is confined to the business of the treaty-making power? to the subjects which fall under its jurisdiction? and does not encroach upon the legislative power of Congress? This is the qualification, and a vital one: for if the President and Senate, by a treaty with a foreign power, or a tribe of Indians, could exercise ordinary legislation, and make it supreme, a double injury would have been done, and to the prejudice of that branch of the government which lies closest to the people, and emanates most directly from them. Confinement to their separate jurisdictions is the duty of each; but if encroachments take place, which is to judge? If the President and Senate invade the legislative field of Congress, which is to judge? or who is to judge between them? or is each to judge for itself? The House of Representatives, and the Senate in its legislative capacity, but especially the House, as the great constitutional depository of the legislative power, becomes its natural guardian and defender, and is entitled to deference, in the event of a difference of opinion between the two branches of the government. The discussions in Congress between 1815 and 1820 greatly elucidated this question; and while leaving unimpugned the obligation of the House to carry into effect a treaty duly made by the President and Senate within the limits of the treaty making power—upon matters subject to treaty regulation—yet it belongs to the House to judge when these limits have been transcended, and to preserve inviolate the field of legislation which the constitution has intrusted to the immediate representatives of the people.

6. The doctrine of secession—the right of a State, or a combination of States, to withdraw from the Union, was born of that war. It was repugnant to the New England States, and opposed by them, not with arms, but with argument and remonstrance, and refusal to vote supplies. They had a convention, famous under the name of Hartford, to which the design of secession was imputed. That design was never avowed by the convention, or authentically admitted by any leading member; nor is it the intent of this reference to decide upon the fact of that design. The only intent is to show that the existence of that convention raised the question of secession, and presented the first instance of the greatest danger in the working of the double form of our government—that of a collision between a part of the States and the federal government. This question, and this danger, first arose then—grew out of the war of 1812—and were hushed by its sudden termination; but they have reappeared in a different quarter, and will come in to swell the objects of the Thirty Years' View. At the time of its

first appearance the right of secession was repulsed and repudiated by the democracy generally, and in a large degree by the federal party—the difference between a Union and a League being better understood at that time when so many of the fathers of the new government were still alive. The leading language in respect to it south of the Potomac was, that no State had a right to withdraw from the Union—that it required the same power to dissolve as to form the Union—and that any attempt to dissolve it, or to obstruct the action of constitutional laws, was treason. If, since that time, political parties and sectional localities, have exchanged attitudes on this question, it cannot alter the question of right, and may receive some interest from the development of causes which produce such changes. Secession, a question of speculation during the war of 1812, has become a practical question (almost) during the Thirty Years; and thus far has been "compromised," not settled.

7. Slavery agitation took its rise during this time (1819-'20), in the form of attempted restriction on the State of Missouri—a prohibition to hold slaves, to be placed upon her as a condition of her admission into the Union, and to be binding upon her afterwards. This agitation came from the North, and under a federal lead, and soon swept both parties into its vortex. It was quieted, so far as that form of the question was concerned, by admitting the State without restriction, and imposing it on the remainder of the Louisiana territory north and west of that State, and above the parallel of 36 degrees, 30 minutes; which is the prolongation of the southern boundary line of Virginia and Kentucky. This was called a "compromise," and was all clear gain to the antislavery side of the question, and was done under the lead of the united slave state vote in the Senate, the majority of that vote in the House of Representatives, and the undivided sanction of a Southern administration. It was a Southern measure, and divided free and slave soil far more favorably to the North than the ordinance of 1787. That divided about equally: this of 1820 gave about all to the North. It abolished slavery over an immense extent of territory where it might then legally exist, over nearly the whole of Louisiana, left it only in Florida and Arkansas territory, and opened no new territory to its existence. It was an immense concession to the non-slaveholding States; but the genius of slavery agitation was not laid. It reappeared, and under different forms, first from the North, in the shape of petitions to Congress to influence legislation on the subject; then from the South, as a means of exciting one half the Union against the other, and laying the foundation for a Southern confederacy. With this new question, in all its forms, the men of the new generation have had to grapple for the whole period of the "Thirty Years."

8. The war had created a debt, which, added to a balance of that of the Revolution, the purchase of Louisiana, and some other items, still amounted to ninety-two millions of dollars at the period of the commencement of this "View;" and the problem was to be solved, whether a national debt could be paid and extinguished in a season of peace, leaving a nation wholly free from that encumbrance; or whether it was to go on increasing, a burthen in itself, and absorbing with its interest and changes an annual portion of the public revenues. That problem was solved, contrary to the experience of the world, and the debt paid; and the practical benefit added to the moral, of a corresponding reduction in the public taxes.

9. Public distress was a prominent feature of the times to be embraced in this Preliminary View. The Bank of the United States was chartered in 1816, and before 1820 had performed one of its cycles of delusive and bubble prosperity, followed by actual and wide-spread calamity. The whole paper system, of which it was the head and the citadel, after a vast expansion, had suddenly collapsed, spreading desolation over the land, and carrying ruin to debtors. The years 1819 and '20 were a period of gloom and agony. No money, either gold or silver: no paper convertible into specie: no measure, or standard of value, left remaining. The local banks (all but those of New England), after a brief resumption of specie payments, again sank into a state of suspension. The Bank of the United States, created as a remedy for

all those evils, now at the head of the evil, prostrate and helpless, with no power left but that of suing its debtors, and selling their property, and purchasing for itself at its own nominal price. No price for property, or produce. No sales but those of the sheriff and the marshal. No purchasers at execution sales but the creditor, or some hoarder of money. No employment for industry—no demand for labor—no sale for the product of the farm—no sound of the hammer, but that of the auctioneer, knocking down property. Stop laws—property laws—replevin laws—stay laws—loan office laws—the intervention of the legislator between the creditor and the debtor: this was the business of legislation in three-fourths of the States of the Union—of all south and west of New England. No medium of exchange but depreciated paper: no change even, but little bits of foul paper, marked so many cents, and signed by some tradesman, barber, or innkeeper: exchanges deranged to the extent of fifty or one hundred per cent. Distress, the universal cry of the people: Relief, the universal demand thundered at the doors of all legislatures, State and federal. It was at the moment when this distress had reached its maximum—1820-'21—and had come with its accumulated force upon the machine of the federal government, that this "View" of its working begins. It is a doleful starting point, and may furnish great matter for contrast, or comparison, at its concluding period in 1850.

Such were some of the questions growing out of the war of 1812, or immediately ensuing its termination. That war brought some difficulties to the new generation, but also great advantages, at the head of them the elevation of the national character throughout the world. It immensely elevated the national character, and, as a consequence, put an end to insults and outrages to which we had been subject. No more impressments: no more searching our ships: no more killing: no more carrying off to be forced to serve on British ships against their own country. The national flag became respected. It became the Ægis of those who were under it. The national character appeared in a new light abroad. We were no longer considered as a people so addicted to commerce as to be insensible to insult: and we reaped all the advantages, social, political, commercial, of this auspicious change. It was a war necessary to the honor and interest of the United States, and was bravely fought, and honorably concluded, and makes a proud era in our history. I was not in public life at the time it was declared, but have understood from those who were, that, except for the exertions of two men (Mr. Monroe in the Cabinet, and Mr. Clay in Congress), the declaration of war could not have been obtained. Honor to their memories!

1. Personal Aspect Of The Government

All the departments of the government appeared to great advantage in the personal character of their administrators at the time of my arrival as Senator at Washington. Mr. Monroe was President; Governor Tompkins, Vice-President; Mr. John Quincy Adams, Secretary of State; Mr. William H. Crawford, Secretary of the Treasury; Mr. John C. Calhoun, Secretary at War; Mr. Smith Thompson, of New-York, Secretary of the Navy; Mr. John McLean, Postmaster General; William Wirt, Esq., Attorney General. These constituted the Executive Department, and it would be difficult to find in any government, in any country, at any time, more talent and experience, more dignity and decorum, more purity of private life, a larger mass of information, and more addiction to business, than was comprised in this list of celebrated names. The legislative department was equally impressive. The Senate presented a long list of eminent men who had become known by their services in the federal or State governments, and some of them connected with its earliest history. From New-York there were Mr. Rufus King and Nathan Sanford; from Massachusetts, Mr. Harrison Gray Otis; from North Carolina, Mr. Macon and Governor Stokes; from Virginia, the two Governors, James Barbour and James Pleasants; from South Carolina, Mr. John Gaillard, so often and so long President, *pro tempore*, of the Senate, and Judge William Smith; from Rhode Island, Mr. William Hunter; from Kentucky, Colonel Richard M. Johnson; from Louisiana, Mr. James Brown and Governor Henry Johnson; from Maryland, Mr. William Pinkney and Governor Edward Lloyd from New Jersey, Mr. Samuel L. Southard; Colonel John Williams, of Tennessee; William R. King and Judge Walker, from Alabama; and many others of later date, afterwards becoming eminent, and who will be noted in their places. In the House of Representatives there was a great array of distinguished and of business talent. Mr. Clay, Mr. Randolph, Mr. Lowndes were there. Mr. Henry Baldwin and Mr. John Sergeant, from Pennsylvania; Mr. John W. Taylor, Speaker, and Henry Storrs, from New-York; Dr. Eustis, of revolutionary memory, and Nathaniel Silsbee, of Massachusetts; Mr. Louis McLane, from Delaware; General Samuel Smith, from Maryland; Mr. William S. Archer, Mr. Philip P. Barbour, General John Floyd, General Alexander Smythe, Mr. John Tyler, Charles Fenton Mercer, George Tucker, from Virginia; Mr. Lewis Williams, who entered the House young, and remained long enough to be called its “Father,” Thomas H. Hall, Weldon N. Edwards, Governor Hutchins G. Burton, from North Carolina; Governor Earle and Mr. Charles Pinckney, from South Carolina; Mr. Thomas W. Cobb and Governor George Gilmer, from Georgia; Messrs. Richard C. Anderson, Jr., David Trimble, George Robertson, Benjamin Hardin, and Governor Metcalfe, from Kentucky; Mr. John Rhea, of revolutionary service, Governor Newton Cannon, Francis Jones, General John Cocke, from Tennessee; Messrs. John W. Campbell, John Sloan and Henry Bush, from Ohio; Mr. William Hendricks, from Indiana; Thomas Butler, from Louisiana; Daniel P. Cook, from Illinois; John Crowell, from Alabama; Mr. Christopher Rankin, from Mississippi; and a great many other business men of worth and character from the different States, constituting a national representation of great weight, efficiency and decorum. The Supreme Court was still presided over by Chief Justice Marshall, almost septuagenarian, and still in the vigor of his intellect, associated with Mr. Justice Story, Mr. Justice Johnson, of South Carolina, Mr. Justice Duval, and Mr. Justice Washington, of Virginia. Thus all the departments, and all the branches of the government, were ably and decorously filled, and the friends of popular representative institutions might contemplate their administration with pride and pleasure, and challenge their comparison with any government in the world.

2. Admission Of The State Of Missouri

This was the exciting and agitating question of the session of 1820-'21. The question of restriction, that is, of prescribing the abolition of slavery within her limits, had been "compromised" the session before, by agreeing to admit the State without restriction, and abolishing it in all the remainder of the province of Louisiana, north and west of the State of Missouri, and north of the parallel of 36 degrees, 30 minutes. This "compromise" was the work of the South, sustained by the united voice of Mr. Monroe's cabinet, the united voices of the Southern senators, and a majority of the Southern representatives. The unanimity of the cabinet has been shown, impliedly, by a letter of Mr. Monroe, and positively by the Diary of Mr. John Quincy Adams. The unanimity of the slave States in the Senate, where the measure originated, is shown by its journal, not on the motion to insert the section constituting the compromise (for on that motion the yeas and nays were not taken), but on the motion to strike it out, when they were taken, and showed 30 votes for the compromise, and 15 against it—every one of the latter from non-slaveholding States—the former comprehending every slave State vote present, and a few from the North. As the constitutionality of this compromise, and its binding force, have, in these latter times, begun to be disputed, it is well to give the list of the senators names voting for it, that it may be seen that they were men of judgment and weight, able to know what the constitution was, and not apt to violate it. They were Governor Barbour and Governor Pleasants, of Virginia; Mr. James Brown and Governor Henry Johnson, of Louisiana; Governor Edwards and Judge Jesse B. Thomas, of Illinois; Mr. Elliott and Mr. Walker, of Georgia; Mr. Gaillard, President, *pro tempore*, of the Senate and Judge William Smith, from South Carolina; Messrs. Horsey and Van Dyke, of Delaware; Colonel Richard M. Johnson and Judge Logan, from Kentucky; Mr. William R. King, since Vice-President of the United States, and Judge John W. Walker, from Alabama; Messrs. Leake and Thomas H. Williams, of Mississippi; Governor Edward Lloyd, and the great jurist and orator, William Pinkney, from Maryland; Mr. Macon and Governor Stokes, from North Carolina; Messrs. Walter Lowrie and Jonathan Roberts, from Pennsylvania; Mr. Noble and Judge Taylor, from Indiana; Mr. Palmer, from Vermont; Mr. Parrott, from New Hampshire. This was the vote of the Senate for the compromise. In the House, there was some division among Southern members; but the whole vote in favor of it was 134, to 42 in the negative—the latter comprising some Northern members, as the former did a majority of the Southern—among them one whose opinion had a weight never exceeded by that of any other American statesman, William Lowndes, of South Carolina. This array of names shows the Missouri compromise to have been a Southern measure, and the event put the seal upon that character by showing it to be acceptable to the South. But it had not allayed the Northern feeling against an increase of slave States, then openly avowed to be a question of political power between the two sections of the Union. The State of Missouri made her constitution, sanctioning slavery, and forbidding the legislature to interfere with it. This prohibition, not usual in State constitutions, was the effect of the Missouri controversy and of foreign interference, and was adopted for the sake of peace—for the sake of internal tranquillity—and to prevent the agitation of the slave question, which could only be accomplished by excluding it wholly from the forum of elections and legislation. I was myself the instigator of that prohibition, and the cause of its being put into the constitution—though not a member of the convention—being equally opposed to slavery agitation and to slavery extension. There was also a clause in it, authorizing the legislature to prohibit the emigration of free people of color into the State; and this clause was laid hold of in Congress to resist the admission of the State. It was treated as a breach of that clause in the federal constitution,

which guarantees equal privileges in all the States to the citizens of every State, of which privileges the right of emigration was one; and free people of color being admitted to citizenship in some of the States, this prohibition of emigration was held to be a violation of that privilege in their persons. But the real point of objection was the slavery clause, and the existence of slavery in the State, which it sanctioned, and seemed to perpetuate. The constitution of the State, and her application for admission, was presented by her late delegate and representative elect, Mr. John Scott; and on his motion, was referred to a select committee. Mr. Lowndes, of South Carolina, Mr. John Sergeant, of Pennsylvania, and General Samuel Smith, of Maryland, were appointed the committee; and the majority being from slave States, a resolution was quickly reported in favor of the admission of the State. But the majority of the House being the other way, the resolution was rejected, 79 to 83—and by a clear slavery and anti-slavery vote, the exceptions being but three, and they on the side of admission, and contrary to the sentiment of their own State. They were Mr. Henry Shaw, of Massachusetts, and General Bloomfield and Mr. Bernard Smith, of New-Jersey. In the Senate, the application of the State shared a similar fate. The constitution was referred to a committee of three, Messrs. Judge William Smith, of South Carolina, Mr. James Burrill, of Rhode Island, and Mr. Macon, of North Carolina, a majority of whom being from slave States, a resolution of admission was reported, and passed the Senate—Messrs. Chandler and Holmes, of Maine, voting with the friends of admission; but was rejected in the House of Representatives. A second resolution to the same effect passed the Senate, and was again rejected in the House. A motion was then made in the House by Mr. Clay to raise a committee to act jointly with any committee which might be appointed by the Senate, “to consider and report to the Senate and the House respectively, whether it be expedient or not, to make provision for the admission of Missouri into the Union on the same footing as the original States, and for the due execution of the laws of the United States within Missouri? and if not, whether any other, and what provision adapted to her actual condition ought to be made by law.” This motion was adopted by a majority of nearly two to one—101 to 55—which shows a large vote in its favor from the non-slaveholding States. Twenty-three, being a number equal to the number of the States, were then appointed on the part of the House, and were: Messrs. Clay, Thomas W. Cobb, of Georgia; Mark Langdon Hill, of Massachusetts; Philip P. Barbour, of Virginia; Henry R. Storrs, of New-York; John Cocke, of Tennessee; Christopher Rankin, of Mississippi; William S. Archer, of Virginia; William Brown, of Kentucky; Samuel Eddy, from Rhode Island; William D. Ford, of New-York; William Culbreth, Aaron Hackley, of New-York; Samuel Moore, of Pennsylvania; James Stevens, of Connecticut; Thomas J. Rogers, from Pennsylvania; Henry Southard, of New-Jersey; John Randolph; James S. Smith, of North Carolina; William Darlington, of Pennsylvania; Nathaniel Pitcher, of New-York; John Sloan, of Ohio, and Henry Baldwin, of Pennsylvania. The Senate by a vote almost unanimous—29 to 7—agreed to the joint committee proposed by the House of Representatives; and Messrs. John Holmes, of Maine; James Barbour, of Virginia; Jonathan Roberts, of Pennsylvania; David L. Morril, of New-Hampshire; Samuel L. Southard, of New-Jersey; Colonel Richard M. Johnson, of Kentucky; and Rufus King, of New-York, to be a committee on its part. The joint committee acted, and soon reported a resolution in favor of the admission of the State, upon the condition that her legislature should first declare that the clause in her constitution relative to the free colored emigration into the State, should never be construed to authorize the passage of any act by which any citizen of either of the States of the Union should be excluded from the enjoyment of any privilege to which he may be entitled under the constitution of the United States; and the President of the United States being furnished with a copy of said act, should, by proclamation, declare the State to be admitted. This resolution was passed in the House by a close vote—86 to 82—several members from non-slaveholding States voting for it. In the

Senate it was passed by two to one—28 to 14; and the required declaration having been soon made by the General Assembly of Missouri, and communicated to the President, his proclamation was issued accordingly, and the State admitted. And thus ended the "Missouri controversy," or that form of the slavery question which undertook to restrict a State from the privilege of having slaves if she chose. The question itself, under other forms, has survived, and still survives, but not under the formidable aspect which it wore during that controversy, when it divided Congress geographically, and upon the slave line. The real struggle was political, and for the balance of power, as frankly declared by Mr. Rufus King, who disdained dissimulation; and in that struggle the non-slaveholding States, though defeated in the State of Missouri, were successful in producing the "compromise," conceived and passed as a Southern measure. The resistance made to the admission of the State on account of the clause in relation to free people of color, was only a mask to the real cause of opposition, and has since shown to be so by the facility with which many States, then voting in a body against the admission of Missouri on that account, now exclude the whole class of the free colored emigrant population from their borders, and without question, by statute, or by constitutional amendment. For a while this formidable Missouri question threatened the total overthrow of all political parties upon principle, and the substitution of geographical parties discriminated by the slave line, and of course destroying the just and proper action of the federal government, and leading eventually to a separation of the States. It was a federal movement, accruing to the benefit of that party, and at first was overwhelming, sweeping all the Northern democracy into its current, and giving the supremacy to their adversaries. When this effect was perceived the Northern democracy became alarmed, and only wanted a turn or abatement in the popular feeling at home, to take the first opportunity to get rid of the question by admitting the State, and re-establishing party lines upon the basis of political principle. This was the decided feeling when I arrived at Washington, and many of the old Northern democracy took early opportunities to declare themselves to me to that effect, and showed that they were ready to vote the admission of the State in any form which would answer the purpose, and save themselves from going so far as to lose their own States, and give the ascendant to their political adversaries. In the Senate, Messrs. Lowrie and Roberts, from Pennsylvania; Messrs. Morril and Parrott, from New-Hampshire; Messrs. Chandler and Holmes, from Maine; Mr. William Hunter, from Rhode Island; and Mr. Southard, from New-Jersey, were of that class; and I cannot refrain from classing with them Messrs. Horsey and Vandyke, from Delaware, which, though counted as a slave State, yet from its isolated and salient position, and small number of slaves, seems more justly to belong to the other side. In the House the vote of nearly two to one in favor of Mr. Clay's resolution for a joint committee, and his being allowed to make out his own list of the House committee (for it was well known that he drew up the list of names himself, and distributed it through the House to be voted), sufficiently attest the temper of that body, and showed the determination of the great majority to have the question settled. Mr. Clay has been often complimented as the author of the "compromise" of 1820, in spite of his repeated declaration to the contrary, that measure coming from the Senate; but he is the undisputed author of the final settlement of the Missouri controversy in the actual admission of the State. He had many valuable coadjutors from the North—Baldwin, of Pennsylvania; Storrs and Meigs, of New-York; Shaw, of Massachusetts: and he had also some opponents from the South—members refusing to vote for the "conditional" admission of the State, holding her to be entitled to absolute admission—among them Mr. Randolph. I have been minute in stating this controversy, and its settlement, deeming it advantageous to the public interest that history and posterity should see it in the proper point of view; and that it was a political movement for the balance of power, balked by the Northern democracy, who saw their own overthrow, and the eventual

separation of the States, in the establishment of geographical parties divided by a slavery and anti-slavery line.

3. Finances.—Reduction Of The Army

The distress of the country became that of the government. Small as the government expenditure then was, only about twenty-one millions of dollars (including eleven millions for permanent or incidental objects), it was still too great for the revenues of the government at this disastrous period. Reductions of expense, and loans, became the resort, and economy—that virtuous policy in all times—became the obligatory and the forced policy of this time. The small regular army was the first, and the largest object on which the reduction fell. Small as it was, it was reduced nearly one-half—from 10,000 to 6,000 men. The navy felt it next—the annual appropriation of one million for its increase being reduced to half a million. The construction and armament of fortifications underwent the like process. Reductions of expense took place at many other points, and even the abolition of a clerkship of $800 in the office of the Attorney General, was not deemed an object below the economical attention of Congress. After all a loan became indispensable, and the President was authorized to borrow five millions of dollars. The sum of twenty-one millions then to be raised for the service of the government, small as it now appears, was more than double the amount required for the actual expenses of the government—for the actual expense of its administration, or the working its machinery. More than half went to permanent or incidental objects, to wit: principal and interest of the public debt, five and a half millions; gradual increase of the navy, one million; pensions, one and a half millions; fortifications, $800,000; arms, munitions, ordnance, and other small items, about two millions; making in the whole about eleven millions, and leaving for the expense of keeping the machinery of government in operation, about ten millions of dollars; and which was reduced to less than nine millions after the reductions of this year were effected. A sum of one million of dollars, over and above the estimated expenditure of the government, was always deemed necessary to be provided and left in the treasury to meet contingencies—a sum which, though small in itself, was absolutely unnecessary for that purpose, and the necessity for which was founded in the mistaken idea that the government expends every year, within the year, the amount of its income. This is entirely fallacious, and never did and never can take place; for a large portion of the government payments accruing within the latter quarters of any year are not paid until the next year. And so on in every quarter of every year. The sums becoming payable in each quarter being in many instances, and from the nature of the service, only paid in the next quarter, while new revenue is coming in. This process regularly going on always leaves a balance in the treasury at the end of the year, not called for until the beginning of the next year, and when there is a receipt of money to meet the demand, even if there had been no balance in hand. Thus, at the end of the year 1820, one of the greatest depression, and when demands pressed most rapidly upon the treasury, there was a balance of above two millions of dollars in the treasury—to be precise, $2,076,607 14, being one-tenth of the annual revenue. In prosperous years the balance is still larger, sometimes amounting to the fourth, or the fifth of the annual revenue; as may be seen in the successive annual reports of the finances. There is, therefore, no necessity to provide for keeping any balance as a reserve in the treasury, though in later times this provision has been carried up to six millions—a mistake which economy, the science of administration, and the purity of the government, requires to be corrected.

4. Relief Of Public Land Debtors

Distress was the cry of the day; relief the general demand. State legislatures were occupied in devising measures of local relief; Congress in granting it to national debtors. Among these was the great and prominent class of the public land purchasers. The credit system then prevailed, and the debt to the government had accumulated to twenty-three millions of dollars—a large sum in itself, but enormous when considered in reference to the payors, only a small proportion of the population, and they chiefly the inhabitants of the new States and territories, whose resources were few. Their situation was deplorable. A heavy debt to pay, and lands already partly paid for to be forfeited if full payment was not made. The system was this: the land was sold at a minimum price of two dollars per acre, one payment in hand and the remainder in four annual instalments, with forfeiture of all that had been paid if each successive instalment was not delivered to the day. In the eagerness to procure fresh lands, and stimulated by the delusive prosperity which multitudes of banks created after the war, there was no limit to purchasers except in the ability to make the first payment. That being accomplished, it was left to the future to provide for the remainder. The banks failed; money vanished; instalments were becoming due which could not be met; and the opening of Congress in November, 1820, was saluted by the arrival of memorials from all the new States, showing the distress, and praying relief to the purchasers of the public lands. The President, in his annual message to Congress, deemed it his duty to bring the subject before that body, and in doing so recommended indulgence in consideration of the unfavorable change which had occurred since the sales. Both Houses of Congress took up the subject, and a measure of relief was devised by the Secretary of the Treasury, Mr. Crawford, which was equally desirable both to the purchaser and the government. The principle of the relief was to change all future sales from the credit to the cash system, and to reduce the minimum price of the lands to one dollar, twenty-five cents per acre, and to give all present debtors the benefit of that system, by allowing them to consolidate payments already made on different tracts on any particular one, relinquishing the rest; and allowing a discount for ready pay on all that had been entered, equal to the difference between the former and present minimum price. This released the purchasers from debt, and the government from the inconvenient relation of creditor to its own citizens. A debt of twenty-three millions of dollars was quietly got rid of; and purchasers were enabled to save lands, at the reduced price, to the amount of their payments already made: and thus saved in all cases their homes and fields, and as much more of their purchases as they were able to pay for at the reduced rate. It was an equitable arrangement of a difficult subject, and lacked but two features to make it perfect; *first*, a pre-emptive right to all first settlers; and, *secondly*, a periodical reduction of price according to the length of time the land should have been in market, so as to allow of different prices for different qualities, and to accomplish in a reasonable time the sale of the whole. Applications were made at that time for the establishment of the pre-emptive system; but without effect, and, apparently without the prospect of eventual success. Not even a report of a committee could be got in its favor—nothing more than temporary provisions, as special favors, in particular circumstances. But perseverance was successful. The new States continued to press the question, and finally prevailed; and now the pre-emptive principle has become a fixed part of our land system, permanently incorporated with it, and to the equal advantage of the settler and the government. The settler gets a choice home in a new country, due to his enterprise, courage, hardships and privations in subduing the wilderness: the government gets a body of cultivators whose labor gives value to the surrounding public lands, and whose courage and patriotism volunteers for the public defence whenever it is necessary. The

second, or graduation principle, though much pressed, has not yet been established, but its justice and policy are self-evident, and the exertions to procure it should not be intermitted until successful. The passage of this land relief bill was attended by incidents which showed the delicacy of members at that time, in voting on questions in which they might be interested. Many members of Congress were among the public land debtors, and entitled to the relief to be granted. One of their number, Senator William Smith, from South Carolina, brought the point before the Senate on a motion to be excused from voting on account of his interest. The motion to excuse was rejected, on the ground that his interest was general, in common with the country, and not particular, in relation to himself: and that his constituents were entitled to the benefit of his vote.

5. Oregon Territory

The session of 1820-21 is remarkable as being the first at which any proposition was made in Congress for the occupation and settlement of our territory on the Columbia River—the only part then owned by the United States on the Pacific coast. It was made by Dr. Floyd, a representative from Virginia, an ardent man, of great ability, and decision of character, and, from an early residence in Kentucky, strongly imbued with western feelings. He took up this subject with the energy which belonged to him, and it required not only energy, but courage, to embrace a subject which, at that time, seemed more likely to bring ridicule than credit to its advocate. I had written and published some essays on the subject the year before, which he had read. Two gentlemen (Mr. Ramsay Crooks, of New-York, and Mr. Russell Farnham, of Massachusetts), who had been in the employment of Mr. John Jacob Astor in founding his colony of Astoria, and carrying on the fur trade on the northwest coast of America, were at Washington that winter, and had their quarters at the same hotel (Brown's), where Dr. Floyd and I had ours. Their acquaintance was naturally made by Western men like us—in fact, I knew them before; and their conversation, rich in information upon a new and interesting country, was eagerly devoured by the ardent spirit of Floyd. He resolved to bring forward the question of occupation, and did so. He moved for a select committee to consider and report upon the subject. The committee was granted by the House, more through courtesy to a respected member, than with any view to business results. It was a committee of three, himself chairman, according to parliamentary rule, and Thomas Metcalfe, of Kentucky (since Governor of the State), and Thomas V. Swearingen, from Western Virginia, for his associates—both like himself ardent men, and strong in western feeling. They reported a bill within six days after the committee was raised, "to authorize the occupation of the Columbia River, and to regulate trade and intercourse with the Indian tribes thereon," accompanied by an elaborate report, replete with valuable statistics, in support of the measure. The fur trade, the Asiatic trade, and the preservation of our own territory, were the advantages proposed. The bill was treated with the parliamentary courtesy which respect for the committee required: it was read twice, and committed to a committee of the whole House for the next day—most of the members not considering it a serious proceeding. Nothing further was done in the House that session, but the first blow was struck: public attention was awakened, and the geographical, historical, and statistical facts set forth in the report, made a lodgment in the public mind which promised eventual favorable consideration. I had not been admitted to my seat in the Senate at the time, but was soon after, and quickly came to the support of Dr. Floyd's measure (who continued to pursue it with zeal and ability); and at a subsequent session presented some views on the subject which will bear reproduction at this time. The danger of a contest with Great Britain, to whom we had admitted a joint possession, and who had already taken possession, was strongly suggested, if we delayed longer our own occupation; "and a vigorous effort of policy, and perhaps of arms, might be necessary to break her hold." Unauthorized, or individual occupation was intimated as a consequence of government neglect, and what has since taken place was foreshadowed in this sentence: "mere adventurers may enter upon it, as Æneas entered upon the Tiber, and as our forefathers came upon the Potomac, the Delaware and the Hudson, and renew the phenomenon of individuals laying the foundation of a future empire." The effect upon Asia of the arrival of an American population on the coast of the Pacific Ocean was thus exhibited: "Upon the people of Eastern Asia the establishment of a civilized power on the opposite coast of America, could not fail to produce great and wonderful benefits. Science, liberal principles in government, and the true religion, might cast their lights across the intervening sea. The

valley of the Columbia might become the granary of China and Japan, and an outlet to their imprisoned and exuberant population. The inhabitants of the oldest and the newest, the most despotic and the freest governments, would become the neighbors, and the friends of each other. To my mind the proposition is clear, that Eastern Asia and the two Americas, as they become neighbors should become friends and I for one had as lief see American ministers going to the emperors of China and Japan, to the king of Persia, and even to the Grand Turk, as to see them dancing attendance upon those European legitimates who hold every thing American in contempt and detestation." Thus I spoke; and this I believe was the first time that a suggestion for sending ministers to the Oriental nations was publicly made in the United States. It was then a "wild" suggestion: it is now history. Besides the preservation of our own territory on the Pacific, the establishment of a port there for the shelter of our commercial and military marine, the protection of the fur trade and aid to the whaling vessels, the accomplishment of Mr. Jefferson's idea of a commercial communication with Asia through the heart of our own continent, was constantly insisted upon as a consequence of planting an American colony at the mouth of the Columbia. That man of large and useful ideas—that statesman who could conceive measures useful to all mankind, and in all time to come—was the first to propose that commercial communication, and may also be considered the first discoverer of the Columbia River. His philosophic mind told him that where a snow-clad mountain, like that of the Rocky Mountains, shed the waters on one side which collected into such a river as the Missouri, there must be a corresponding shedding and collection of waters on the other; and thus he was perfectly assured of the existence of a river where the Columbia has since been found to be, although no navigator had seen its mouth and no explorer trod its banks. His conviction was complete; but the idea was too grand and useful to be permitted to rest in speculation. He was then minister to France, and the famous traveller Ledyard, having arrived at Paris on his expedition of discovery to the Nile, was prevailed upon by Mr. Jefferson to enter upon a fresher and more useful field of discovery. He proposed to him to change his theatre from the Old to the New World, and, proceeding to St. Petersburg upon a passport he would obtain for him, he should there obtain permission from the Empress Catharine to traverse her dominions in a high northern latitude to their eastern extremity—cross the sea from Kamschatka, or at Behring's Straits, and descending the northwest coast of America, come down upon the river which must head opposite the head of the Missouri, ascend it to its source in the Rocky Mountains, and then follow the Missouri to the French settlements on the Upper Mississippi; and thence home. It was a magnificent and a daring project of discovery, and on that account the more captivating to the ardent spirit of Ledyard. He undertook it—went to St. Petersburg—received the permission of the Empress—and had arrived in Siberia when he was overtaken by a revocation of the permission, and conducted as a spy out of the country. He then returned to Paris, and resumed his original design of that exploration of the Nile to its sources which terminated in his premature death, and deprived the world of a young and adventurous explorer, from whose ardour, courage, perseverance and genius, great and useful results were to have been expected. Mr. Jefferson was balked in that, his first attempt, to establish the existence of the Columbia River. But a time was coming for him to undertake it under better auspices. He became President of the United States, and in that character projected the expedition of Lewis and Clark, obtained the sanction of Congress, and sent them forth to discover the head and course of the river (whose mouth was then known), for the double purpose of opening an inland commercial communication with Asia, and enlarging the boundaries of geographical science. The commercial object was placed first in his message, and as the object to legitimate the expedition. And thus Mr. Jefferson was the first to propose the North American road to India, and the introduction of Asiatic trade on that road; and all that I myself have either said or written on that subject from the year 1819, when I first took it up, down to the

present day when I still contend for it, is nothing but the fruit of the seed planted in my mind by the philosophic hand of Mr. Jefferson. Honor to all those who shall assist in accomplishing his great idea.

6. Florida Treaty And Cession Of Texas

I was a member of the bar at St. Louis, in the then territory of Missouri, in the year 1818, when the Washington City newspapers made known the progress of that treaty with Spain, which was signed on the 22d day of February following, and which, in acquiring Florida, gave away Texas. I was shocked at it—at the cession of Texas, and the new boundaries proposed for the United States on the southwest. The acquisition of Florida was a desirable object, long sought, and sure to be obtained in the progress of events; but the new boundaries, besides cutting off Texas, dismembered the valley of the Mississippi, mutilated two of its noblest rivers, brought a foreign dominion (and it non-slave-holding), to the neighborhood of New Orleans, and established a wilderness barrier between Missouri and New Mexico—to interrupt their trade, separate their inhabitants, and shelter the wild Indian depredators upon the lives and property of all who undertook to pass from one to the other. I was not then in politics, and had nothing to do with political affairs; but I saw at once the whole evil of this great sacrifice, and instantly raised my voice against it in articles published in the St. Louis newspapers, and in which were given, in advance, all the national reasons against giving away the country, which were afterwards, and by so many tongues, and at the expense of war and a hundred millions, given to get it back. I denounced the treaty, and attacked its authors and their motives, and imprecated a woe on the heads of those who should continue to favor it. “The magnificent valley of the Mississippi is ours, with all its fountains, springs and floods; and woe to the statesman who shall undertake to surrender one drop of its water, one inch of its soil, to any foreign power.” In these terms I spoke, and in this spirit I wrote, before the treaty was even ratified. Mr. John Quincy Adams, the Secretary of State, negotiator and ostensible author of the treaty, was the statesman against whom my censure was directed, and I was certainly sincere in my belief of his great culpability. But the declaration which he afterwards made on the floor of the House, absolved him from censure on account of that treaty, and placed the blame on the majority in Mr. Monroe’s cabinet, southern men, by whose vote he had been governed in ceding Texas and fixing the boundary which I so much condemned. After this authoritative declaration, I made, in my place in the Senate, the honorable amends to Mr. Adams, which was equally due to him and to myself. The treaty was signed on the anniversary of the birth-day of Washington, and sent to the Senate the same day, and unanimously ratified on the next day, with the general approbation of the country, and the warm applause of the newspaper press. This unanimity of the Senate, and applause of the press, made no impression upon me. I continued to assail the treaty and its authors, and the more bitterly, because the official correspondence, when published, showed that this great sacrifice of territory, rivers, and proper boundaries, was all gratuitous and voluntary on our part—”*that the Spanish government had offered us more than we accepted*;” and that it was our policy, and not hers, which had deprived us of Texas and the large country, in addition to Texas, which lay between the Red River and Upper Arkansas. This was an enigma, the solution of which, in my mind, strongly connected itself with the Missouri controversy then raging (1819) with its greatest violence, threatening existing political parties with subversion, and the Union with dissolution. My mind went there—to that controversy—for the solution, but with a misdirection of its application. I blamed the northern men in Mr. Monroe’s cabinet: the private papers of General Jackson, which have come to my hands, enable me to correct that error, and give me an inside view of that which I could only see on the outside before. In a private letter from Mr. Monroe to General Jackson, dated at Washington, May 22d, 1820—more than one year after the negotiation of the treaty, written to justify it, and evidently called out by Mr. Clay’s attack upon it—are these

passages: “Having long known the repugnance with which the eastern portion of our Union, or rather some of those who have enjoyed its confidence (for I do not think that the people themselves have any interest or wish of that kind), have seen its aggrandizement to the West and South, I have been decidedly of opinion that we ought to be content with Florida for the present, and until the public opinion in that quarter shall be reconciled to any further change. I mention these circumstances to show you that our difficulties are not with Spain alone, but are likewise internal, proceeding from various causes, which certain men are prompt to seize and turn to the account of their own ambitious views.” This paragraph from Mr. Monroe’s letter lifts the curtain which concealed the secret reason for ceding Texas—that secret which explains what was incomprehensible—our having refused to accept as much as Spain had offered. Internal difficulties, it was thus shown, had induced that refusal; and these difficulties grew out of the repugnance of leading men in the northeast to see the further aggrandizement of the Union upon the South and West. This repugnance was then taking an operative form in the shape of the Missouri controversy; and, as an immediate consequence, threatened the subversion of political party lines, and the introduction of the slavery question into the federal elections and legislation, and bringing into the highest of those elections—those of President and Vice-President—a test which no southern candidate could stand. The repugnance in the northeast was not merely to territorial aggrandizement in the southwest, but to the consequent extension of slavery in that quarter; and to allay that repugnance, and to prevent the slavery extension question from becoming a test in the presidential election, was the true reason for giving away Texas, and the true solution of the enigma involved in the strange refusal to accept as much as Spain offered. The treaty was disapproved by Mr. Jefferson, to whom a similar letter was written to that sent to General Jackson, and for the same purpose—to obtain his approbation; but he who had acquired Louisiana, and justly gloried in the act, could not bear to see that noble province mutilated, and returned his dissent to the act, and his condemnation of the policy on which it was done. General Jackson had yielded to the arguments of Mr. Monroe, and consented to the cession of Texas as a temporary measure. The words of his answer to Mr. Monroe’s letter were: “I am clearly of your opinion, that, for the present, we ought to be contented with the Floridas.” But Mr. Jefferson would yield to no temporary views of policy, and remained inflexibly opposed to the treaty; and in this he was consistent with his own conduct in similar circumstances. Sixteen years before, he had been in the same circumstances—at the time of the acquisition of Louisiana—when he had the same repugnance to southwestern aggrandizement to contend with, and the same bait (Florida) to tempt him. Then eastern men raised the same objections; and as early as August 1803—only four months after the purchase of Louisiana—he wrote to Dr. Breckenridge: “Objections are raising to the eastward to the vast extent of our boundaries, and propositions are made to exchange Louisiana, or a part of it, for the Floridas; but as I have said, we shall get the Floridas without; and I would not give one inch of the waters of the Mississippi to any foreign nation.” So that Mr. Jefferson, neither in 1803 nor in 1819, would have mutilated Louisiana to obtain the cession of Florida, which he knew would be obtained without that mutilation; nor would he have yielded to the threatening discontent in the east. I have a gratification that, without knowing it, and at a thousand miles from him, I took the same ground that Mr. Jefferson stood on, and even used his own words: “Not an inch of the waters of the Mississippi to any nation.” But I was mortified at the time, that not a paper in the United States backed my essays. It was my first experience in standing “solitary and alone;” but I stood it without flinching, and even incurred the imputation of being opposed to the administration—had to encounter that objection in my first election to the Senate, and was even viewed as an opponent by Mr. Monroe himself, when I first came to Washington. He had reason to know before his office expired, and still more after it expired, that no one (of the young generation) had a more exalted opinion of his honesty, patriotism,

firmness and general soundness of judgment; or would be more ready, whenever the occasion permitted, to do justice to his long and illustrious career of public service. The treaty, as I have said, was promptly and unanimously ratified by the American Senate; not so on the part of Spain. She hesitated, delayed, procrastinated; and finally suffered the time limited for the exchange of ratifications to expire, with out having gone through that indispensable formality. Of course this put an end to the treaty, unless it could be revived; and, thereupon, new negotiations and vehement expostulations against the conduct which refused to ratify a treaty negotiated upon full powers and in conformity to instructions. It was in the course of this renewed negotiation, and of these warm expostulations, that Mr. Adams used the strong expressions to the Spanish ministry, so enigmatical at the time, "That Spain had offered more than we accepted, and that she dare not deny it." Finally, after the lapse of a year or so, the treaty was ratified by Spain. In the mean time Mr. Clay had made a movement against it in the House of Representatives, unsuccessful, of course, but exciting some sensation, both for the reasons he gave and the vote of some thirty-odd members who concurred with him. This movement very certainly induced the letters of Mr. Monroe to General Jackson and Mr. Jefferson, as they were contemporaneous (May, 1820), and also some expressions in the letter to General Jackson, which evidently referred to Mr. Clay's movement. The ratification of Spain was given October, 1820, and being after the time limited, it became necessary to submit it again to the American Senate, which was done at the session of 1820-21. It was ratified again, and almost unanimously, but not quite, four votes being given against it, and all by western senators, namely: Colonel Richard M. Johnson, of Kentucky; Colonel John Williams, of Tennessee; Mr. James Brown, of Louisiana, and Colonel Trimble, of Ohio. I was then in Washington, and a senator elect, though not yet entitled to a seat, in consequence of the delayed admission of the new State of Missouri into the Union, and so had no opportunity to record my vote against the treaty. But the progress of events soon gave me an opportunity to manifest my opposition, and to appear in the parliamentary history as an enemy to it. The case was this: While the treaty was still encountering Spanish procrastination in the delay of exchanging ratifications, Mexico (to which the amputated part of Louisiana and the whole of Texas was to be attached), itself ceased to belong to Spain. She established her independence, repulsed all Spanish authority, and remained at war with the mother country. The law for giving effect to the treaty by providing for commissioners to run and mark the new boundary, had not been passed at the time of the ratification of the treaty; it came up after I took my seat, and was opposed by me. I opposed it, not only upon the grounds of original objections to the treaty, but on the further and obvious ground, that the revolution in Mexico—her actual independence—had superseded the Spanish treaty in the whole article of the boundaries, and that it was with Mexico herself that we should now settle them. The act was passed, however, by a sweeping majority, the administration being for it, and senators holding themselves committed by previous votes; but the progress of events soon justified my opposition to it. The country being in possession of Mexico, and she at war with Spain, no Spanish commissioners could go there to join ours in executing it; and so the act remained a dead letter upon the statute-book. Its futility was afterwards acknowledged by our government, and the misstep corrected by establishing the boundary with Mexico herself. This was done by treaty in the year 1828, adopting the boundaries previously agreed upon with Spain, and consequently amputating our rivers (the Red and the Arkansas), and dismembering the valley of the Mississippi, to the same extent as was done by the Spanish treaty of 1819. I opposed the ratification of the treaty with Mexico for the same reason that I opposed its original with Spain, but without success. Only two senators voted with me, namely, Judge William Smith, of South Carolina, and Mr. Powhatan Ellis, of Mississippi. Thus I saw this treaty, which repulsed Texas, and dismembered the valley of the Mississippi—which placed a foreign dominion on the upper halves of the Red River and the

Arkansas—placed a foreign power and a wilderness between Missouri and New Mexico, and which brought a non-slaveholding empire to the boundary line of the State of Louisiana, and almost to the southwest corner of Missouri—saw this treaty three times ratified by the American Senate, as good as unanimously every time, and with the hearty concurrence of the American press. Yet I remained in the Senate to see, within a few years, a political tempest sweeping the land and overturning all that stood before it, to get back this very country which this treaty had given away; and menacing the Union itself with dissolution, if it was not immediately done, and without regard to consequences. But of this hereafter. The point to be now noted of this treaty of 1819, is, that it completed, very nearly, the extinction of slave territory within the limits of the United States, and that it was the work of southern men, with the sanction of the South. It extinguished or cut off the slave territory beyond the Mississippi, below 36 degrees, 30 minutes, all except the diagram in Arkansas, which was soon to become a State. The Missouri compromise line had interdicted slavery in all the vast expanse of Louisiana north of 36 degrees, 30 minutes; this treaty gave away, first to Spain, and then to Mexico, nearly all the slave territory south of that line; and what little was left by the Spanish treaty was assigned in perpetuity by laws and by treaties to different Indian tribes. These treaties (Indian and Spanish), together with the Missouri compromise line—a measure contemporaneous with the treaty—extinguished slave soil in all the United States territory west of the Mississippi, except in the diagram which was to constitute the State of Arkansas; and, including the extinction in Texas consequent upon its cession to a non-slaveholding power, constituted the largest territorial abolition of slavery that was ever effected by the political power of any nation. The ordinance of 1787 had previously extinguished slavery in all the northwest territory—all the country east of the Mississippi, above the Ohio, and out to the great lakes; so that, at this moment—era of the second election of Mr. Monroe—slave soil, except in Arkansas and Florida, was extinct in the territory of the United States. The growth of slave States (except of Arkansas and Florida) was stopped; the increase of free States was permitted in all the vast expanse from Lake Michigan and the Mississippi River to the Rocky Mountains, and to Oregon; and there was not a ripple of discontent visible on the surface of the public mind at this mighty transformation of slave into free territory. No talk then about dissolving the Union, if every citizen was not allowed to go with all his "property," that is, all his slaves, to all the territory acquired by the "common blood and treasure" of all the Union. But this belongs to the chapter of 1844, whereof I have the material to write the true and secret history, and hope to use it with fairness, with justice, and with moderation. The outside view of the slave question in the United States at this time, which any chronicler can write, is, that the extension of slavery was then arrested, circumscribed, and confined within narrow territorial limits, while free States were permitted an almost unlimited expansion. That is the outside view; the inside is, that all this was the work of southern men, candidates for the presidency, some in abeyance, some in *præsenti*; and all yielding to that repugnance to territorial aggrandizement, and slavery extension in the southwest, which Mr. Monroe mentioned in his letter to General Jackson as the "internal difficulty" which occasioned the cession of Texas to Spain. This chapter is a point in the history of the times which will require to be understood by all who wish to understand and appreciate the events and actors of twenty years later.

7. Death Of Mr. Lowndes

I had but a slight acquaintance with Mr. Lowndes. He resigned his place on account of declining health soon after I came into Congress; but all that I saw of him confirmed the impression of the exalted character which the public voice had ascribed to him. Virtue, modesty, benevolence, patriotism were the qualities of his heart; a sound judgment, a mild persuasive elocution were the attributes of his mind; his manners gentle, natural, cordial, and inexpressibly engaging. He was one of the galaxy, as it was well called, of the brilliant young men which South Carolina sent to the House of Representatives at the beginning of the war of 1812—Calhoun, Cheves, Lowndes;—and was soon the brightest star in that constellation. He was one of those members, rare in all assemblies, who, when he spoke, had a cluster around him, not of friends, but of the House—members quitting their distant seats, and gathering up close about him, and showing by their attention, that each one would feel it a personal loss to have missed a word that he said. It was the attention of affectionate confidence. He imparted to others the harmony of his own feelings, and was the moderator as well as the leader of the House and was followed by its sentiment in all cases in which inexorable party feeling, or some powerful interest, did not rule the action of the members; and even then he was courteously and deferentially treated. It was so the only time I ever heard him speak—session of 1820-21—and on the inflammable subject of the admission of the State of Missouri—a question on which the inflamed passions left no room for the influence of reason and judgment, and in which the members voted by a geographical line. Mr. Lowndes was of the democratic school, and strongly indicated for an early elevation to the presidency—indicated by the public will and judgment, and not by any machinery or individual or party management—from the approach of which he shrunk, as from the touch of contamination. He was nominated by the legislature of his native State for the election of 1824; but died before the event came round. It was he who expressed that sentiment, so just and beautiful in itself, and so becoming in him because in him it was true, “That the presidency was an office neither to be sought, nor declined.” He died at the age of forty-two; and his death at that early age, and in the impending circumstances of the country, was felt by those who knew him as a public and national calamity. I do not write biographies, but note the death and character of some eminent deceased contemporaries, whose fame belongs to the country, and goes to make up its own title to the respect of the world.

8. Death Of William Pinkney

He died at Washington during the session of the Congress of which he was a member, and of the Supreme Court of which he was a practitioner. He fell like the warrior, in the plenitude of his strength, and on the field of his fame—under the double labors of the Supreme Court and of the Senate, and under the immense concentration of thought which he gave to the preparation of his speeches. He was considered in his day the first of American orators, but will hardly keep that place with posterity, because he spoke more to the hearer than to the reader—to the present than to the absent—and avoided the careful publication of his own speeches. He labored them hard, but it was for the effect of their delivery, and the triumph of present victory. He loved the admiration of the crowded gallery—the trumpet-tongued fame which went forth from the forum—the victory which crowned the effort; but avoided the publication of what was received with so much applause, giving as a reason that the published speech would not sustain the renown of the delivered one. His *forte* as a speaker lay in his judgment, his logic, his power of argument; but, like many other men of acknowledged pre-eminence in some great gift of nature, and who are still ambitious of some inferior gift, he courted his imagination too much, and laid too much stress upon action and delivery—so potent upon the small circle of actual hearers, but so lost upon the national audience which the press now gives to a great speaker. In other respects Mr. Pinkney was truly a great orator, rich in his material, strong in his argument—clear, natural and regular in the exposition of his subject, comprehensive in his views, and chaste in his diction. His speeches, both senatorial and forensic, were fully studied and laboriously prepared—all the argumentative parts carefully digested under appropriate heads, and the showy passages often fully written out and committed to memory. He would not speak at all except upon preparation; and at sexagenarian age—that at which I knew him—was a model of study and of labor to all young men. His last speech in the Senate was in reply to Mr. Rufus King, on the Missouri question, and was the master effort of his life. The subject, the place, the audience, the antagonist, were all such as to excite him to the utmost exertion. The subject was a national controversy convulsing the Union and menacing it with dissolution; the place was the American Senate; the audience was Europe and America; the antagonist was Princeps Senatus, illustrious for thirty years of diplomatic and senatorial service, and for great dignity of life and character. He had ample time for preparation, and availed himself of it. Mr. King had spoken the session before, and published the “Substance” of his speeches (for there were two of them), after the adjournment of Congress. They were the signal guns for the Missouri controversy. It was to these published speeches that Mr. Pinkney replied, and with the interval between two sessions to prepare. It was a dazzling and overpowering reply, with the prestige of having the union and the harmony of the States for its object, and crowded with rich material. The most brilliant part of it was a highly-wrought and splendid amplification (with illustrations from Greek and Roman history), of that passage in Mr. Burke’s speech upon “Conciliation with the Colonies,” in which, and in looking to the elements of American resistance to British power, he looks to the spirit of the slaveholding colonies as a main ingredient, and attributes to the masters of slaves, who are not themselves slaves, the highest love of liberty and the most difficult task of subjection. It was the most gorgeous speech ever delivered in the Senate, and the most applauded; but it was only a magnificent exhibition, as Mr. Pinkney knew, and could not sustain in the reading the plaudits it received in delivery; and therefore he avoided its publication. He gave but little attention to the current business of the Senate, only appearing in his place when the “Salaminian galley was to be launched,” or some special occasion called him—giving his

time and labor to the bar, where his pride and glory was. He had previously served in the House of Representatives, and his first speech there was attended by an incident illustrative of Mr. Randolph's talent for delicate intimation, and his punctilious sense of parliamentary etiquette. Mr. Pinkney came into the House with a national reputation, in the fulness of his fame, and exciting a great expectation—which he was obliged to fulfil. He spoke on the treaty-making power—a question of diplomatic and constitutional law; and he having been minister to half the courts of Europe, attorney general of the United States, and a jurist by profession, could only speak upon it in one way—as a great master of the subject; and, consequently, appeared as if instructing the House. Mr. Randolph—a veteran of twenty years' parliamentary service—thought a new member should serve a little apprenticeship before he became an instructor, and wished to signify that to Mr. Pinkney. He had a gift, such as man never had, at a delicate intimation where he desired to give a hint, without offence; and he displayed it on this occasion. He replied to Mr. Pinkney, referring to him by the parliamentary designation of "the member from Maryland;" and then pausing, as if not certain, added, "I believe he is from Maryland." This implied doubt as to where he came from, and consequently as to who he was, amused Mr. Pinkney, who understood it perfectly, and taking it right, went over to Mr. Randolph's seat, introduced himself, and assured him that he was "from Maryland." They became close friends for ever after; and it was Mr. Randolph who first made known his death in the House of Representatives, interrupting for that purpose an angry debate, then raging, with a beautiful and apt quotation from the quarrel of Adam and Eve at their expulsion from paradise. The published debates give this account of it: "Mr. Randolph rose to announce to the House an event which he hoped would put an end, at least for this day, to all further jar or collision, here or elsewhere, among the members of this body. Yes, for this one day, at least, let us say, as our first mother said to our first father—

'While yet we live, scarce one short hour perhaps,
Between us two let there be peace.'

"I rise to announce to the House the not unlooked for death of a man who filled the first place in the public estimation, in the first profession in that estimation, in this or in any other country. We have been talking of General Jackson, and a greater than him is, not here, but gone for ever. I allude, sir, to the boast of Maryland, and the pride of the United States—the pride of all of us, but more particularly the pride and ornament of the profession of which you, Mr. Speaker (Mr. Philip P. Barbour), are a member, and an eminent one."

Mr. Pinkney was kind and affable in his temper, free from every taint of envy or jealousy, conscious of his powers, and relying upon them alone for success. He was a model, as I have already said, and it will bear repetition, to all young men in his habits of study and application, and at more than sixty years of age was still a severe student. In politics he classed democratically, and was one of the few of our eminent public men who never seemed to think of the presidency. Oratory was his glory, the law his profession, the bar his theatre; and his service in Congress was only a brief episode, dazzling each House, for he was a momentary member of each, with a single and splendid speech.

9. Abolition Of The Indian Factory System

The experience of the Indian factory system, is an illustration of the unfitness of the federal government to carry on any system of trade, the liability of the benevolent designs of the government to be abused, and the difficulty of detecting and redressing abuses in the management of our Indian affairs. This system originated in the year 1796, under the recommendation of President Washington, and was intended to counteract the influence of the British traders, then allowed to trade with the Indians of the United States within our limits; also to protect the Indians from impositions from our own traders, and for that purpose to sell them goods at cost and carriage, and receive their furs and peltries at fair and liberal prices; and which being sold on account of the United States, would defray the expenses of the establishment, and preserve the capital undiminished—to be returned to the treasury at the end of the experiment. The goods were purchased at the expense of the United States—the superintendent and factors were paid out of the treasury, and the whole system was to be one of favor and benevolence to the Indians, guarded by the usual amount of bonds and oaths prescribed by custom in such cases. Being an experiment, it was first established by a temporary act, limited to two years—the usual way in which equivocal measures get a foothold in legislation. It was soon suspected that this system did not work as disinterestedly as had been expected—that it was of no benefit to the Indians—no counteraction to British traders—an injury to our own fur trade—and a loss to the United States; and many attempts were made to get rid of it, but in vain. It was kept up by continued temporary renewals for a quarter of a century—from 1796 to 1822—the name of Washington being always invoked to continue abuses which he would have been the first to repress and punish. As a citizen of a frontier State, I had seen the working of the system—seen its inside working, and knew its operation to be entirely contrary to the benevolent designs of its projectors. I communicated all this, soon after my admission to a seat in the Senate, to Mr. Calhoun, the Secretary at War, to whose department the supervision of this branch of service belonged, and proposed to him the abolition of the system; but he had too good an opinion of the superintendent (then Mr. Thomas L. McKinney), to believe that any thing was wrong in the business, and refused his countenance to my proposition. Confident that I was right, I determined to bring the question before the Senate—did so—brought in a bill to abolish the factories, and throw open the fur trade to individual enterprise, and supported the bill with all the facts and reasons of which I was master. The bill was carried through both Houses, and became a law; but not without the strenuous opposition which the attack of every abuse for ever encounters—not that any member favored the abuse, but that those interested in it were vigilant and active, visiting the members who would permit such visits, furnishing them with adverse statements, lauding the operation of the system, and constantly lugging in the name of Washington as its author. When the system was closed up, and the inside of it seen, and the balance struck, it was found how true all the representations were which had been made against it. The Indians had been imposed upon in the quality and prices of the goods sold them; a general trade had been carried on with the whites as well as with the Indians; large per centums had been charged upon every thing sold; and the total capital of three hundred thousand dollars was lost and gone. It was a loss which, at that time (1822), was considered large, but now (1850) would be considered small; but its history still has its uses, in showing how differently from its theory a well intended act may operate—how long the Indians and the government may be cheated without knowing it—and how difficult it is to get a bad law discontinued (where there is an interest in keeping it up), even though first adopted as a temporary measure, and as a mere experiment. It cost me a strenuous exertion—much labor in collecting facts, and much

speaking in laying them before the Senate—to get this two years' law discontinued, after twenty-five years of injurious operation and costly experience. Of all the branches of our service, that of the Indian affairs is most liable to abuse, and its abuses the most difficult of detection.

10. Internal Improvement

The Presidential election of 1824 was approaching, the candidates in the field, their respective friends active and busy, and popular topics for the canvass in earnest requisition. The New-York canal had just been completed, and had brought great popularity to its principal advocate (De Witt Clinton), and excited a great appetite in public men for that kind of fame. Roads and canals—meaning common turnpike, for the steam car had not then been invented, nor McAdam impressed his name on the new class of roads which afterwards wore it—were all the vogue; and the candidates for the Presidency spread their sails upon the ocean of internal improvements. Congress was full of projects for different objects of improvement, and the friends of each candidate exerted themselves in rivalry of each other, under the supposition that their opinions would stand for those of their principals. Mr. Adams, Mr. Clay, and Mr. Calhoun, were the avowed advocates of the measure, going thoroughly for a general national system of internal improvement: Mr. Crawford and General Jackson, under limitations and qualifications. The Cumberland road, and the Chesapeake and Ohio canal, were the two prominent objects discussed; but the design extended to a general system, and an act was finally passed, intended to be annual and permanent, to appropriate $30,000 to make surveys of national routes. Mr. Monroe signed this bill as being merely for the collection of information, but the subject drew from him the most elaborate and thoroughly considered opinion upon the general question which has ever been delivered by any of our statesmen. It was drawn out by the passage of an act to provide for the preservation and repair of the Cumberland road, and was returned by him to the House in which it originated, with his objections, accompanied by a state paper, in exposition of his opinions upon the whole subject; for the whole subject was properly before him. The act which he had to consider, though modestly entitled for the “preservation” and “repair” of the Cumberland road, yet, in its mode of accomplishing that purpose, assumed the whole of the powers which were necessary to the execution of a general system. It passed with singular unanimity through both Houses, in the Senate, only seven votes against it, of which I afterwards felt proud to have been one. He denied the power; but before examining the arguments for and against it, very properly laid down the amount and variety of jurisdiction and authority which it would require the federal government to exercise within the States, in order to execute a system, and that in each and every part—in every mile of each and every canal road—it should undertake to construct. He began with acquiring the right of way, and pursued it to its results in the construction and preservation of the work, involving jurisdiction, ownership, penal laws, and administration. Commissioners, he said, must first be appointed to trace a route, and to acquire a right to the ground over which the road or canal was to pass, with a sufficient breadth for each. The ground could only be acquired by voluntary grants from individuals, or by purchases, or by condemnation of the property, and fixing its value through a jury of the vicinage, if they refused to give or sell, or demanded an exorbitant price. After all this was done, then came the repairs, the care of which was to be of perpetual duration, and of a kind to provide against criminal and wilful injuries, as well as against the damages of accident, and deterioration from time and use. There are persons in every community capable of committing voluntary injuries, of pulling down walls that are made to sustain the road; of breaking the bridges over water-courses, and breaking the road itself. Some living near it might be disappointed that it did not pass through their lands, and commit these acts of violence and waste from revenge. To prevent these crimes Congress must have a power to pass laws to punish the offenders, wherever they may be found. Jurisdiction over the road would not be sufficient, though it were exclusive. There must be

power to follow the offenders wherever they might go. It would seldom happen that the parties would be detected in the act. They would generally commit it in the night, and fly far off before the sun appeared. Right of pursuit must attach, or the power of punishing become nugatory. Tribunals, State or federal, must be invested with power to execute the law. Wilful injuries would require all this assumption of power, and machinery of administration, to punish and prevent them. Repair of natural deteriorations would require the application of a different remedy. Toll gates, and persons to collect the tolls, were the usual resort for repairing this class of injuries, and keeping the road in order. Congress must have power to make such an establishment, and to enact a code of regulations for it, with fines and penalties, and agents to execute it. To all these exercises of authority the question of the constitutionality of the law may be raised by the prosecuted party. But opposition might not stop with individuals. States might contest the right of the federal government thus to possess and to manage all the great roads and canals within their limits; and then a collision would be brought on between two governments, each claiming to be sovereign and independent in its actions over the subject in dispute.

Thus did Mr. Monroe state the question in its practical bearings, traced to their legitimate results, and the various assumptions of power, and difficulties with States or individuals which they involved; and the bare statement which he made—the bare presentation of the practical working of the system, constituted a complete argument against it, as an invasion of State rights, and therefore unconstitutional, and, he might have added, as complex and unmanageable by the federal government, and therefore inexpedient. But, after stating the question, he examined it under every head of constitutional derivation under which its advocates claimed the power, and found it to be granted by no one of them, and virtually prohibited by some of them. These were, *first*, the right to establish post-offices and post-roads; *second*, to declare war; *third*, to regulate commerce among the States; *fourth*, the power to pay the debts and provide for the common defence and general welfare of the United States; *fifth*, to make all laws necessary and proper to carry into effect the granted (enumerated) powers; *sixth*, from the power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States. Upon this long enumeration of these claimed sources of power, Mr. Monroe well remarked that their very multiplicity was an argument against them, and that each one was repudiated by some of the advocates for each of the others: that these advocates could not agree among themselves upon any one single source of the power; and that it was sought for from place to place, with an assiduity which proclaimed its non-existence any where. Still he examined each head of derivation in its order, and effectually disposed of each in its turn. 1. The post-office and post-road grant. The word “establish” was the ruling term: roads and offices were the subjects on which it was to act. And how? Ask any number of enlightened citizens, who had no connection with public affairs, and whose minds were unprejudiced, what was the meaning of the word “establish,” and the extent of the grant it controls, and there would not be a difference of opinion among them. They would answer that it was a power given to Congress to legalize existing roads as post routes, and existing places as post-offices—to fix on the towns, court-houses, and other places throughout the Union, at which there should be post-offices; the routes by which the mails should be carried; to fix the postages to be paid; and to protect the post-offices and mails from robbery, by punishing those who commit the offence. The idea of a right to lay off roads to take the soil from the proprietor against his will; to establish turnpikes and tolls; to establish a criminal code for the punishment of injuries to the road; to do what the protection and repair of a road requires: these are things which would never enter into his head. The use of the existing road would be all that would be thought of; the jurisdiction and soil remaining in the State, or in those authorized by its legislature to change the road at pleasure.

2. The war power. Mr. Monroe shows the object of this grant of power to the federal government—the terms of the grant itself—its incidents as enumerated in the constitution—the exclusion of constructive incidents—and the pervading interference with the soil and jurisdiction of the States which the assumption of the internal improvement power by Congress would carry along with it. He recites the grant of the power to make war, as given to Congress, and prohibited to the States, and enumerates the incidents granted along with it, and necessary to carrying on war: which are, to raise money by taxes, duties, excises, and by loans; to raise and support armies and a navy; to provide for calling out, arming, disciplining, and governing the militia, when in the service of the United States; establishing fortifications, and to exercise exclusive jurisdiction over the places granted by the State legislatures for the sites of forts, magazines, arsenals, dock-yards, and other needful buildings. And having shown this enumeration of incidents, he very naturally concludes that it is an exclusion of constructive incidents, and especially of one so great in itself, and so much interfering with the soil and jurisdiction of the States, as the federal exercise of the road-making power would be. He exhibits the enormity of this interference by a view of the extensive field over which it would operate. The United States are exposed to invasion through the whole extent of their Atlantic coast (to which may now be added seventeen degrees of the Pacific coast) by any European power with whom we might be engaged in war: on the northern and northwestern frontier, on the side of Canada, by Great Britain, and on the southern by Spain, or any power in alliance with her. If internal improvements are to be carried on to the full extent to which they may be useful for military purposes, the power, as it exists, must apply to all the roads of the Union, there being no limitation to it. Wherever such improvements may facilitate the march of troops, the transportation of cannon, or otherwise aid the operations, or mitigate the calamities of war along the coast, or in the interior, they would be useful for military purposes, and might therefore be made. They must be coextensive with the Union. The power following as an incident to another power can be measured, as to its extent, by reference only to the obvious extent of the power to which it is incidental. It has been shown, after the most liberal construction of all the enumerated powers of the general government, that the territory within the limits of the respective States belonged to them; that the United States had no right, under the powers granted to them (with the exceptions specified), to any the smallest portion of territory within a State, all those powers operating on a different principle, and having their full effect without impairing, in the slightest degree, this territorial right in the States. By specifically granting the right, as to such small portions of territory as might be necessary for these purposes (forts, arsenals, magazines, dock-yards and other needful *buildings*), and, on certain conditions, minutely and well defined, it is manifest that it was not intended to grant it, as to any other portion, for any purpose, or in any manner whatever. The right of the general government must be complete, if a right at all. It must extend to every thing necessary to the enjoyment and protection of the right. It must extend to the seizure and condemnation of the property, if necessary; to the punishment of the offenders for injuries to the roads and canals; to the establishment and enforcement of tolls; to the unobstructed construction protection, and preservation of the roads. It must be a complete right, to the extent above stated, or it will be of no avail. That right does not exist.

3. The commercial power. Mr. Monroe argues that the sense in which the power to regulate commerce was understood and exercised by the States, was doubtless that in which it was transferred to the United States; and then shows that their regulation of commerce was by the imposition of duties and imposts; and that it was so regulated by them (before the adoption of the constitution), equally in respect to each other, and to foreign powers. The goods, and the vessels employed in the trade, are the only subject of regulation. It can act on none other. He then shows the evil out of which that grant of power grew, and which evil was, in fact, the predominating cause in the call for the convention which framed the federal constitution.

Each State had the right to lay duties and imposts, and exercised the right on narrow, jealous, and selfish principles. Instead of acting as a nation in regard to foreign powers, the States, individually, had commenced a system of restraint upon each other, whereby the interests of foreign powers were promoted at their expense. This contracted policy in some of the States was counteracted by others. Restraints were immediately laid on such commerce by the suffering States; and hence grew up a system of restrictions and retaliations, which destroyed the harmony of the States, and threatened the confederacy with dissolution. From this evil the new constitution relieved us; and the federal government, as successors to the States in the power to regulate commerce, immediately exercised it as they had done, by laying duties and imposts, to act upon goods and vessels: and that was the end of the power.

4. To pay the debts and provide for the common defence and general welfare of the Union. Mr. Monroe considers this "common defence" and "general welfare" clause as being no grant of power, but, in themselves, only an object and end to be attained by the exercise of the enumerated powers. They are found in that sense in the preamble to the constitution, in company with others, as inducing causes to the formation of the instrument, and as benefits to be obtained by the powers granted in it. They stand thus in the preamble: "In order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution." These are the objects to be accomplished, but not by allowing Congress to do what it pleased to accomplish them (in which case there would have been no need for investing it with specific powers), but to be accomplished by the exercise of the powers granted in the body of the instrument. Considered as a distinct and separate grant, the power to provide for the "common defence" and the "general welfare," or either of them, would give to Congress the command of the whole force, and of all the resources of the Union—absorbing in their transcendental power all other powers, and rendering all the grants and restrictions nugatory and vain. The idea of these words forming an original grant, with unlimited power, superseding every other grant, is (must be) abandoned. The government of the United States is a limited government, instituted for great national purposes, and for those only. Other interests are left to the States individually, whose duty it is to provide for them. Roads and canals fall into this class, the powers of the General Government being utterly incompetent to the exercise of the rights which their construction, and protection, and preservation require. Mr. Monroe examines the instances of roads made in territories, and through the Indian countries, and the one upon Spanish territory below the 31st degree of north latitude (with the consent of Spain), on the route from Athens in Georgia to New Orleans, before we acquired the Floridas; and shows that there was no objection to these territorial roads, being all of them, to the States, ex-territorial. He examines the case of the Cumberland road, made within the States, and upon compact, but in which the United States exercised no power, founded on any principle of "jurisdiction or right." He says of it: This road was founded on an article of compact between the United States and the State of Ohio, under which that State came into the Union, and by which the expense attending it was to be defrayed by the application of a certain portion of the money arising from the sales of the public lands within the State. And, in this instance, the United States have exercised no act of jurisdiction or sovereignty within either of the States through which the road runs, by taking the land from the proprietors by force—by passing acts for the protection of the road—or to raise a revenue from it by the establishment of turnpikes and tolls—or any other act founded on the principles of jurisdiction or right. And I can add, that the bill passed by Congress, and which received his veto, died under his veto message, and has never been revised, or attempted to be revised, since; and the road itself has been abandoned to the States.

5. The power to make all laws which shall be necessary and proper to carry into effect the powers specifically granted to Congress. This power, as being the one which chiefly gave rise to the latitudinarian constructions which discriminated parties, when parties were founded upon principle, is closely and clearly examined by Mr. Monroe, and shown to be no grant of power at all, nor authorizing Congress to do any thing which might not have been done without it, and only added to the enumerated powers, through caution, to secure their complete execution. He says: I have always considered this power as having been granted on a principle of greater caution, to secure the complete execution of all the powers which had been vested in the General Government. It contains no distinct and specific power, as every other grant does, such as to lay and collect taxes, to declare war, to regulate commerce, and the like. Looking to the whole scheme of the General Government, it gives to Congress authority to make all laws which should be deemed necessary and proper for carrying all its powers into effect. My impression has invariably been, that this power would have existed, substantially, if this grant had not been made. It results, by necessary implication (such is the tenor of the argument), from the granted powers, and was only added from caution, and to leave nothing to implication. To act under it, it must first be shown that the thing to be done is already specified in one of the enumerated powers. This is the point and substance of Mr. Monroe's opinion on this incidental grant, and which has been the source of division between parties from the foundation of the government—the fountain of latitudinous construction—and which, taking the judgment of Congress as the rule and measure of what was "necessary and proper" in legislation, takes a rule which puts an end to the limitations of the constitution, refers all the powers of the body to its own discretion, and becomes as absorbing and transcendental in its scope as the "general welfare" and "common defence clauses" would be themselves.

6. The power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States. This clause, as a source of power for making roads and canals within a State, Mr. Monroe disposes of summarily, as having no relation whatever to the subject. It grew out of the cessions of territory which different States had made to the United States, and relates solely to that territory (and to such as has been acquired since the adoption of the constitution), and which lay without the limits of a State. Special provision was deemed necessary for such territory, the main powers of the constitution operating internally, not being applicable or adequate thereto; and it follows that this power gives no authority, and has even no bearing on the subject.

Such was this great state paper, delivered at a time when internal improvement by the federal government, having become an issue in the canvass for the Presidency, and ardently advocated by three of the candidates, and qualifiedly by two others, had an immense current in its favor, carrying many of the old strict constitutionists along with it. Mr. Monroe stood firm vetoed the bill which assumed jurisdiction over the Cumberland road, and drew up his sentiments in full, for the consideration of Congress and the country. His argument is abridged and condensed in this view of it; but his positions and conclusions preserved in full, and with scrupulous correctness. And the whole paper, as an exposition of the differently understood parts of the constitution, by one among those most intimately acquainted with it, and as applicable to the whole question of constructive powers, deserves to be read and studied by every student of our constitutional law. The only point at which Mr. Monroe gave way, or yielded in the least, to the temper of the times, was in admitting the power of appropriation—the right of Congress to appropriate, but not to apply money—to internal improvements; and in that he yielded against his earlier, and, as I believe, better judgment. He had previously condemned the appropriation as well as the application, but finally yielded on this point to the counsels that beset him; but nugatorially, as appropriation without

application was inoperative, and a balk to the whole system. But an act was passed soon after for surreys—for making surveys of routes for roads and canals of general and national importance, and the sum of $30,000 was appropriated for that purpose. The act was as carefully guarded as words could do so, in its limitation to objects of national importance, but only presented another to the innumerable instances of the impotency of words in securing the execution of a law. The selection of routes under the act, rapidly degenerated from national to sectional, from sectional to local, and from local to mere neighborhood improvements. Early in the succeeding administration, a list of some ninety routes were reported to Congress, from the Engineer Department, in which occurred names of places hardly heard of before outside of the State or section in which they were found. Saugatuck, Amounisuck, Pasumic, Winnispiseogee, Piscataqua, Titonic Falls, Lake Memphramagog, Conneaut Creek, Holmes' Hole, Lovejoy's Narrows, Steele's Ledge, Cowhegan, Androscoggin, Cobbiesconte, Ponceaupechaux, alias Soapy Joe, were among the objects which figured in the list for national improvement. The bare reading of the list was a condemnation of the act under which they were selected, and put an end to the annual appropriations which were in the course of being made for these surveys. No appropriation was made after the year 1827. Afterwards the veto message of President Jackson put an end to legislation upon local routes, and the progress of events has withdrawn the whole subject—the subject of a *system* of national internal improvement, once so formidable and engrossing in the public mind—from the halls of Congress, and the discussions of the people. Steamboats and steam-cars have superseded turnpikes and canals; individual enterprise has dispensed with national legislation. Hardly a great route exists in any State which is not occupied under State authority. Even great works accomplished by Congress, at vast cost and long and bitter debates in Congress, and deemed eminently national at the time, have lost that character, and sunk into the class of common routes. The Cumberland road, which cost $6,670,000 in money, and was a prominent subject in Congress for thirty-four years—from 1802, when it was conceived to 1836, when it was abandoned to the States: this road, once so absorbing both of public money and public attention, has degenerated into a common highway, and is entirely superseded by the parallel railroad route. The same may be said, in a less degree, of the Chesapeake and Ohio canal, once a national object of federal legislation intended, as its name imports, to connect the tide water of the Atlantic with the great rivers of the West; now a local canal, chiefly used by some companies, very beneficial in its place, but sunk from the national character which commanded for it the votes of Congress and large appropriations from the federal treasury. Mr. Monroe was one of the most cautious and deliberate of our public men, thoroughly acquainted with the theory and the working of the constitution, his opinions upon it entitled to great weight; and on this point (of internal improvement within the States by the federal government) his opinion has become law. But it does not touch the question of improving national rivers or harbors yielding revenue—appropriations for the Ohio and Mississippi and other large streams, being easily had when unincumbered with local objects, as shown by the appropriation, in a separate bill, in 1824, of $75,000 for the improvement of these two rivers, and which was approved and signed by Mr. Monroe.

11. General Removal Of Indians

The Indian tribes in the different sections of the Union, had experienced very different fates—in the northern and middle States nearly extinct—in the south and west they remained numerous and formidable. Before the war of 1812, with Great Britain, these southern and western tribes held vast, compact bodies of land in these States, preventing the expansion of the white settlements within their limits, and retaining a dangerous neighbor within their borders. The victories of General Jackson over the Creeks, and the territorial cessions which ensued made the first great breach in this vast Indian domain; but much remained to be done to free the southern and western States from a useless and dangerous population—to give them the use and jurisdiction of all the territory within their limits, and to place them, in that respect, on an equality with the northern and middle States. From the earliest periods of the colonial settlements, it had been the policy of the government, by successive purchases of their territory, to remove these tribes further and further to the west; and that policy, vigorously pursued after the war with Great Britain, had made much progress in freeing several of these States (Kentucky entirely, and Tennessee almost) from this population, which so greatly hindered the expansion of their settlements and so much checked the increase of their growth and strength. Still there remained up to the year 1824—the last year of Mr. Monroe's administration—large portions of many of these States, and of the territories, in the hands of the Indian tribes; in Georgia, nine and a half millions of acres; in Alabama, seven and a half millions; in Mississippi, fifteen and three quarter millions; in the territory of Florida, four millions; in the territory of Arkansas, fifteen and a half millions; in the State of Missouri, two millions and three quarters; in Indiana and Illinois, fifteen millions; and in Michigan, east of the lake, seven millions. All these States and territories were desirous, and most justly and naturally so, to get possession of these vast bodies of land, generally the best within their limits. Georgia held the United States bound by a compact to relieve her. Justice to the other States and territories required the same relief; and the applications to the federal government, to which the right of purchasing Indian lands, even within the States, exclusively belonged, were incessant and urgent. Piecemeal acquisitions, to end in getting the whole, were the constant effort; and it was evident that the encumbered States and territories would not, and certainly ought not to be satisfied, until all their soil was open to settlement, and subject to their jurisdiction. To the Indians themselves it was equally essential to be removed. The contact and pressure of the white race was fatal to them. They had dwindled under it, degenerated, become depraved, and whole tribes extinct, or reduced to a few individuals, wherever they attempted to remain in the old States; and could look for no other fate in the new ones.

"What," exclaimed Mr. Elliott, senator from Georgia, in advocating a system of general removal—"what has become of the immense hordes of these people who once occupied the soil of the older States? In New England, where numerous and warlike tribes once so fiercely contended for supremacy with our forefathers, but two thousand five hundred of their descendants remain, and they are dispirited and degraded. Of the powerful league of the Six Nations, so long the scourge and terror of New-York, only about five thousand souls remain. In New Jersey, Pennsylvania, and Maryland, the numerous and powerful tribes once seen there, are either extinct, or so reduced as to escape observation in any enumeration of the States' inhabitants. In Virginia, Mr. Jefferson informs us that there were at the commencement of its colonization (1607), in the comparatively small portion of her extent which lies between the sea-coast and the mountains, and from the Potomac to the most southern waters of James River, upwards of forty tribes of Indians: now there are but forty-

seven individuals in the whole State! In North Carolina none are counted: in South Carolina only four hundred and fifty. While in Georgia, where thirty years since there were not less than thirty thousand souls, there now remain some fifteen thousand—the one half having disappeared in a single generation. That many of these people have removed, and others perished by the sword in the frequent wars which have occurred in the progress of our settlements, I am free to admit. But where are the hundreds of thousands, with their descendants, who neither removed, nor were thus destroyed? Sir, like a promontory of sand, exposed to the ceaseless encroachments of the ocean, they have been gradually wasting away before the current of the advancing white population which set in upon them from every quarter; and unless speedily removed beyond the influence of this cause, of the many tens of thousands now within the limits of the southern and western States, a remnant will not long be found to point you to the graves of their ancestors, or to relate the sad story of their disappearance from earth."

Mr. Jefferson, that statesman in fact as well as in name, that man of enlarged and comprehensive views, whose prerogative it was to foresee evils and provide against them, had long foreseen the evils both to the Indians and to the whites, in retaining any part of these tribes within our organized limits; and upon the first acquisition of Louisiana—within three months after the acquisition—proposed it for the future residence of all the tribes on the east of the Mississippi; and his plan had been acted upon in some degree, both by himself and his immediate successor. But it was reserved for Mr. Monroe's administration to take up the subject in its full sense, to move upon it as a system, and to accomplish at a single operation the removal of all the tribes from the east to the west side of the Mississippi—from the settled States and territories, to the wide and wild expanse of Louisiana. Their preservation and civilization, and permanency in their new possessions, were to be their advantages in this removal—delusive, it might be, but still a respite from impending destruction if they remained where they were. This comprehensive plan was advocated by Mr. Calhoun, then Secretary of War, and charged with the administration of Indian affairs. It was a plan of incalculable value to the southern and western States, but impracticable without the hearty concurrence of the northern and non-slaveholding States. It might awaken the slavery question, hardly got to sleep after the alarming agitations of the Missouri controversy. The States and territories to be relieved were slaveholding. To remove the Indians would make room for the spread of slaves. No removal could be effected without the double process of a treaty and an appropriation act—the treaty to be ratified by two thirds of the Senate, where the slave and free States were equal, and the appropriation to be obtained from Congress, where free States held the majority of members. It was evident that the execution of the whole plan was in the hands of the free States; and nobly did they do their duty by the South. Some societies, and some individuals, no doubt, with very humane motives, but with the folly, and blindness, and injury to the objects of their care which generally attend a gratuitous interference with the affairs of others, attempted to raise an outcry, and made themselves busy to frustrate the plan; but the free States themselves, in their federal action, and through the proper exponents of their will—their delegations in Congress—cordially concurred in it, and faithfully lent it a helping and efficient hand. The President, Mr. Monroe, in the session 1824-'25, recommended its adoption to Congress, and asked the necessary appropriation to begin from the Congress. A bill was reported in the Senate for that purpose, and unanimously passed that body. What is more, the treaties made with the Kansas and Osage tribes in 1825, for the cession to the United States of all their vast territory west of Missouri and Arkansas, except small reserves to themselves, and which treaties had been made without previous authority from the government, and for the purpose of acquiring new homes for all the Indians east of the Mississippi, were duly and readily ratified. Those treaties were made at St. Louis by General Clarke, without any authority, so far as this large acquisition was

concerned, at my instance, and upon my assurance that the Senate would ratify them. It was done. They were ratified: a great act of justice was rendered to the South. The foundation was laid for the future removal of the Indians, which was followed up by subsequent treaties and acts of Congress, until the southern and western States were as free as the northern from the incumbrance of an Indian population; and I, who was an actor in these transactions, who reported the bills and advocated the treaties which brought this great benefit to the south and west, and witnessed the cordial support of the members from the free States, without whose concurrence they could not have been passed—I, who wish for harmony and concord among all the States, and all the sections of this Union, owe it to the cause of truth and justice, and to the cultivation of fraternal feelings, to bear this faithful testimony to the just and liberal conduct of the non-slaveholding States, in relieving the southern and western States from so large an incumbrance, and aiding the extension of their settlement and cultivation. The recommendation of Mr. Monroe, and the treaties of 1825, were the beginning of the system of total removal; but it was a beginning which assured the success of the whole plan, and was followed up, as will be seen, in the history of each case, until the entire system was accomplished.

12. Visit Of Lafayette To The United States

In the summer of this year General Lafayette, accompanied by his son, Mr. George Washington Lafayette, and under an invitation from the President, revisited the United States after a lapse of forty years. He was received with unbounded honor, affection, and gratitude by the American people. To the survivors of the Revolution, it was the return of a brother; to the new generation, born since that time, it was the apparition of an historical character, familiar from the cradle; and combining all the titles to love, admiration, gratitude, enthusiasm, which could act upon the heart and the imagination of the young and the ardent. He visited every State in the Union, doubled in number since, as the friend and pupil of Washington, he had spilt his blood, and lavished his fortune, for their independence. His progress through the States was a triumphal procession, such as no Roman ever led up—a procession not through a city, but over a continent—followed, not by captives in chains of iron, but by a nation in the bonds of affection. To him it was an unexpected and overpowering reception. His modest estimate of himself had not allowed him to suppose that he was to electrify a continent. He expected kindness, but not enthusiasm. He expected to meet with surviving friends—not to rouse a young generation. As he approached the harbor of New-York, he made inquiry of some acquaintance to know whether he could find a hack to convey him to a hotel? Illustrious man, and modest as illustrious! Little did he know that all America was on foot to receive him—to take possession of him the moment he touched her soil—to fetch and to carry him—to feast and applaud him—to make him the guest of cities, States, and the nation, as long as he could he detained. Many were the happy meetings which he had with old comrades, survivors for near half a century of their early hardships and dangers; and most grateful to his heart it was to see them, so many of them, exceptions to the maxim which denies to the beginners of revolutions the good fortune to conclude them (and of which maxim his own country had just been so sad an exemplification), and to see his old comrades not only conclude the one they began, but live to enjoy its fruits and honors. Three of his old associates he found ex-presidents (Adams, Jefferson, and Madison), enjoying the respect and affection of their country, after having reached its highest honors. Another, and the last one that *Time* would admit to the Presidency (Mr. Monroe), now in the Presidential chair, and inviting him to revisit the land of his adoption. Many of his early associates seen in the two Houses of Congress—many in the State governments, and many more in all the walks of private life, patriarchal sires, respected for their characters, and venerated for their patriotic services. It was a grateful spectacle, and the more impressive from the calamitous fate which he had seen attend so many of the revolutionary patriots of the Old World. But the enthusiasm of the young generation astonished and excited him, and gave him a new view of himself—a future glimpse of himself—and such as he would be seen in after ages.
Before *them*, he was in the presence of posterity; and in their applause and admiration he saw his own future place in history, passing down to the latest time as one of the most perfect and beautiful characters which one of the most eventful periods of the world had produced. Mr. Clay, as Speaker of the House of Representatives, and the organ of their congratulations to Lafayette (when he was received in the hall of the House), very felicitously seized the idea of his present confrontation with posterity, and adorned and amplified it with the graces of oratory. He said: “The vain wish has been sometimes indulged, that Providence would allow the patriot, after death, to return to his country, and to contemplate the intermediate changes which had taken place—to view the forests felled, the cities built, the mountains levelled, the canals cut, the highways opened, the progress of the arts, the advancement of learning, and the increase of population. General! your present visit to the United States is the realization of

the consoling object of that wish, hitherto vain. You are in the midst of posterity! Every where you must have been struck with the great changes, physical and moral, which have occurred since you left us. Even this very city, bearing a venerated name, alike endearing to you and to us, has since emerged from the forest which then covered its site. In one respect you behold us unaltered, and that is, in the sentiment of continued devotion to liberty, and of ardent affection and profound gratitude to your departed friend, the father of his country, and to your illustrious associates in the field and in the cabinet, for the multiplied blessings which surround us, and for the very privilege of addressing you, which I now have." He was received in both Houses of Congress with equal honor; but the Houses did not limit themselves to honors: they added substantial rewards for long past services and sacrifices—two hundred thousand dollars in money, and twenty-four thousand acres of fertile land in Florida. These noble grants did not pass without objection—objection to the principle, not to the amount. The ingratitude of republics is the theme of any declaimer: it required a *Tacitus* to say, that gratitude was the death of republics, and the birth of monarchies; and it belongs to the people of the United States to exhibit an exception to that profound remark (as they do to so many other lessons of history), and show a young republic that knows how to be grateful without being unwise, and is able to pay the debt of gratitude without giving its liberties in the discharge of the obligation. The venerable Mr. Macon, yielding to no one in love and admiration of Lafayette, and appreciation of his services and sacrifices in the American cause, opposed the grants in the Senate, and did it with the honesty of purpose and the simplicity of language which distinguished all the acts of his life. He said: "It was with painful reluctance that he felt himself obliged to oppose his voice to the passage of this bill. He admitted, to the full extent claimed for them, the great and meritorious services of General Lafayette, and he did not object to the precise sum which this bill proposed to award him; but he objected to the bill on this ground: he considered General Lafayette, to all intents and purposes, as having been, during our revolution, a son adopted into the family, taken into the household, and placed, in every respect, on the same footing with the other sons of the same family. To treat him as others were treated, was all, in this view of his relation to us, that could be required, and this had been done. That General Lafayette made great sacrifices, and spent much of his money in the service of this country (said Mr. M.), I as firmly believe as I do any other thing under the sun. I have no doubt that every faculty of his mind and body were exerted in the Revolutionary war, in defence of this country; but this was equally the case with all the sons of the family. Many native Americans spent their all, made great sacrifices, and devoted their lives in the same cause. This was the ground of his objection to this bill, which, he repeated, it was as disagreeable to him to state as it could be to the Senate to hear. He did not mean to take up the time of the Senate in debate upon the principle of the bill, or to move any amendment to it. He admitted that, when such things were done, they should be done with a free hand. It was to the principle of the bill, therefore, and not to the sum proposed to be given by it, that he objected."

The ardent Mr. Hayne, of South Carolina, reporter of the bill in the Senate, replied to the objections, and first showed from history (not from Lafayette, who would have nothing to do with the proposed grant), his advances, losses, and sacrifices in our cause. He had expended for the American service, in six years, from 1777 to 1783, the sum of 700,000 francs ($140,000), and under what circumstances?—a foreigner, owing us nothing, and throwing his fortune into the scale with his life, to be lavished in our cause. He left the enjoyments of rank and fortune, and the endearments of his family, to come and serve in our almost destitute armies, and without pay. He equipped and armed a regiment for our service, and freighted a vessel to us, loaded with arms and munitions. It was not until the year 1794, when almost ruined by the French revolution, and by his efforts in the cause of liberty, that he would receive the naked pay, without interest, of a general officer for the time he had served with

us. He was entitled to land as one of the officers of the Revolution, and 11,500 acres was granted to him, to be located on any of the public lands of the United States. His agent located 1000 acres adjoining the city of New Orleans; and Congress afterwards, not being informed of the location, granted the same ground to the city of New Orleans. His location was valid, and he was so informed; but he refused to adhere to it, saying that he would have no contest with any portion of the American people, and ordered the location to be removed; which was done, and carried upon ground of little value—thus giving up what was then worth $50,000, and now $500,000. These were his moneyed advances, losses, and sacrifices, great in themselves, and of great value to our cause, but perhaps exceeded by the moral effect of his example in joining us, and his influence with the king and ministry, which procured us the alliance of France.

The grants were voted with great unanimity, and with the general concurrence of the American people. Mr. Jefferson was warmly for them, giving as a reason, in a conversation with me while the grants were depending (for the bill was passed in the Christmas holidays, when I had gone to Virginia, and took the opportunity to call upon that great man), which showed his regard for liberty abroad as well as at home, and his far-seeing sagacity into future events. He said there would be a change in France and Lafayette would be at the head of it, and ought to be easy and independent in his circumstances, to be able to act efficiently in conducting the movement. This he said to me on Christmas day, 1824. Six years afterwards this view into futurity was verified. The old Bourbons had to retire: the Duke of Orleans, a brave general in the republican armies, at the commencement of the Revolution, was handed to the throne by Lafayette, and became the “citizen king, surrounded by republican institutions.” And in this Lafayette was consistent and sincere. He was a republican himself, but deemed a constitutional monarchy the proper government for France, and labored for that form in the person of Louis XVI. as well as in that of Louis Philippe.

Loaded with honors, and with every feeling of his heart gratified in the noble reception he had met in the country of his adoption, Lafayette returned to the country of his birth the following summer, still as the guest of the United States, and under its flag. He was carried back in a national ship of war, the new frigate Brandywine—a delicate compliment (in the name and selection of the ship) from the new President, Mr. Adams, Lafayette having wet with his blood the sanguinary battle-field which takes its name from the little stream which gave it first to the field, and then to the frigate. Mr. Monroe, then a subaltern in the service of the United States, was wounded at the same time. How honorable to themselves and to the American people, that nearly fifty years afterwards, they should again appear together, and in exalted station; one as President, inviting the other to the great republic, and signing the acts which testified a nation’s gratitude; the other as a patriot hero, tried in the revolutions of two countries, and resplendent in the glory of virtuous and consistent fame.

13. The Tariff, And American System

The revision of the Tariff, with a view to the protection of home industry, and to the establishment of what was then called, “The American System,” was one of the large subjects before Congress at the session 1823-24, and was the regular commencement of the heated debates on that question which afterwards ripened into a serious difficulty between the federal government and some of the southern States. The presidential election being then depending, the subject became tinctured with party politics, in which, so far as that ingredient was concerned, and was not controlled by other considerations, members divided pretty much on the line which always divided them on a question of constructive powers. The protection of domestic industry not being among the granted powers, was looked for in the incidental; and denied by the strict constructionists to be a substantive power, to be exercised for the direct purpose of protection; but admitted by all at that time, and ever since the first tariff act of 1789, to be an incident to the revenue raising power, and an incident to be regarded in the exercise of that power. Revenue the object, protection the incident, had been the rule in the earlier tariffs: now that rule was sought to be reversed, and to make protection the object of the law, and revenue the incident. The revision, and the augmentation of duties which it contemplated, turned, not so much on the emptiness of the treasury and the necessity for raising money to fill it, as upon the distress of the country, and the necessity of creating a home demand for labor, provisions and materials, by turning a larger proportion of our national industry into the channel of domestic manufactures. Mr. Clay, the leader in the proposed revision, and the champion of the American System, expressly placed the proposed augmentation of duties on this ground; and in his main speech upon the question, dwelt upon the state of the country, and gave a picture of the public distress, which deserves to be reproduced in this View of the working of our government, both as the leading argument for the new tariff, and as an exhibition of a national distress, which those who were not cotemporary with the state of things which he described, would find it difficult to conceive or to realize. He said:

“In casting our eyes around us, the most prominent circumstance which fixes our attention and challenges our deepest regret, is the general distress which pervades the whole country. It is forced upon us by numerous facts of the most incontestable character. It is indicated by the diminished exports of native produce; by the depressed and reduced state of our foreign navigation; by our diminished commerce; by successive unthreshed crops of grain perishing in our barns for want of a market; by the alarming diminution of the circulating medium; by the numerous bankruptcies; by a universal complaint of the want of employment, and a consequent reduction of the wages of labor; by the ravenous pursuit after public situations, not for the sake of their honors, and the performance of their public duties, but as a means of private subsistence; by the reluctant resort to the perilous use of paper money; by the intervention of legislation in the delicate relation between debtor and creditor; and, above all, by the low and depressed state of the value of almost every description of the whole mass of the property of the nation, which has, on an average, sunk not less than about fifty per centum within a few years. This distress pervades every part of the Union, every class of society; all feel it, though it may be felt, at different places, in different degrees. It is like the atmosphere which surrounds us: all must inhale it, and none can escape from it. A few years ago, the planting interest consoled itself with its happy exemptions from the general calamity; but it has now reached this interest also, which experiences, though with less severity, the general suffering. It is most painful to me to attempt to sketch, or to dwell on the gloom of this

picture. But I have exaggerated nothing. Perfect fidelity to the original would have authorized me to have thrown on deeper and darker hues."

Mr. Clay was the leading speaker on the part of the bill in the House of Representatives, but he was well supported by many able and effective speakers—by Messrs. Storrs, Tracy, John W. Taylor, from New-York; by Messrs. Buchanan, Todd, Ingham, Hemphill, Andrew Stewart, from Pennsylvania; by Mr. Louis McLane, from Delaware; by Messrs. Buckner F. Johnson, Letcher, Metcalfe, Trimble, White Wickliffe, from Kentucky; by Messrs. Campbell, Vance, John W. Wright, Vinton, Whittlesey, from Ohio; Mr. Daniel P. Cook, from Illinois.

Mr. Webster was the leading speaker on the other side, and disputed the universality of the distress which had been described; claiming exemption from it in New England; denied the assumed cause for it where it did exist, and attributed it to over expansion and collapse of the paper system, as in Great Britain, after the long suspension of the Bank of England; denied the necessity for increased protection to manufactures, and its inadequacy, if granted, to the relief of the country where distress prevailed; and contested the propriety of high or prohibitory duties, in the present active and intelligent state of the world, to stimulate industry and manufacturing enterprise. He said:

"Within my own observation, there is no cause for such gloomy and terrifying a representation. In respect to the New England States, with the condition of which I am best acquainted, they present to me a period of very general prosperity. Supposing the evil then to be a depression of prices, and a partial pecuniary pressure; the next inquiry is into the causes of that evil. A depreciated currency existed in a great part of the country—depreciated to such a degree as that, at one time, exchange between the centre and the north was as high as twenty per cent. The Bank of the United States was instituted to correct this evil; but, for causes which it is not now necessary to enumerate, it did not for some years bring back the currency of the country to a sound state. In May, 1819, the British House of Commons, by an unanimous vote, decided that the resumption of cash payments by the Bank of England should not be deferred beyond the ensuing February (it had then been in a state of suspension near twenty-five years). The paper system of England had certainly communicated an artificial value to property. It had encouraged speculation, and excited overtrading. When the shock therefore came, and this violent pressure for money acted at the same moment on the Continent and in England, inflated and unnatural prices could be kept up no longer. A reduction took place, which has been estimated to have been at least equal to a fall of thirty, if not forty, per cent. The depression was universal; and the change was felt in the United States severely, though not equally so in every part of them. About the time of these foreign events, our own bank system underwent a change; and all these causes, in my view of the subject, concurred to produce the great shock which took place in our commercial cities, and through many parts of the country. The year 1819 was a year of numerous failures, and very considerable distress, and would have furnished far better grounds than exist at present for that gloomy representation which has been presented. Mr. Speaker (Clay) has alluded to the strong inclination which exists, or has existed, in various parts of the country, to issue paper money, as a proof of great existing difficulties. I regard it rather as a very productive cause of those difficulties; and we cannot fail to observe, that there is at this moment much the loudest complaint of distress precisely where there has been the greatest attempt to relieve it by a system of paper credit. Let us not suppose that we are *beginning* the protection of manufactures by duties on imports. Look to the history of our laws; look to the present state of our laws. Consider that our whole revenue, with a trifling exception, is collected from the custom-house, and always has been; and then say what propriety there is in calling on the government for protection, as if no protection had heretofore been afforded. On the general question, allow me to ask if the doctrine of prohibition, as a general doctrine, be not

preposterous? Suppose all nations to act upon it: they would be prosperous, then, according to the argument, precisely in the proportion in which they abolished intercourse with one another. The best apology for laws of prohibition and laws of monopoly, will be found in that state of society, not only unenlightened, but sluggish, in which they are most generally established. Private industry in those days, required strong provocatives, which government was seeking to administer by these means. Something was wanted to actuate and stimulate men, and the prospects of such profits as would, in our times, excite unbounded competition, would hardly move the sloth of former ages. In some instances, no doubt, these laws produced an effect which, in that period, would not have taken place without them. (Instancing the protection to the English woollen manufactures in the time of the Henrys and the Edwards). But our age is wholly of a different character, and its legislation takes another turn. Society is full of excitement: competition comes in place of monopoly; and intelligence and industry ask only for fair play and an open field."

With Mr. Webster were numerous and able speakers on the side of free trade: From his own State, Mr. Baylies; from New-York, Mr. Cambreling; from Virginia, Messrs. Randolph, Philip P. Barbour, John S. Barbour, Garnet, Alexander Smythe, Floyd, Mercer, Archer, Stevenson, Rives, Tucker, Mark Alexander; from North Carolina, Messrs. Mangum, Saunders, Spaight, Lewis Williams, Burton, Weldon N. Edwards; from South Carolina, Messrs. McDuffie, James Hamilton, Poinsett; from Georgia, Messrs. Forsyth, Tatnall, Cuthbert, Cobb; from Tennessee, Messrs. Blair, Isaaks, Reynolds; from Louisiana, Mr. Edward Livingston; from Alabama, Mr. Owen; from Maryland, Mr. Warfield; from Mississippi, Mr. Christopher Rankin.

The bill was carried in the House, after a protracted contest of ten weeks, by the lean majority of five—107 to 102—only two members absent, and the voting so zealous that several members were brought in upon their sick couches. In the Senate the bill encountered a strenuous resistance. Mr. Edward Lloyd, of Maryland, moved to refer it to the committee on finance—a motion considered hostile to the bill; and which was lost by one vote—22 to 23. It was then, on the motion of Mr. Dickerson, of New Jersey, referred to the committee on manufactures; a reference deemed favorable to the bill, and by which committee it was soon returned to the Senate without any proposed amendment. It gave rise to a most earnest debate, and many propositions of amendment, some of which, of slight import, were carried. The bill itself was carried by the small majority of four votes—25 to 21. The principal speakers in favor of the bill were: Messrs. Dickerson, of New Jersey; D'Wolf, of Rhode Island; Holmes, of Maine; E. M. Johnson, of Kentucky; Lowrie, of Pennsylvania; Talbot, of Kentucky; Van Buren. Against it the principal speakers were: Messrs. James Barbour and John Taylor, of Virginia (usually called John Taylor of Caroline); Messrs. Branch, of North Carolina; Hayne, of South Carolina; Henry Johnson and Josiah Johnston, of Louisiana; Kelly and King, of Alabama; Rufus King, of New-York; James Lloyd, of Massachusetts; Edward Lloyd and Samuel Smith, of Maryland; Macon, of North Carolina; Van Dyke, of Delaware. The bill, though brought forward avowedly for the protection of domestic manufactures, was not entirely supported on that ground. An increase of revenue was the motive with some, the public debt being still near ninety millions, and a loan of five millions being authorized at that session. An increased protection to the products of several States, as lead in Missouri and Illinois, hemp in Kentucky, iron in Pennsylvania, wool in Ohio and New-York, commanded many votes for the bill; and the impending presidential election had its influence in its favor. Two of the candidates, Messrs. Adams and Clay, were avowedly for it; General Jackson, who voted for the bill, was for it, as tending to give a home supply of the articles necessary in time of war, and as raising revenue to pay the public debt. Mr. Crawford was opposed to it; and Mr. Calhoun had been withdrawn from the list of presidential candidates, and become a

candidate for the Vice-Presidency. The Southern planting States were extremely dissatisfied with the passage of the bill, believing that the new burdens upon imports which it imposed fell upon the producers of the exports, and tended to enrich one section of the Union at the expense of another. The attack and support of the bill took much of a sectional aspect; Virginia, the two Carolinas, Georgia, and some others being nearly unanimous against it. Pennsylvania, New-York, Ohio, Kentucky being nearly unanimous for it. Massachusetts, which up to this time had a predominating interest in commerce, voted all, except one member, against it. With this sectional aspect, a tariff for protection also began to assume a political aspect, being taken under the care of the party since discriminated as Whig, which drew from Mr. Van Buren a sagacious remark, addressed to the manufacturers themselves; that if they suffered their interests to become identified with a political party (any one), they would share the fate of that party, and go down with it whenever it sunk. Without the increased advantages to some States, the pendency of the presidential election, and the political tincture which the question began to receive, the bill would not have passed—so difficult is it to prevent national legislation from falling under the influence of extrinsic and accidental causes. The bill was approved by Mr. Monroe—a proof that that careful and strict constructionist of the Constitution did not consider it as deprived of its revenue character by the degree of protection which it extended.

14. The A. B. Plot

On Monday, the 19th of April, the Speaker of the House (Mr. Clay) laid before that body a note just received from Ninian Edwards, Esq., late Senator in Congress, from Illinois, and then Minister to Mexico, and then on his way to his post, requesting him to present to the House a communication which accompanied the note, and which charged illegalities and misconduct on the Secretary of the Treasury, Mr. William H. Crawford. The charges and specifications, spread through a voluminous communication, were condensed at its close into six regular heads of accusation, containing matter of impeachment; and declaring them all to be susceptible of proof, if the House would order an investigation. The communication was accompanied by ten numbers of certain newspaper publications, signed A. B., of which Mr. Edwards avowed himself to be the author, and asked that they might be received as a part of his communication, and printed along with it, and taken as the specifications under the six charges. Mr. Crawford was then a prominent candidate for the Presidency, and the A. B. papers, thus communicated to the House, were a series of publications made in a Washington City paper, during the canvass, to defeat his election, and would doubtless have shared the usual fate of such publications, and sunk into oblivion after the election was over, had it not been for this formal appeal to the House (the grand inquest of the nation) and this call for investigation. The communication, however, did not seem to contemplate an early investigation, and certainly not at the then session of Congress. Congress was near its adjournment; the accuser was on his way to Mexico; the charges were grave; the specifications under them numerous and complex; and many of them relating to transactions with the remote western banks. The evident expectation of the accuser was, that the matter would lie over to the next session, before which time the presidential election would take place, and all the mischief be done to Mr. Crawford's character, resulting from unanswered accusations of so much gravity, and so imposingly laid before the impeaching branch of Congress. The friends of Mr. Crawford saw the necessity of immediate action; and Mr. Floyd of Virginia, instantly, upon the reading of the communication, moved that a committee be appointed to take it into consideration, and that it be empowered to send for persons and papers—to administer oaths—take testimony—and report it to the House; with leave to sit after the adjournment, if the investigation was not finished before; and publish their report. The committee was granted, with all the powers asked for, and was most unexceptionably composed by the speaker (Mr. Clay); a task of delicacy and responsibility, the Speaker being himself a candidate for the Presidency, and every member of the House a friend to some one of the candidates, including the accused. It consisted of Mr. Floyd, the mover; Mr. Livingston, of Louisiana; Mr. Webster, of Massachusetts; Mr. Randolph, of Virginia; Mr. J. W. Taylor, of New-York; Mr. Duncan McArthur, of Ohio; and Mr. Owen, of Alabama.

The sergeant-at-arms of the House was immediately dispatched by the committee in pursuit of Mr. Edwards: overtook him at fifteen hundred miles; brought him back to Washington; but did not arrive until Congress had adjourned. In the mean time, the committee sat, and received from Mr. Crawford his answer to the six charges: an answer pronounced by Mr. Randolph to be "a triumphant and irresistible vindication; the most temperate, passionless, mild, dignified, and irrefragable exposure of falsehood that ever met a base accusation; and without one harsh word towards their author." This was the true character of the answer; but Mr. Crawford did not write it. He was unable at that time to write any thing. It was written and read to him as it went on, by a treasury clerk, familiar with all the transactions to which the accusations related—Mr. Asbury Dickens, since secretary of the Senate. This Mr. Crawford told himself at the time, with his accustomed frankness. His answer being

mentioned by a friend, as a proof that his paralytic stroke had not affected his strength, he replied, that was no proof—that Dickens wrote it. The committee went on with the case (Mr. Edwards represented by his son-in-law, Mr. Cook), examined all the evidence in their reach, made a report unanimously concurred in, and exonerating Mr. Crawford from every dishonorable or illegal imputation. The report was accepted by the House; but Mr. Edwards, having far to travel on his return journey, had not yet been examined; and to hear him the committee continued to sit after Congress had adjourned. He was examined fully, but could prove nothing; and the committee made a second report, corroborating the former, and declaring it as their unanimous opinion—the opinion of every one present—"that nothing had been proved to impeach the integrity of the Secretary, or to bring into doubt the general correctness and ability of his administration of the public finances."

The committee also reported all the testimony taken, from which it appeared that Mr. Edwards himself had contradicted all the accusations in the A. B. papers; had denied the authorship of them; had applauded the conduct of Mr. Crawford in the use of the western banks, and their currency in payment of the public lands, as having saved farmers from the loss of their homes; and declared his belief, that no man in the government could have conducted the fiscal and financial concerns of the government with more integrity and propriety than he had done. This was while his nomination as minister to Mexico was depending in the Senate, and to Mr. Noble, a Senator from Indiana, and a friend to Mr. Crawford. He testified:

"That he had had a conversation with Mr. Edwards, introduced by Mr. E. himself, concerning Mr. Crawford's management of the western banks, and the authorship of the A. B. letters. That it was pending his nomination made by the President to the Senate, as minister to Mexico. He (Mr. E.) stated that he was about to be attacked in the Senate, for the purpose of defeating his nomination: that party and political spirit was now high; that he understood that charges would be exhibited against him, and that it had been so declared in the Senate. He further remarked, that he knew me to be the decided friend of William H. Crawford, and said, I am considered as being his bitter enemy; and I am charged with being the author of the numbers signed A. B.; but (raising his hand) I pledge you my honor, I am not the author, nor do I know who the author is. Crawford and I, said Mr. Edwards, have had a little difference; but I have always considered him a high-minded, honorable, and vigilant officer of the government. He has been abused about the western banks and the unavailable funds. Leaning forward, and extending his hand, he added, now damn it, you know we both live in States where there are many poor debtors to the government for lands, together with a deranged currency. The notes on various banks being depreciated, after the effect and operation of the war in that portion of the Union, and the banks, by attempting to call in their paper, having exhausted their specie, the notes that were in circulation became of little or no value. Many men of influence in that country, said he, have united to induce the Secretary of the Treasury to select certain banks as banks of deposit, and to take the notes of certain banks in payment for public land. Had he (Mr. Crawford) not done so, many of our inhabitants would have been turned out of doors, and lost their land; and the people of the country would have had a universal disgust against Mr. Crawford. And I will venture to say, said Mr. Edwards, notwithstanding I am considered his enemy, that no man in this government could have managed the fiscal and financial concerns of the government with more integrity and propriety than Mr. Crawford did. He (Mr. Noble) had never repeated this conversation to any body until the evening of the day that I (he) was informed that Gov. Edwards' 'address' was presented to the House of Representatives. On that evening, in conversation with several members of the House, amongst whom were Mr. Reid and Mr. Nelson, some of whom said that Governor Edwards had avowed himself to be the author of A. B., and others said that he

had not done so, I remarked, that they must have misunderstood the ‘address,’ for Gov. Edwards had pledged his honor to me that he was not the author of A. B.”

Other witnesses testified to his denials, while the nomination was depending, of all authorship of these publications: among them, the editors of the National Intelligencer,—friends to Mr. Crawford. Mr. Edwards called at their office at that time (the first time he had been there within a year), to exculpate himself from the imputed authorship; and did it so earnestly that the editors believed him, and published a contradiction of the report against him in their paper, stating that they had a “good reason” to know that he was not the author of these publications. That “good reason,” they testified, was his own voluntary denial in this unexpected visit to their office, and his declarations in what he called a “frank and free” conversation with them on the subject. Such testimony, and the absence of all proof on the other side, was fatal to the accusations, and to the accuser. The committee reported honorably and unanimously in favor of Mr. Crawford; the Congress and the country accepted it; Mr. Edwards resigned his commission, and disappeared from the federal political theatre: and that was the end of the A. B. plot, which had filled some newspapers for a year with publications against Mr. Crawford, and which might have passed into oblivion, as the current productions and usual concomitants of a Presidential canvass, had it not been for their formal communication to Congress as ground of impeachment against a high officer. That communication carried the “six charges,” and their ten chapters of specifications, into our parliamentary history, where their fate becomes one of the instructive lessons which it is the province of history to teach. The newspaper in which the A. B. papers were published, was edited by a war-office clerk, in the interest of the war Secretary (Mr. Calhoun), to the serious injury of that gentleman, who received no vote in any State voting for Mr. Crawford.

15. Amendment Of The Constitution In Relation To The Election Of President And Vice-President

European writers on American affairs are full of mistakes on the working of our government; and these mistakes are generally to the prejudice of the democratic element. Of these mistakes, and in their ignorance of the difference between the theory and the working of our system in the election of the two first officers, two eminent French writers are striking instances: Messrs. de Tocqueville and Thiers. Taking the working and the theory of our government in this particular to be the same, they laud the institution of electors, to whom they believe the whole power of election belongs (as it was intended);—and hence attribute to the superior sagacity of these electors the merit of choosing all the eminent Presidents who have adorned the presidential chair. This mistake between theory and practice is known to every body in America, and should be known to enlightened men in Europe, who wish to do justice to popular government. The electors have no practical power over the election, and have had none since their institution. From the beginning they have stood pledged to vote for the candidates indicated (in the early elections) by the public will; afterwards, by Congress caucuses, as long as those caucuses followed the public will; and since, by assemblages called conventions, whether they follow the public will or not. In every case the elector has been an instrument, bound to obey a particular impulsion; and disobedience to which would be attended with infamy, and with every penalty which public indignation could inflict. From the beginning these electors have been useless, and an inconvenient intervention between the people and the object of their choice; and, in time, may become dangerous: and being useless, inconvenient, and subject to abuse and danger; having wholly failed to answer the purpose for which they were instituted (and for which purpose no one would now contend); it becomes a just conclusion that the institution should be abolished, and the election committed to the direct vote of the people. And, to obviate all excuse for previous nominations by intermediate bodies, a second election to be held forthwith between the two highest or leading candidates, if no one had had a majority of the whole number on the first trial. These are not new ideas, born of a spirit of change and innovation; but old doctrine, advocated in the convention which framed the Constitution, by wise and good men; by Dr. Franklin and others, of Pennsylvania; by John Dickinson and others, of Delaware. But the opinion prevailed in the convention, that the mass of the people would not be sufficiently informed, discreet, and temperate to exercise with advantage so great a privilege as that of choosing the chief magistrate of a great republic; and hence the institution of an intermediate body, called the electoral college—its members to be chosen by the people—and when assembled in conclave (I use the word in the Latin sense of *con* and *clavis*, under key), to select whomsoever they should think proper for President and Vice-President. All this scheme having failed, and the people having taken hold of the election, it became just and regular to attempt to legalize their acquisition by securing to them constitutionally the full enjoyment of the rights which they imperfectly exercised. The feeling to this effect became strong as the election of 1824 approached, when there were many candidates in the field, and Congress caucuses fallen into disrepute; and several attempts were made to obtain a constitutional amendment to accomplish the purpose. Mr. McDuffie, in the House of Representatives, and myself in the Senate, both proposed such amendments; the mode of taking the direct votes to be in districts, and the persons receiving the greatest number of votes for President or Vice-President in any district, to count one vote for such office respectively; which is nothing but substituting the candidates themselves for their electoral representatives, while simplifying

the election, insuring its integrity, and securing the rights of the people. In support of my proposition in the Senate, I delivered some arguments in the form of a speech, from which I here add some extracts, in the hope of keeping the question alive, and obtaining for it a better success at some future day.

“The evil of a want of uniformity in the choice of presidential electors, is not limited to its disfiguring effect upon the face of our government, but goes to endanger the rights of the people, by permitting sudden alterations on the eve of an election, and to annihilate the right of the small States, by enabling the large ones to combine, and to throw all their votes into the scale of a particular candidate. These obvious evils make it certain that *any uniform rule* would be preferable to the present state of things. But, in fixing on one, it is the duty of statesmen to select that which is calculated to give to every portion of the Union its due share in the choice of the Chief Magistrate, and to every individual citizen, a fair opportunity of voting according to his will. This would be effected by adopting the *District System*. It would divide every State into districts, equal to the whole number of votes to be given, and the people of each district would be governed by its own majority, and not by a majority existing in some remote part of the State. This would be agreeable to the *rights* of individuals: for, in entering into society, and submitting to be bound by the decision of the majority, each individual retained the right of voting for himself wherever it was practicable, and of being governed by a majority of the vicinage, and not by majorities brought from remote sections to overwhelm him with their accumulated numbers. It would be agreeable to the *interests* of all parts of the States; for each State may have different interests in different parts; one part may be agricultural, another manufacturing, another commercial; and it would be unjust that the strongest should govern, or that two should combine and sacrifice the third. The district system would be agreeable to the *intention* of our present constitution, which, in giving to each elector a separate vote, instead of giving to each State a consolidated vote, composed of all its electoral suffrages, clearly intended that each mass of persons entitled to one elector, should have the right of giving one vote, according to their own sense of their own interest.

“The general ticket system now existing in ten States, was the offspring of policy, and not of any disposition to give fair play to the will of the people. It was adopted by the leading men of those States, to enable them to consolidate the vote of the State. It would be easy to prove this by referring to facts of historical notoriety. It contributes to give power and consequence to the leaders who manage the elections, but it is a departure from the intention of the constitution; violates the rights of the minorities, and is attended with many other evils. The intention of the constitution is violated, because it was the intention of that instrument to give to each mass of persons, entitled to one elector, the power of giving an electoral vote to any candidate they preferred. The rights of minorities are violated, because a majority of *one* will carry the vote of the whole State. This principle is the same, whether the elector is chosen by general ticket or by legislative ballot; a majority of *one*, in either case, carries the vote of the whole State. In New-York, thirty-six electors are chosen; nineteen is a majority, and the candidate receiving this majority is fairly entitled to count nineteen votes; but he counts in reality, thirty-six: because the minority of seventeen are added to the majority. Those seventeen votes belong to seventeen masses of people, of 40,000 souls each, in all 680,000 people, whose votes are seized upon, taken away, and presented to whom the majority pleases. Extend the calculation to the seventeen States now choosing electors by general ticket or legislative ballot, and it will show that three millions of souls, a population equal to that which carried us through the Revolution, may have their votes taken from them in the same way. To *lose* their votes, is the fate of all minorities, and it is their duty to submit; but this is not a case of votes *lost*, but of votes *taken away*, added to those of the majority, and given to a person to whom the minority was opposed.

“He said, this objection (to the direct vote of the people) had a weight in the year 1787, to which it is not entitled in the year 1824. Our government was then young, schools and colleges were scarce, political science was then confined to few, and the means of diffusing intelligence were both inadequate and uncertain. The experiment of a popular government was just beginning; the people had been just released from subjection to an hereditary king, and were not yet practised in the art of choosing a temporary chief for themselves. But thirty-six years have reversed this picture. Thirty-six years, which have produced so many wonderful changes in America, have accomplished the work of many centuries upon the intelligence of its inhabitants. Within that period, school, colleges, and universities have multiplied to an amazing extent. The means of diffusing intelligence have been wonderfully augmented by the establishment of six hundred newspapers, and upwards of five thousand post-offices. The whole course of an American’s life, civil, social, and religious, has become one continued scene of intellectual and of moral improvement. Once in every week, more than eleven thousand men, eminent for learning and for piety, perform the double duty of amending the hearts, and enlightening the understandings, of more than eleven thousand congregations of people. Under the benign influence of a free government, both our public institutions and private pursuits, our juries, elections, courts of justice, the liberal professions and the mechanic arts, have each become a school of political science and of mental improvement. The federal legislature, in the annual message of the President, in reports from heads of departments, and committees of Congress, and speeches of members, pours forth a flood of intelligence which carries its waves to the remotest confines of the republic. In the different States, twenty-four State executives and State legislatures are annually repeating the same process within a more limited sphere. The habit of universal travelling, and the practice of universal interchange of thought, are continually circulating the intelligence of the country, and augmenting its mass. The face of our country itself, its vast extent, its grand and varied features, contribute to expand the human intellect, and to magnify its power. Less than half a century of the enjoyment of liberty has given practical evidence of the great moral truth, that, under a free government, the power of the intellect is the only power which rules the affairs of men; and virtue and intelligence the only durable passports to honor and preferment. The conviction of this great truth has created an universal taste for learning and for reading, and has convinced every parent that the endowments of the mind, and the virtues of the heart, are the only imperishable, the only inestimable riches which he can leave to his posterity.

“This objection (the danger of tumults and violence at the elections) is taken from the history of the ancient republics; from the tumultuary elections of Rome and Greece. But the justness of the example is denied. There is nothing in the laws of physiology which admits a parallel between the sanguinary Roman, the volatile Greek, and the phlegmatic American. There is nothing in the state of the respective countries, or in their manner of voting, which makes one an example for the other. The Romans voted in a mass, at a single voting place, even when the qualified voters amounted to millions of persons. They came to the polls armed, and divided into classes, and voted, not by heads, but by centuries. In the Grecian Republics all the voters were brought together in one great city, and decided the contest in one great struggle. In such assemblages, both the inducement to violence, and the means of committing it, were prepared by the government itself. In the United States all this is different. The voters are assembled in small bodies, at innumerable voting places, distributed over a vast extent of country. They come to the polls without arms, without odious distinctions, without any temptation to violence, and with every inducement to harmony. If heated during the day of election, they cool off upon returning to their homes, and resuming their ordinary occupations.

"But let us admit the truth of the objection. Let us admit that the American people would be as tumultuary at their presidential elections, as were the citizens of the ancient republics at the election of their chief magistrates. What then? Are we thence to infer the inferiority of the officers thus elected, and the consequent degradation of the countries over which they presided? I answer no. So far from it, that I assert the superiority of these officers over all others ever obtained for the same countries, either by hereditary succession, or the most select mode of election. I affirm those periods of history to be the most glorious in arms, the most renowned in arts, the most celebrated in letters, the most useful in practice, and the most happy in the condition of the people, in which the whole body of the citizens voted direct for the chief officer of their country. Take the history of that commonwealth which yet shines as the leading star in the firmament of nations. Of the twenty-five centuries that the Roman state has existed, to what period do we look for the generals and statesmen, the poets and orators, the philosophers and historians, the sculptors, painters, and architects, whose immortal works have fixed upon their country the admiring eyes of all succeeding ages? Is it to the reigns of the seven first kings?—to the reigns of the emperors, proclaimed by the prætorian bands?—to the reigns of the Sovereign Pontiffs, chosen by a select body of electors in a conclave of most holy cardinals? No—We look to none of these, but to that short interval of four centuries and a half which lies between the expulsion of the Tarquins, and the re-establishment of monarchy in the person of Octavius Cæsar. It is to this short period, during which the consuls, tribunes, and prætors, were annually elected by a direct vote of the people, to which we look ourselves, and to which we direct the infant minds of our children, for all the works and monuments of Roman greatness; for roads, bridges, and aqueducts, constructed; for victories gained, nations vanquished, commerce extended, treasure imported, libraries founded, learning encouraged, the arts flourishing, the city embellished, and the kings of the earth humbly suing to be admitted into the friendship, and taken under the protection, of the Roman people. It was of this magnificent period that Cicero spoke, when he proclaimed the people of Rome to be the masters of kings, and the conquerors and commanders of all the nations of the earth. And, what is wonderful, during this whole period, in a succession of four hundred and fifty annual elections, the people never once preferred a citizen to the consulship who did not carry the prosperity and the glory of the Republic to a point beyond that at which he had found it.

"It is the same with the Grecian Republics. Thirty centuries have elapsed since they were founded; yet it is to an ephemeral period of one hundred and fifty years only, the period of popular elections which intervened between the dispersion of a cloud of petty tyrants, and the coming of a great one in the person of Philip, king of Macedon, that we are to look for that galaxy of names which shed so much lustre upon their country, and in which we are to find the first cause of that intense sympathy which now burns in our bosoms at the name of Greece.

"These short and brilliant periods exhibit the great triumph of popular elections; often tumultuary, often stained with blood, but always ending gloriously for the country. Then the right of suffrage was enjoyed; the sovereignty of the people was no fiction. Then a sublime spectacle was seen, when the Roman citizen advanced to the polls and proclaimed: '*I vote for Cato to be Consul*;' the Athenian, '*I vote for Aristides to be Archon*;' the Theban, '*I vote for Pelopidas to be Bœotrach*;' the Lacedemonian, '*I vote for Leonidas to be first of the Ephori*.' And why may not an American citizen do the same? Why may not he go up to the poll and proclaim, '*I vote for Thomas Jefferson to be President of the United States?*' Why is he compelled to put his vote in the hands of another, and to incur all the hazards of an irresponsible agency, when he himself could immediately give his own vote for his own chosen candidate, without the slightest assistance from agents or managers?

"But, said Mr. Benton, I have other objections to these intermediate electors. They are the peculiar and favorite institution of aristocratic republics, and elective monarchies. I refer the Senate to the late republics of Venice and Genoa; of France, and her litter; to the kingdom of Poland; the empire of Germany, and the Pontificate of Rome. On the contrary, a direct vote by the people is the peculiar and favorite institution of democratic republics; as we have just seen in the governments of Rome, Athens, Thebes, and Sparta; to which may be added the principal cities of the Amphyctionic and Achaian leagues, and the renowned republic of Carthage when the rival of Rome.

"I have now answered the objections which were brought forward in the year '87. I ask for no judgment upon their validity at that day, but I affirm them to be without force or reason in the year 1824. Time and experience have so decided. Yes, *time* and *experience*, the only infallible tests of good or bad institutions, have now shown that the continuance of the electoral system will be both useless and dangerous to the liberties of the people; and that '*the only effectual mode of preserving our government from the corruptions which have undermined the liberty of so many nations, is, to confide the election of our chief magistrate to those who are farthest removed from the influence of his patronage*;'[1] that is to say, to the whole body of American citizens!

"The electors are not independent; they have no superior intelligence; they are not left to their own judgment in the choice of President; they are not above the control of the people; on the contrary, every elector is pledged, before he is chosen, to give his vote according to the will of those who choose him. He is nothing but an agent, tied down to the execution of a precise trust. Every reason which induced the convention to institute electors has failed. They are no longer of any use, and may be dangerous to the liberties of the people. They are not useful, because they have no power over their own vote, and because the people can vote for a President as easily as they can vote for an elector. They are dangerous to the liberties of the people, because, in the *first* place, they introduce extraneous considerations into the election of President; and, in the *second* place, they may sell the vote which is intrusted to their keeping. They introduce extraneous considerations, by bringing their own character and their own exertions into the presidential canvass. Every one sees this. Candidates for electors are now selected, not for the reasons mentioned in the Federalist, but for their devotion to a particular party, for their manners, and their talent at electioneering. The elector may betray the liberties of the people, by selling his vote. The operation is easy, because he votes by ballot; detection is impossible, because he does not sign his vote; the restraint is nothing but his own conscience, for there is no legal punishment for his breach of trust. If a swindler defrauds you out of a few dollars in property or money, he is whipped and pilloried, and rendered infamous in the eye of the law; but, if an elector should defraud 40,000 people of their vote, there is no remedy but to abuse him in the newspapers, where the best men in the country may be abused, as much as Benedict Arnold, or Judas Iscariot. Every reason for instituting electors has failed, and every consideration of prudence requires them to be discontinued. They are nothing but agents, in a case which requires no agent; and no prudent man would, or ought, to employ an agent to take care of his money, his property, or his liberty, when he is equally capable to take care of them himself.

"But, if the plan of the constitution had not failed—if we were now deriving from electors all the advantages expected from their institution—I, for one, said Mr. B., would still be in favor of getting rid of them. I should esteem the incorruptibility of the people, their disinterested desire to get the best man for President, to be more than a counterpoise to all the advantages which might be derived from the superior intelligence of a more enlightened, but smaller, and

[1] Report of a Committee of the House of Representatives on Mr. McDuffie's proposition.

therefore, more corruptible body. I should be opposed to the intervention of electors, because the double process of electing a man to elect a man, would paralyze the spirit of the people, and destroy the life of the election itself. Doubtless this machinery was introduced into our constitution for the purpose of softening the action of the democratic element; but it also softens the interest of the people in the result of the election itself. It places them at too great a distance from their first servant. It interposes a body of men between the people and the object of their choice, and gives a false direction to the gratitude of the President elected. He feels himself indebted to the electors who collected the votes of the people, and not to the people, who gave their votes to the electors. It enables a few men to govern many, and, in time, it will transfer the whole power of the election into the hands of a few, leaving to the people the humble occupation of confirming what has been done by superior authority.

“Mr Benton referred to historical examples to prove the correctness of his opinion.

“He mentioned the constitution of the French Republic, of the year III. of French liberty. The people to choose electors; these to choose the Councils of Five Hundred, and of Ancients; and these, by a further process of filtration, to choose the Five Directors. The effect was, that the people had no concern in the election of their Chief Magistrates, and felt no interest in their fate. They saw them enter and expel each other from the political theatre, with the same indifference with which they would see the entrance and the exit of so many players on the stage. It was the same thing in all the subaltern Republics of which the French armies were delivered, while overturning the thrones of Europe. The constitutions of the Ligurian, Cisalpine, and Parthenopian Republics, were all duplicates of the mother institution, at Paris; and all shared the same fate. The French consular constitution of the year VIII. (the last year of French liberty) preserved all the vices of the electoral system; and from this fact, alone, that profound observer, Neckar, from the bosom of his retreat, in the midst of the Alps, predicted and proclaimed the death of Liberty in France. He wrote a book to prove that ‘Liberty would be ruined by providing any kind of substitute for popular elections:’ and the result verified his prediction in four years.”

16. Internal Trade With New Mexico

The name of Mexico, the synonyme of gold and silver mines, possessed always an invincible charm for the people of the western States. Guarded from intrusion by Spanish jealousy and despotic power, and imprisonment for life, or labor in the mines, the inexorable penalty for every attempt to penetrate the forbidden country, still the dazzled imaginations and daring spirits of the Great West adventured upon the enterprise; and failure and misfortune, chains and labor, were not sufficient to intimidate others. The journal of (the then lieutenant, afterwards) General Pike inflamed this spirit, and induced new adventurers to hazard the enterprise, only to meet the fate of their predecessors. It was not until the Independence of Mexico, in the year 1821, that the frontiers of this vast and hitherto sealed up country, were thrown open to foreign ingress, and trade and intercourse allowed to take their course. The State of Missouri, from her geographical position, and the adventurous spirit of her inhabitants, was among the first to engage in it; and the "Western Internal Provinces"—the vast region comprehending New Mexico, El Paso del Norte, New Biscay, Chihuahua, Sonora, Sinaloa, and all the wide slope spreading down towards the Gulf of California, the ancient "Sea of Cortez"—was the remote theatre of their courageous enterprise—the further off and the less known, so much the more attractive to their daring spirits. It was the work of individual enterprise, without the protection or countenance of the government—without even its knowledge—and exposed to constant danger of life and property from the untamed and predatory savages, Arabs of the New World, which roamed over the intermediate country of a thousand miles, and considered the merchant and his goods their lawful prey. In three years it had grown up to be a new and regular branch of interior commerce, profitable to those engaged in it, valuable to the country from the articles it carried out, and for the silver, the furs, and the mules which it brought back; and well entitled to the protection and care of the government. That protection was sought, and in the form which the character of the trade required—a right of way through the countries of the tribes between Missouri and New Mexico, a road marked out and security in travelling it, stipulations for good behavior from the Indians, and a consular establishment in the provinces to be traded with. The consuls could be appointed by the order of the government; but the road, the treaty stipulations, and the substantial protection against savages, required the aid of the federal legislative power, and for that purpose a Bill was brought into the Senate by me in the session of 1824-25; and being a novel and strange subject, and asking for extraordinary legislation, it became necessary to lay a foundation of facts, and to furnish a reason and an argument for every thing that was asked. I produced a statement from those engaged in the trade, among others from Mr. Augustus Storrs, late of New Hampshire, then of Missouri—a gentleman of character and intelligence, very capable of relating things as they were, and incapable of relating them otherwise; and who had been personally engaged in the trade. In presenting his statement, and moving to have it printed for the use of the Senate, I said:

"This gentleman had been one of a caravan of eighty persons, one hundred and fifty-six horses, and twenty-three wagons and carriages, which had made the expedition from Missouri to Santa Fé (of New Mexico), in the months of May and June last. His account was full of interest and novelty. It sounded like romance to hear of caravans of men, horses, and wagons, traversing with their merchandise the vast plain which lies between the Mississippi and the *Rio del Norte*. The story seemed better adapted to Asia than to North America. But, romantic as it might seem, the reality had already exceeded the visions of the wildest imagination. The journey to New Mexico, but lately deemed a chimerical project, had become an affair of ordinary occurrence. Santa Fé, but lately the *Ultima Thule* of American

enterprise, was now considered as a stage only in the progress, or rather, a new point of departure to our invincible citizens. Instead of turning back from that point, the caravans broke up there, and the subdivisions branched off in different directions in search of new theatres for their enterprise. Some proceeded down the river to the *Paso del Norte*; some to the mines of Chihuahua and Durango, in the province of New Biscay; some to Sonora and Sinaloa, on the Gulf of California; and some, seeking new lines of communication with the Pacific, had undertaken to descend the western slope of our continent, through the unexplored regions of the Colorado. The fruit of these enterprises, for the present year, amounted to $190,000 in gold and silver bullion, and coin, and precious furs; a sum considerable, in itself, in the commerce of an infant State, but chiefly deserving a statesman's notice, as an earnest of what might be expected from a regulated and protected trade. The principal article given in exchange, is that of which we have the greatest abundance, and which has the peculiar advantage of making the circuit of the Union before it departs from the territories of the republic—cotton—which grows in the South, is manufactured in the North, and exported from the West.

"That the trade will be beneficial to the inhabitants of the Internal Provinces, is a proposition too plain to be argued. They are a people among whom all the arts are lost—the ample catalogue of whose wants may be inferred from the lamentable details of Mr. Storrs. No books! no newspapers! iron a dollar a pound! cultivating the earth with wooden tools! and spinning upon a stick! Such is the picture of a people whose fathers wore the proud title of "*Conquerors*;" whose ancestors, in the time of Charles the Fifth, were the pride, the terror, and the model of Europe; and such has been the power of civil and religious despotism in accomplishing the degradation of the human species! To a people thus abased, and so lately arrived at the possession of their liberties, a supply of merchandise, upon the cheapest terms, is the least of the benefits to be derived from a commerce with the people of the United States. The consolidation of their republican institutions, the improvement of their moral and social condition, the restoration of their lost arts, and the development of their national resources, are among the grand results which philanthropy anticipates from such a commerce.

"To the Indians themselves, the opening of a road through their country is an object of vital importance. It is connected with the preservation and improvement of their race. For two hundred years the problem of Indian civilization has been successively presented to each generation of the Americans, and solved by each in the same way. Schools have been set up, colleges founded, and missions established; a wonderful success has attended the commencement of every undertaking; and, after some time, the schools, the colleges, the missions, and the Indians, have all disappeared together. In the south alone have we seen an exception. There the nations have preserved themselves, and have made a cheering progress in the arts of civilization. Their advance is the work of twenty years. It dates its commencement from the opening of roads through their country. Roads induced separate families to settle at the crossing of rivers, to establish themselves at the best springs and tracts of land, and to begin to sell grain and provisions to the travellers, whom, a few years before, they would kill and plunder. This imparted the idea of exclusive property in the soil, and created an attachment for a fixed residence. Gradually, fields were opened, houses built, orchards planted, flocks and herds acquired, and slaves bought. The acquisition of these comforts, relieving the body from the torturing wants of cold and hunger, placed the mind in a condition to pursue its improvement.—This, Mr. President, is the true secret of the happy advance which the southern tribes have made in acquiring the arts of civilization; this has fitted them for the reception of schools and missions; and doubtless, the same cause will produce the same effects among the tribes beyond, which it has produced among the tribes on this side of the Mississippi.

“The right of way is indispensable, and the committee have begun with directing a bill to be reported for that purpose. Happily, there are no constitutional objections to it. State rights are in no danger! The road which is contemplated will trespass upon the soil, or infringe upon the jurisdiction of no State whatsoever. It runs a course and a distance to avoid all that; for it begins upon the outside line of the outside State, and runs directly off towards the setting sun—far away from all the States. The Congress and the Indians are alone to be consulted, and the statute book is full of precedents. Protesting against the necessity of producing precedents for an act in itself pregnant with propriety, I will yet name a few in order to illustrate the policy of the government, and show its readiness to make roads through Indian countries to facilitate the intercourse of its citizens, and even upon foreign territory to promote commerce and national communications.”

Precedents were then shown. 1, A road from Nashville, Tennessee, through the Chicasaw and Choctaw tribes, to Natchez, 1806; 2, a road through the Creek nations, from Athens, in Georgia, to the 31st degree of north latitude, in the direction to New Orleans, 1806, and continued by act of 1807, with the consent of the Spanish government, through the then Spanish territory of West Florida to New Orleans; 3, three roads through the Cherokee nation, to open an intercourse between Georgia, Tennessee, and the lower Mississippi; and more than twenty others upon the territory of the United States. But the precedent chiefly relied upon was that from Athens through the Creek Indian territory and the Spanish dominions to New Orleans. It was up to the exigency of the occasion in every particular—being both upon Indian territory within our dominions, and upon foreign territory beyond them. The road I wanted fell within the terms of both these qualifications. It was to pass through tribes within our own territory, until it reached the Arkansas River: there it met the foreign boundary established by the treaty of 1819, which gave away, not only Texas, but half the Arkansas besides; and the bill which I brought in provided for continuing the road, with the assent of Mexico, from this boundary to Santa Fé, on the Upper del Norte. I deemed it fair to give additional emphasis to this precedent, by showing that I had it from Mr. Jefferson, and said:

“For a knowledge of this precedent, I am indebted to a conversation with Mr. Jefferson himself. In a late excursion to Virginia, I availed myself of a broken day to call and pay my respects to that patriarchal statesman. The individual must manage badly, Mr. President, who can find himself in the presence of that great man, and retire from it without bringing off some fact, or some maxim, of eminent utility to the human race. I trust that I did not so manage. I trust that, in bringing off a fact which led to the discovery of the precedent, which is to remove the only serious objection to the road in question, I have done a service, if not to the human family, at least to the citizens of the two greatest Republics in the world. It was on the evening of Christmas day that I called upon Mr. Jefferson. The conversation, among other things, turned upon roads. He spoke of one from Georgia to New Orleans, made during the last term of his own administration. He said there was a manuscript map of it in the library of Congress (formerly his own), bound up in a certain volume of maps, which he described to me. On my return to Washington, I searched the statute book, and I found the acts which authorized the road to be made: they are the same which I have just read to the Senate. I searched the Congress Library, and I found the volume of maps which he had described; and here it is (presenting a huge folio), and there is the map of the road from Georgia to New Orleans, more than two hundred miles of which, marked in blue ink, is traced through the then dominions of the King of Spain!”

The foreign part of the road was the difficulty and was not entirely covered by the precedent. That was a road to our own city, and no other direct territorial way from the Southern States than through the Spanish province of West Florida: this was a road to be, not only on foreign territory, but to go to a foreign country. Some Senators, favorable to the bill, were startled at

it, and Mr. Lloyd, of Massachusetts, moved to strike out the part of the section which provided for this ex-territorial national highway; but not in a spirit of hostility to the bill itself providing for protection to a branch of commerce. Mr. Lowrie, of Pennsylvania, could not admit the force of the objection, and held it to be only a modification of what was now done for the protection of commerce—the substitution of land for water; and instanced the sums annually spent in maintaining a fleet in the Mediterranean Sea, and in the most remote oceans for the same purpose. Mr. Van Buren, thought the government was bound to extend the same protection to this branch of trade as to any other; and the road upon the foreign territory was only to be marked out, not made. Mr. Macon thought the question no great matter. Formerly Indian traders followed "*traces"* now they must have roads. He did not care for precedents: they are generally good or bad as they suit or cross our purposes. The case of the road made by Mr. Jefferson was different. That road was made among Indians comparatively civilized, and who had some notions of property. But the proposed road now to be marked out would pass through wild tribes who think of nothing but killing and robbing a white man the moment they see him, and would not be restrained by treaty obligations even if they entered into them. Col. Johnson, of Kentucky, had never hesitated to vote the money which was necessary to protect the lives or property of our sea-faring men, or for Atlantic fortifications, or to suppress piracies. We had, at this session voted $500,000 to suppress piracy in the West Indies. We build ships of war, erect light-houses, spend annual millions for the protection of ocean commerce; and he could not suppose that the sum proposed in this bill for the protection of an inland branch of trade so valuable to the West could be denied. Mr. Kelly, of Alabama, said the great object of the bill was to cherish and foster a branch of commerce already in existence. It is carried on by land through several Indian tribes. To be safe, a road must be had—a right of way—"*a trace*," if you please. To answer its purpose, this road, or "*trace*," must pass the boundary of the United States, and extend several hundred miles through the wilderness country, in the Mexican Republic to the settlements with which the traffic must be carried on. It may be well to remember that the Mexican government is in the germ of its existence, struggling with difficulties that we have long since surmounted, and may not feel it convenient to make the road, and that it is enough to permit us to mark it out upon her soil; which is all that this bill proposes to do within her limits. Mr. Smith, of Maryland, would vote for the bill. The only question with him was, whether commerce could be carried on to advantage on the proposed route; and, being satisfied that it could be, he should vote for the bill. Mr. Brown, of Ohio (Ethan A.), was very glad to hear such sentiments from the Senator from Maryland, and hoped that a reciprocal good feeling would always prevail between different sections of the Union. He thought there could be no objection to the bill, and approved the policy of getting the road upon Mexican territory with the consent of the Mexican government. The bill passed the Senate by a large vote—30 to 12; and these are the names of the Senators voting for and against it:

Yeas.—Messrs. Barton, Benton, Bouligny, Brown, D'Wolf, Eaton, Edwards, Elliott, Holmes of Miss., Jackson (the General), Johnson of Kentucky, Johnston of Lou., Kelly, Knight, Lanman, Lloyd of Mass., Lowrie, McIlvaine, McLean, Noble, Palmer, Parrott, Ruggles, Seymour, Smith, Talbot, Taylor, Thomas, Van Buren, Van Dyke—30.

Nays.—Messrs. Branch, Chandler, Clayton, Cobb, Gaillard, Hayne, Holmes of Maine, King of Ala., King of N. Y., Macon, Tazewell, Williams—12.

It passed the House of Representatives by a majority of thirty—received the approving signature of Mr. Monroe, among the last acts of his public life—was carried into effect by his successor, Mr. John Quincy Adams—and this road has remained a thoroughfare of commerce between Missouri and New Mexico, and all the western internal provinces ever since.

17. Presidential And Vice-Presidential Election In The Electoral Colleges

Four candidates were before the people for the office of President—General Jackson, Mr. John Quincy Adams, Mr. William H. Crawford, and Mr. Henry Clay. Mr. Crawford had been nominated in a caucus of democratic members of Congress; but being a minority of the members, and the nomination not in accordance with public opinion, it carried no authority along with it, and was of no service to the object of its choice. General Jackson was the candidate of the people, brought forward by the masses. Mr. Adams and Mr. Clay were brought forward by bodies of their friends in different States. The whole number of electoral votes was 261 of which it required 131 to make an election. No one had that number. General Jackson was the highest on the list, and had 99 votes; Mr. Adams 84; Mr. Crawford 41; Mr. Clay 37. No one having a majority of the whole of electors, the election devolved upon the House of Representatives; of which an account will be given in a separate chapter.

In the vice-presidential election it was different. Mr. John C. Calhoun (who in the beginning of the canvass had been a candidate for the Presidency, but had been withdrawn by his friends in Pennsylvania, and put forward for Vice-President), received 182 votes in the electoral college, and was elected. Mr. Nathan Sandford, Senator in Congress from New-York, had been placed on the ticket with Mr. Clay, and received 30 votes. The 24 votes of Virginia were given to Mr. Macon, as a compliment, he not being a candidate, and having refused to become one. The nine votes of Georgia were given to Mr. Van Buren, also as a compliment, he not being on the list of candidates. Mr. Albert Gallatin had been nominated in the Congress caucus with Mr. Crawford, but finding the proceedings of that caucus unacceptable to the people he had withdrawn from the canvass. Mr. Calhoun was the only substantive vice-presidential candidate before the people, and his election was an evidence of good feeling in the North towards southern men—he receiving the main part of his votes from that quarter—114 votes from the non-slaveholding States, and only 68 from the slaveholding. A southern man, and a slaveholder, Mr. Calhoun was indebted to northern men and non-slaveholders, for the honorable distinction of an election in the electoral colleges—the only one in the electoral colleges—the only one on all the lists of presidential and vice-presidential candidates who had that honor. Surely there was no disposition in the free States at that time to be unjust, or unkind to the South.

18. Death Of John Taylor, Of Caroline

For by that designation was discriminated, in his own State, the eminent republican statesman of Virginia, who was a Senator in Congress in the first term of General Washington's administration, and in the last term of Mr. Monroe—and who, having voluntarily withdrawn himself from that high station during the intermediate thirty years, devoted himself to the noble pursuits of agriculture, literature, the study of political economy, and the service of his State or county when called by his fellow-citizens. Personally I knew him but slightly, our meeting in the Senate being our first acquaintance, and our senatorial association limited to the single session of which he was a member—1823-24;—at the end of which he died. But all my observation of him, and his whole appearance and deportment, went to confirm the reputation of his individuality of character, and high qualities of the head and the heart. I can hardly figure to myself the ideal of a republican statesman more perfect and complete than he was in reality:—plain and solid, a wise counsellor, a ready and vigorous debater, acute and comprehensive, ripe in all historical and political knowledge, innately republican—modest, courteous, benevolent, hospitable—a skilful, practical farmer, giving his time to his farm and his books, when not called by an emergency to the public service—and returning to his books and his farm when the emergency was over. His whole character was announced in his looks and deportment, and in his uniform (senatorial) dress—the coat, waistcoat, and pantaloons of the same "London brown," and in the cut of a former fashion—beaver hat with ample brim—fine white linen—and a gold-headed cane, carried not for show, but for use and support when walking and bending under the heaviness of years. He seemed to have been cast in the same mould with Mr. Macon, and it was pleasant to see them together, looking like two Grecian sages, and showing that regard for each other which every one felt for them both. He belonged to that constellation of great men which shone so brightly in Virginia in his day, and the light of which was not limited to Virginia, or our America, but spread through the bounds of the civilized world. He was the author of several works, political and agricultural, of which his *Arator* in one class, and his *Construction Construed* in another, were the principal—one adorning and exalting the plough with the attributes of science; the other exploring the confines of the federal and the State governments, and presenting a mine of constitutional law very profitably to be examined by the political student who will not be repulsed from a banquet of rich ideas, by the quaint Sir Edward Coke style—(the only point of resemblance between the republican statesman, and the crown officer of Elizabeth and James)—in which it is dressed. Devotion to State rights was the ruling feature of his policy; and to keep both governments, State and federal, within their respective constitutional orbits, was the labor of his political life.

In the years 1798 and '99, Mr. Taylor was a member of the General Assembly of his State, called into service by the circumstances of the times; and was selected on account of the dignity and gravity of his character, his power and readiness in debate, and his signal devotion to the rights of the States, to bring forward those celebrated resolutions which Mr. Jefferson conceived, which his friends sanctioned, which Mr. Madison drew up, and which "John Taylor, of Caroline," presented;—which are a perfect exposition of the principles of our duplicate form of government, and of the limitations upon the power of the federal government;—and which, in their declaration of the unconstitutionality of the alien and sedition laws, and appeal to other States for their co-operation, had nothing in view but to initiate a State movement by two-thirds of the States (the number required by the fifth article of the federal constitution), to amend, or authoritatively expound the constitution;—the idea

of forcible resistance to the execution of any act of Congress being expressly disclaimed at the time.

19. Presidential Election In The House Of Representatives

It has already been shown that the theory of the constitution, and its practical working, was entirely different in the election of President and Vice-President—that by the theory, the people were only to choose electors, to whose superior intelligence the choice of fit persons for these high stations was entirely committed—and that, in practice, this theory had entirely failed from the beginning. From the very first election the electors were made subordinate to the people, having no choice of their own, and pledged to deliver their votes for a particular person, according to the will of those who elected them. Thus the theory had failed in its application to the electoral college; but there might be a second or contingent election, and has been; and here the theory of the constitution has failed again. In the event of no choice being made by the electors, either for want of a majority of electoral votes being given to any one, or on account of an equal majority for two, the House of Representatives became an electoral college for the occasion, limited to a choice out of the five highest (before the constitution was amended), or the two highest having an equal majority. The President and Vice-President were not then voted for separately, or with any designation of their office. All appeared upon the record as presidential nominees—the highest on the list having a majority, to be President; the next highest, also having a majority, to be Vice-President; but the people, from the beginning, had discriminated between the persons for these respective places, always meaning one on their ticket for President, the other for Vice-President. But, by the theory of the constitution and its words, those intended Vice-Presidents might be elected President in the House of Representatives, either by being among the five highest when there was no majority, or being one of two in an equal majority. This theory failed in the House of Representatives from the first election, the *demos krateo* principle—the people to govern—prevailing there as in the electoral colleges, and overruling the constitutional design in each.

The first election in the House of Representatives was that of Mr. Jefferson and Mr. Burr, in the session of 1800-1801. These gentlemen had each a majority of the whole number of electoral votes, and an equal majority—73 each—Mr. Burr being intended for Vice-President. One of the contingencies had then occurred in which the election went to the House of Representatives. The federalists had acted more wisely, one of their State electoral colleges (that of Rhode Island), having withheld a vote from the intended Vice-President on their side, Mr. Charles Colesworth Pinckney, of South Carolina; and so prevented an equality of votes between him and Mr. John Adams. It would have been entirely constitutional in the House of Representatives to have elected Mr. Burr President, but at the same time, a gross violation of the democratic principle, which requires the will of the majority to be complied with. The federal States undertook to elect Mr. Burr, and kept up the struggle for seven days and nights, and until the thirty-sixth ballot. There were sixteen States, and it required the concurrence of nine to effect an election. Until the thirty-sixth Mr. Jefferson had eight, Mr. Burr six, and two were divided. On the thirty-sixth ballot Mr. Jefferson had ten States and was elected. General Hamilton, though not then in public life, took a decided part in this election, rising above all personal and all party considerations, and urging the federalists from the beginning to vote for Mr. Jefferson. Thus the democratic principle prevailed. The choice of the people was elected by the House of Representatives; and the struggle was fatal to those who had opposed that principle. The federal party was broken down, and at the ensuing Congress elections, was left in a small minority. Its candidate at the ensuing presidential election received but fourteen votes out of one hundred and seventy-six. Burr, in whose

favor, and with whose connivance the struggle had been made, was ruined—fell under the ban of the republican party, disappeared from public life, and was only seen afterwards in criminal enterprises, and ending his life in want and misery. The constitution itself, in that particular (the mode of election), was broken down, and had to be amended so as to separate the presidential from the vice-presidential ticket, giving each a separate vote; and in the event of no election by the electoral colleges, sending each to separate houses—the three highest on the presidential lists to the House of Representatives,—the two highest on the vice-presidential, to the Senate. And thus ended the first struggle in the House of Representatives (in relation to the election of President), between the theory of the constitution and the democratic principle—triumph to the principle, ruin to its opposers, and destruction to the clause in the constitution, which permitted such a struggle.

The second presidential election in the House of Representatives was after the lapse of a quarter of a century, and under the amended constitution, which carried the three highest on the list to the House when no one had a majority of the electoral votes. General Jackson, Mr. John Quincy Adams, and Mr. William H. Crawford, were the three, their respective votes being 99, 84, 41; and in this case a second struggle took place between the theory of the constitution and the democratic principle; and with eventual defeat to the opposers of that principle, though temporarily successful. Mr. Adams was elected, though General Jackson was the choice of the people, having received the greatest number of votes, and being undoubtedly the second choice of several States whose votes had been given to Mr. Crawford and Mr. Clay (at the general election). The representatives from some of these States gave the vote of the State to Mr. Adams, upon the argument that he was best qualified for the station, and that it was dangerous to our institutions to elect a military chieftain—an argument which assumed a guardianship over the people, and implied the necessity of a superior intelligence to guide them for their own good. The election of Mr. Adams was perfectly constitutional, and as such fully submitted to by the people; but it was also a violation of the *demos krateo* principle; and that violation was signally rebuked. All the representatives who voted against the will of their constituents, lost their favor, and disappeared from public life. The representation in the House of Representatives was largely changed at the first general election, and presented a full opposition to the new President. Mr. Adams himself was injured by it, and at the ensuing presidential election was beaten by General Jackson more than two to one—178 to 83. Mr. Clay, who took the lead in the House for Mr. Adams, and afterwards took upon himself the mission of reconciling the people to his election in a series of public speeches, was himself crippled in the effort, lost his place in the democratic party, joined the whigs (then called national republicans), and has since presented the disheartening spectacle of a former great leader figuring at the head of his ancient foes in all their defeats, and lingering on their rear in their victories. The democratic principle was again victor over the theory of the constitution, and great and good were the results that ensued. It vindicated the *demos* in their right and their power, and showed that the prefix to the constitution, “We, the people, do ordain and establish,” &c., may also be added to its administration, showing them to be as able to administer as to make that instrument. It re-established parties upon the basis of principle, and drew anew party lines, then almost obliterated under the fusion of parties during the “era of good feeling,” and the efforts of leading men to make personal parties for themselves. It showed the conservative power of our government to lie in the people, more than in its constituted authorities. It showed that they were capable of exercising the function of self-government. It assured the supremacy of the democracy for a long time, and until temporarily lost by causes to be shown in their proper place. Finally, it was a caution to all public men against future attempts to govern presidential elections in the House of Representatives.

It is no part of the object of this "Thirty Years' View" to dwell upon the conduct of individuals, except as showing the causes and the consequences of events; and, under this aspect, it becomes the gravity of history to tell that, in these two struggles for the election of President, those who struggled against the democratic principle lost their places on the political theatre,—the mere voting members being put down in their States and districts, and the eminent actors for ever ostracised from the high object of their ambition. A subordinate cause may have had its effect, and unjustly, in prejudicing the public mind against Mr. Adams and Mr. Clay. They had been political adversaries, had co-operated in the election, and went into the administration together. Mr. Clay received the office of Secretary of State from Mr. Adams, and this gave rise to the imputation of a bargain between them.

It came within my knowledge (for I was then intimate with Mr. Clay), long before the election, and probably before Mr. Adams knew it himself, that Mr. Clay intended to support him against General Jackson; and for the reasons afterward averred in his public speeches. I made this known when occasions required me to speak of it, and in the presence of the friends of the impugned parties. It went into the newspapers upon the information of these friends, and Mr. Clay made me acknowledgments for it in a letter, of which this is the exact copy:

"*I have received a paper published on the 20th ultimo, at Lemington, in Virginia, in which is contained an article stating that you had, to a gentleman of that place, expressed your disbelief of a charge injurious to me, touching the late presidential election, and that I had communicated to you unequivocally, before the 15th of December, 1824, my determination to vote for Mr. Adams and not for General Jackson. Presuming that the publication was with your authority, I cannot deny the expression of proper acknowledgments for the sense of justice which has prompted you to render this voluntary and faithful testimony.*"

This letter, of which I now have the original, was dated at Washington City, December 6th, 1827—that is to say, in the very heat and middle of the canvass in which Mr. Adams was beaten by General Jackson, and when the testimony could be of most service to him. It went the rounds of the papers, and was quoted and relied upon in debates in Congress, greatly to the dissatisfaction of many of my own party. There was no mistake in the date, or the fact. I left Washington the 15th of December, on a visit to my father-in-law, Colonel James McDowell, of Rockbridge county, Virginia, where Mrs. Benton then was; and it was before I left Washington that I learned from Mr. Clay himself that his intention was to support Mr. Adams. I told this at *that* time to Colonel McDowell, and any friends that chanced to be present, and gave it to the public in a letter which was copied into many newspapers, and is preserved in Niles' Register. I told it as my *belief* to Mr. Jefferson on Christmas evening of the same year, when returning to Washington and making a call on that illustrious man at his seat, Monticello; and believing then that Mr. Adams would be elected, and, from the necessity of the case, would have to make up a mixed cabinet, I expressed that belief to Mr. Jefferson, using the term, familiar in English history, of "*broad bottomed*;" and asked him how it would do? He answered, "Not at all—would never succeed—would ruin all engaged in it." Mr. Clay told his intentions to others of his friends from an early period, but as they remained his friends, their testimony was but little heeded. Even my own, in the violence of party, and from my relationship to Mrs. Clay, seemed to have but little effect. The imputation of "bargain" stuck, and doubtless had an influence in the election. In fact, the circumstances of the whole affair—previous antagonism between the parties, actual support in the election, and acceptance of high office, made up a case against Messrs. Adams and Clay which it was hardly safe for public men to create and to brave, however strong in their own consciousness of integrity. Still, the great objection to the election of Mr. Adams was in the violation of the principle *demos krateo*; and in the question which it raised of the capacity of the *demos* to

choose a safe President for themselves. A letter which I wrote to the representative from Missouri, before he gave the vote of the State to Mr. Adams, and which was published immediately afterwards, placed the objection upon this high ground; and upon it the battle was mainly fought, and won. It was a victory of principle, and should not be disparaged by the admission of an unfounded and subordinate cause.

This presidential election of 1824 is remarkable under another aspect—as having put an end to the practice of caucus nominations for the Presidency by members of Congress. This mode of concentrating public opinion began to be practised as the eminent men of the Revolution, to whom public opinion awarded a preference, were passing away, and when new men, of more equal pretensions, were coming upon the stage. It was tried several times with success and general approbation, public sentiment having been followed, and not led, by the caucus. It was attempted in 1824, and failed, the friends of Mr. Crawford only attending—others not attending, not from any repugnance to the practice, as their previous conduct had shown, but because it was known that Mr. Crawford had the largest number of friends in Congress, and would assuredly receive the nomination. All the rest, therefore, refused to go into it: all joined in opposing the "caucus candidate," as Mr. Crawford was called; all united in painting the intrigue and corruption of these caucus nominations, and the anomaly of members of Congress joining in them. By their joint efforts they succeeded, and justly in the fact though not in the motive, in rendering these Congress caucus nominations odious to the people, and broke them down. They were dropped, and a different mode of concentrating public opinion was adopted—that of party nominations by conventions of delegates from the States. This worked well at first, the will of the people being strictly obeyed by the delegates, and the majority making the nomination. But it quickly degenerated, and became obnoxious to all the objections to Congress caucus nominations, and many others besides. Members of Congress still attended them, either as delegates or as lobby managers. Persons attended as delegates who had no constituency. Delegates attended upon equivocal appointments. Double sets of delegates sometimes came from the State, and either were admitted or repulsed, as suited the views of the majority. Proxies were invented. Many delegates attended with the sole view of establishing a claim for office, and voted accordingly. The two-thirds rule was invented, to enable the minority to control the majority; and the whole proceeding became anomalous and irresponsible, and subversive of the will of the people, leaving them no more control over the nomination than the subjects of kings have over the birth of the child which is born to rule over them. King Caucus is as potent as any other king in this respect; for whoever gets the nomination—no matter how effected—becomes the candidate of the party, from the necessity of union against the opposite party, and from the indisposition of the great States to go into the House of Representatives to be balanced by the small ones. This is the mode of making Presidents, practised by both parties now. It is the virtual election! and thus the election of the President and Vice-President of the United States has passed—not only from the college of electors to which the constitution confided it, and from the people to whom the practice under the constitution gave it, and from the House of Representatives which the constitution provided as ultimate arbiter—but has gone to an anomalous, irresponsible body, unknown to law or constitution, unknown to the early ages of our government, and of which a large proportion of the members composing it, and a much larger proportion of interlopers attending it, have no other view either in attending or in promoting the nomination of any particular man, than to get one elected who will enable them to eat out of the public crib—who will give them a key to the public crib.

The evil is destructive to the rights and sovereignty of the people, and to the purity of elections. The remedy is in the application of the democratic principle—the people to vote direct for President and Vice-President; and a second election to be held immediately

between the two highest, if no one has a majority of the whole number on the first trial. But this would require an amendment of the constitution, not to be effected but by a concurrence of two thirds of each house of Congress, and the sanction of three fourths of the States—a consummation to which the strength of the people has not yet been equal, but of which there is no reason to despair. The great parliamentary reform in Great Britain was only carried after forty years of continued, annual, persevering exertion. Our constitutional reform, in this point of the presidential election, may require but a few years; in the meanwhile I am for the people to *select*, as well as *elect*, their candidates, and for a reference to the House to choose one out of three presented by the people, instead of a caucus nomination of whom it pleased. The House of Representatives is no longer the small and dangerous electoral college that it once was. Instead of thirteen States we now have thirty-one; instead of sixty-five representatives, we have now above two hundred. Responsibility in the House is now well established, and political ruin, and personal humiliation, attend the violation of the will of the State. No man could be elected now, or endeavor to be elected (after the experience of 1800 and 1824), who is not at the head of the list, and the choice of a majority of the Union. The lesson of those times would deter imitation, and the democratic principle would again crush all that were instrumental in thwarting the public will. There is no longer the former danger from the House of Representatives, nor any thing in it to justify a previous resort to such assemblages as our national conventions have got to be. The House is legal and responsible, which the convention is not, with a better chance for integrity, as having been actually elected by the people; and more restrained by position, by public opinion, and a clause in the constitution from the acceptance of office from the man they elect. It is the constitutional umpire; and until the constitution is amended, I am for acting upon it as it is.

20. The Occupation Of The Columbia

This subject had begun to make a lodgment in the public mind, and I brought a bill into the Senate to enable the President to possess and retain the country. The joint occupation treaty of 1818 was drawing to a close, and it was my policy to terminate such occupation, and hold the Columbia (or Oregon) exclusively, as we had the admitted right to do while the question of title was depending. The British had no title, and were simply working for a division—for the right bank of the river, and the harbor at its mouth—and waiting on *time* to ripen their joint occupation into a claim for half. I knew this, and wished to terminate a joint tenancy which could only be injurious to ourselves while it lasted, and jeopard our rights when it terminated. The bill which I brought in proposed an appropriation to enable the President to act efficiently, with a detatchment of the army and navy; and in the discussion of this bill the whole question of title and of policy came up; and, in a reply to Mr. Dickerson, of New Jersey, I found it to be my duty to defend both. I now give some extracts from that reply, as a careful examination of the British pretension, founded upon her own exhibition of title, and showing that she had none south of forty-nine degrees, and that we were only giving her a claim, by putting her possession on an equality with our own. These extracts will show the history of the case as it then stood—as it remained invalidated in all subsequent discussion—and according to which, and after twenty years, and when the question had assumed a war aspect, it was finally settled. The bill did not pass, but received an encouraging vote—fourteen senators voting favorably to it. They were:

Messrs. Barbour, Benton, Bouligny, Cobb, Hayne, Jackson (the General), Johnson of Kentucky, Johnston of Louisiana, Lloyd of Massachusetts, Mills, Noble, Ruggles, Talbot, Thomas.

“Mr. Benton, in reply to Mr. Dickerson, said that he had not intended to speak to this bill. Always unwilling to trespass upon the time and patience of the Senate, he was particularly so at this moment, when the session was drawing to a close, and a hundred bills upon the table were each demanding attention. The occupation of the Columbia River was a subject which had engaged the deliberations of Congress for four years past, and the minds of gentlemen might be supposed to be made up upon it. Resting upon this belief, Mr. B., as reporter of the bill, had limited himself to the duty of watching its progress, and of holding himself in readiness to answer any inquiries which might be put. Inquiries he certainly expected; but a general assault, at this late stage of the session, upon the principle, the policy, and the details of the bill, had not been anticipated. Such an assault had, however, been made by the senator from New Jersey (Mr. D.), and Mr. B. would be unfaithful to his duty if he did not repel it. In discharging this duty, he would lose no time in going over the gentleman’s calculations about the expense of getting a member of Congress from the Oregon to the Potomac; nor would he solve his difficulties about the shortest and best route—whether Cape Horn should be doubled, a new route explored under the north pole, or mountains climbed, whose aspiring summits present twelve feet of defying snow to the burning rays of a July sun. Mr. B. looked upon these calculations and problems as so many dashes of the gentleman’s wit, and admitted that wit was an excellent article in debate, equally convenient for embellishing an argument, and concealing the want of one. For which of these purposes the senator from New Jersey had amused the Senate with the wit in question, it was not for Mr. B. to say, nor should he undertake to disturb him in the quiet enjoyment of the honor which he had won thereby, and would proceed directly to speak to the merits of the bill.

“It is now, Mr. President, continued Mr. B., precisely two and twenty years since a contest for the Columbia has been going on between the United States and Great Britain. The contest originated with the discovery of the river itself. The moment that we discovered it she claimed it; and without a color of title in her hand, she has labored ever since to overreach us in the arts of negotiation, or to bully us out of our discovery by menaces of war.

“In the year 1790, a citizen of the United States, Capt. Gray, of Boston, discovered the Columbia at its entrance into the sea; and in 1803, Lewis and Clarke were sent by the government of the United States to complete the discovery of the whole river, from its source downwards, and to take formal possession in the name of their government. In 1793 Sir Alexander McKenzie had been sent from Canada by the British Government to effect the same object; but he missed the sources of the river, fell upon the *Tacoutche Tesse*, and struck the Pacific about five hundred miles to the north of the mouth of the Columbia.

“In 1803, the United States acquired Louisiana, and with it an open question of boundaries for that vast province. On the side of Mexico and Florida this question was to be settled with the King of Spain; on the north and northwest, with the King of Great Britain. It happened in the very time that we were signing a treaty in Paris for the acquisition of Louisiana, that we were signing another in London for the adjustment of the boundary line between the northwest possessions of the United States and the King of Great Britain. The negotiators of each were ignorant of what the others had done; and on remitting the two treaties to the Senate of the United States for ratification, that for the purchase of Louisiana was ratified without restriction; the other, with the exception of the fifth article. It was this article which adjusted the boundary line between the United States and Great Britain, from the Lake of the Woods to the head of the Mississippi; and the Senate refused to ratify it, because, by possibility, it might jeopard the northern boundary of Louisiana. The treaty was sent back to London, the fifth article expunged; and the British Government, acting then as upon a late occasion, rejected the whole treaty, when it failed in securing the precise advantage of which it was in search.

“In the year 1807, another treaty was negotiated between the United States and Great Britain. The negotiators on both sides were then possessed of the fact that Louisiana belonged to the United States, and that her boundaries to the north and west were undefined. The settlement of this boundary was a point in the negotiation, and continued efforts were made by the British plenipotentiaries to overreach the Americans, with respect to the country west of the Rocky Mountains. Without presenting any claim, they endeavored to ‘*leave a nest egg for future pretensions in that quarter*.’ (*State Papers*, 1822-3.) Finally, an article was agreed to. The forty-ninth degree of north latitude was to be followed west, as far as the territories of the two countries extended in that direction, with a proviso against its application to the country west of the Rocky Mountains. This treaty shared the fate of that of 1803. It was never ratified. For causes unconnected with the questions of boundary, it was rejected by Mr. Jefferson without a reference to the Senate.

“At Ghent, in 1814, the attempts of 1803 and 1807 were renewed. The British plenipotentiaries offered articles upon the subject of the boundary, and of the northwest coast, of the same character with those previously offered; but nothing could be agreed upon, and nothing upon the subject was inserted in the treaty signed at that place.

“At London, in 1818, the negotiations upon this point were renewed; and the British Government, for the first time, uncovered the ground upon which its pretensions rested. Its plenipotentiaries, Mr. Robinson and Mr. Goulbourn, asserted (to give them the benefit of their own words, as reported by Messrs. Gallatin and Rush) ‘That former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery; and

they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated that the *river* itself was the most convenient that could be adopted, and that they would not agree to any which did not give them the *harbor* at the *mouth* of the *river* in common with the United States.'"—*Letter from Messrs. Gallatin and Rush*, *October* 20th, 1820.

To this the American plenipotentiaries answered, in a way better calculated to encourage than to repulse the groundless pretensions of Great Britain. 'We did not assert (continue these gentlemen in the same letter), we did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. We did not know with precision what value our government set on the country to the westward of these mountains; but we were not authorized to enter into any agreement which should be tantamount to an abandonment of the claim to it. It was at last agreed, but, as we thought, with some *reluctance* on the part of the *British* plenipotentiaries, that the country on the northwest coast, claimed by either party, should, without prejudice to the claims of either, and for a *limited* time, be opened for the purposes of trade to the inhabitants of both countries.'

"The substance of this agreement was inserted in the convention of October, 1818. It constitutes the third article of that treaty, and is the same upon which the senator from New Jersey (Mr. Dickerson) relies for excluding the United States from the occupation of the Columbia.

"In subsequent negotiations, the British agents further rested their claim upon the discoveries of McKenzie, in 1793, the seizure of Astoria during the late war, and the Nootka Sound Treaty, of 1790.

"Such an exhibition of title, said Mr. B., is ridiculous, and would be contemptible in the hands of any other power than that of Great Britain. Of the five grounds of claim which she has set up, not one of them is tenable against the slightest examination. Cook never saw, much less took possession of any part of the northwest coast of America, in the latitude of the Columbia River. All his discoveries were far north of that point, and not one of them was followed up by possession, without which the fact of discovery would confer no title. The Indians were not even named from whom the purchases are stated to have been made anterior to the Revolutionary War. Not a single particular is given which could identify a transaction of the kind. The only circumstance mentioned applies to the locality of the Indians supposed to have made the sale; and that circumstance invalidates the whole claim. They are said to have resided to the '*south*' of the Columbia; by consequence they did not reside *upon it*, and could have no right to sell a country of which they were not the possessors.

"McKenzie was sent out from Canada, in the year 1793, to discover, at its head, the river which Captain Gray had discovered at its mouth, three years before. But McKenzie missed the object of his search, and struck the Pacific five hundred miles to the north, as I have already stated. The seizure of Astoria, during the war, was an operation of arms, conferring no more title upon Great Britain to the Columbia, than the capture of Castine and Detroit gave her to Maine and Michigan. This new ground of claim was set up by Mr. Bagot, his Britannic Majesty's minister to this republic, in 1817, and set up in a way to contradict and relinquish all their other pretended titles. Mr. Bagot was remonstrating against the occupation, by the United States, of the Columbia River, and reciting that it had been taken possession of, in his Majesty's name, during the late war, '*and had* SINCE *been* CONSIDERED *as forming a part of his Majesty's dominions*.' The word '*since*,' is exclusive of all previous pretension, and the Ghent Treaty, which stipulates for the restoration of all the captured posts, is a complete extinguisher to this idle pretension. Finally,

the British negotiators have been driven to take shelter under the Nootka Sound Treaty of 1790. The character of that treaty was well understood at the time that it was made, and its terms will speak for themselves at the present day. It was a treaty of concession, and not of acquisition of rights, on the part of Great Britain. It was so characterized by the opposition, and so admitted to be by the ministry, at the time of its communication to the British Parliament.

[Here Mr. B. read passages from the speeches of Mr. Fox and Mr. Pitt, to prove the character of this Treaty.]

"Mr. Fox said, 'What, then, was the extent of our rights before the convention—(whether admitted or denied by Spain was of no consequence)—and to what extent were they now secured to us? We possessed and exercised the free navigation of the Pacific Ocean, without restraint or limitation. We possessed and exercised the right of carrying on fisheries in the South Seas equally unlimited. This was no barren right, but a right of which we had availed ourselves, as appeared by the papers on the table, which showed that the produce of it had increased, in five years, from twelve to ninety-seven thousand pounds sterling. This estate we had, and were daily improving; it was not to be disgraced by the name of an acquisition. The admission of part of these rights by Spain, was all we had obtained. Our right, before, was to settle in any part of the South or Northwest Coast of America, not fortified against us by previous occupancy; and we were now restricted to settle in certain places only, and under certain restrictions. This was an important concession on our part. Our rights of fishing extended to the whole ocean, and now it, too, was limited, and to be carried on within certain distances of the Spanish settlements. Our right of making settlements was not, as now, a right to build huts, but to plant colonies, if we thought proper. Surely these were not acquisitions, or rather conquests, as they must be considered, if we were to judge by the triumphant language respecting them, but great and important concessions. By the third article, we are authorized to navigate the Pacific Ocean and South Seas, unmolested, for the purpose of carrying on our fisheries, and to land on the unsettled coasts, for the purpose of trading with the natives; but, after this pompous recognition of right to navigation, fishery, and commerce, comes another article, the sixth, which takes away the right of landing, and erecting even temporary huts, for any purpose but that of carrying on the fishery, and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives.'—*British Parliamentary History*, Vol. 28, p. 990.

"Mr. Pitt, in reply. 'Having finished that part of Mr. Fox's speech which referred to the reparation, Mr. Pitt proceeded to the next point, namely, that gentleman's argument to prove, that the other articles of the convention were mere concessions, and not acquisitions. In answer to this, Mr. Pitt maintained, that, though what this country had gained consisted not of new rights, it certainly did of new advantages. We had, before, a right to the Southern whale fishery, and a right to navigate and carry on fisheries in the Pacific Ocean, and to trade on the coasts of any part of Northwest America; but that right not only had not been acknowledged, but disputed and resisted: whereas, by the convention, it was secured to us—a circumstance which, though no new right, was a new advantage.'—*Same*—p. 1002.

"But, continued Mr. Benton, we need not take the character of the treaty even from the high authority of these rival leaders in the British Parliament. The treaty will speak for itself. I have it in my hand, and will read the article relied upon to sustain the British claim to the Columbia River.

"'ARTICLE THIRD OF THE NOOTKA SOUND TREATY.

"'In order to strengthen the bonds of friendship, and to preserve, in future, a perfect harmony and good understanding between the two contracting parties, it is agreed that their respective subjects shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there; the whole subject, nevertheless, to the restrictions and provisions specified in the three following articles.'

"The particular clause of this article, relied upon by the advocates for the British claim, is that which gives the right of *landing* on parts of the Northwest Coast, not already *occupied*, for the purpose of carrying on *commerce* and making *settlements*. The first inquiry arising upon this clause is, whether the coast, in the latitude of the Columbia River, was unoccupied at the date of the Nootka Sound Treaty? The answer is in the affirmative. The second is, whether the English landed upon this coast while it was so unoccupied? The answer is in the negative; and this answer puts an end to all pretension of British claim founded upon this treaty, without leaving us under the necessity of recurring to the fact that the permission to *land*, and to *make settlements*, so far from contemplating an acquisition of territory, was limited by subsequent restrictions, to the erection of temporary huts for the personal accommodation of fishermen and traders only.

"Mr. B. adverted to the inconsistency, on the part of Great Britain, of following the 49th parallel to the Rocky Mountains, and refusing to follow it any further. He affirmed that the principle which would make that parallel a boundary to the top of the mountain, would carry it out to the Pacific Ocean. He proved this assertion by recurring to the origin of that line. It grew out of the treaty of Utrecht, that treaty which, in 1704, put an end to the wars of Queen Anne and Louis the XIVth and fixed the boundaries of their respective dominions in North America. The tenth article of that treaty was applicable to Louisiana and to Canada. It provided that commissioners should be appointed by the two powers to adjust the boundary between them. The commissioners were appointed, and did fix it. The parallel of 49 degrees was fixed upon as the common boundary from the Lake of the Woods, "*indefinitely to the West*." This boundary was acquiesced in for a hundred years. By proposing to follow it to the Rocky Mountains, the British Government admits its validity; by refusing to follow it out, they become obnoxious to the charge of inconsistency, and betray a determination to encroach upon the territory of the United States, for the undisguised purpose of selfish aggrandizement.

"The truth is, Mr. President, continued Mr. B., Great Britain has no color of title to the country in question. She sets up none. There is not a paper upon the face of the earth in which a British minister has stated a claim. I speak of the king's ministers, and not of the agents employed by them. The claims we have been examining are thrown out in the conversations and notes of diplomatic agents. No English minister has ever put his name to them, and no one will ever risk his character as a statesman by venturing to do so. The claim of Great Britain is nothing but a naked pretension, founded on the double prospect of benefiting herself and injuring the United States. The fur trader, Sir Alexander McKenzie, is at the bottom of this policy. Failing in his attempt to explore the Columbia River, in 1793, he, nevertheless, urged upon the British Government the advantages of taking it to herself, and of expelling the Americans from the whole region west of the Rocky Mountains. The advice accorded too well with the passions and policy of that government, to be disregarded. It is a government which has lost no opportunity, since the peace of '83, of aggrandizing itself at the expense of the United States. It is a government which listens to the suggestions of its experienced subjects, and thus an individual, in the humble station of a fur trader, has pointed

out the policy which has been pursued by every Minister of Great Britain, from Pitt to Canning, and for the maintenance of which a war is now menaced.

"For a boundary line between the United States and Great Britain, west of the Mississippi, McKenzie proposes the latitude of 45 degrees, because that latitude is necessary to give the Columbia River to Great Britain. His words are: 'Let the line begin where it may on the Mississippi, it must be continued west, till it terminates in the Pacific Ocean, *to the south of the Columbia*.'

"Mr. B. said it was curious to observe with what closeness every suggestion of McKenzie had been followed up by the British Government. He recommended that the Hudson Bay and Northwest Company should be united; and they have been united. He proposed to extend the fur trade of Canada to the shore of the Pacific Ocean; and it has been so extended. He proposed that a chain of trading posts should be formed through the continent, from sea to sea; and it has been formed. He recommended that no boundary line should be agreed upon with the United States, which did not give the Columbia River to the British; and the British ministry declare that none other shall be formed. He proposed to obtain the command of the fur trade from latitude 45 degrees north; and they have it even to the Mandan villages, and the neighborhood of the Council Bluffs. He recommended the expulsion of American traders from the whole region west of the Rocky Mountains, and they are expelled from it. He proposed to command the commerce of the Pacific Ocean; and it will be commanded the moment a British fleet takes position in the mouth of the Columbia. Besides these specified advantages, McKenzie alludes to other '*political considerations*,' which it was not necessary for him to particularize. Doubtless it was not. They were sufficiently understood. They are the same which induced the retention of the northwestern posts, in violation of the treaty of 1783; the same which induced the acquisition of Gibraltar, Malta, the Cape of Good Hope, the Islands of Ceylon and Madagascar; the same which makes Great Britain covet the possession of every commanding position in the four quarters of the globe."

I do not argue the question of title on the part of the United States, but only state it as founded upon—1. Discovery of the Columbia River by Capt. Gray, in 1790; 2. Purchase of Louisiana in 1803; 3. Discovery of the Columbia from its head to its mouth, by Lewis and Clarke, in 1803; 4. Settlement of Astoria, in 1811; 5. Treaty with Spain, 1819; 6. Contiguity and continuity of settlement and possession. Nor do I argue the question of the advantages of retaining the Columbia, and refusing to divide or alienate our territory upon it. I merely state them, and leave their value to result from the enumeration. 1. To keep out a foreign power; 2. To gain a seaport with a military and naval station, on the coast of the Pacific; 3. To save the fur trade in that region, and prevent our Indians from being tampered with by British traders; 4. To open a communication for commercial purposes between the Mississippi and the Pacific; 5. To send the lights of science and of religion into eastern Asia.

21. Commencement Of Mr. Adams's Administration

On the 4th of March he delivered his inaugural address, and took the oath of office. That address—the main feature of the inauguration of every President, as giving the outline of the policy of his administration—furnished a topic against Mr. Adams, and went to the reconstruction of parties on the old line of strict, or latitudinous, construction of the constitution. It was the topic of internal national improvement by the federal government. The address extolled the value of such works, considered the constitutional objection as yielding to the force of argument, expressed the hope that every speculative (constitutional) scruple would be solved in a practical blessing; and declared the belief that, in the execution of such works posterity would derive a fervent gratitude to the founders of our Union, and most deeply feel and acknowledge the beneficent action of our government. The declaration of principles which would give so much power to the government; and the danger of which had just been so fully set forth by Mr. Monroe in his veto message on the Cumberland road bill, alarmed the old republicans, and gave a new ground of opposition to Mr. Adams's administration, in addition to the strong one growing out of the election in the House of Representatives, in which the fundamental principle of representative government had been disregarded. This new ground of opposition was greatly strengthened at the delivery of the first annual message, in which the topic of internal improvement was again largely enforced, other subjects recommended which would require a liberal use of constructive powers, and Congress informed that the President had accepted an invitation from the American States of Spanish origin, to send ministers to their proposed Congress on the Isthmus of Panama. It was, therefore, clear from the beginning that the new administration was to have a settled and strong opposition, and that founded in principles of government—the same principles, under different forms, which had discriminated parties at the commencement of the federal government. Men of the old school—survivors of the contest of the Adams and Jefferson times, with some exceptions, divided accordingly—the federalists going for Mr. Adams, the republicans against him, with the mass of the younger generation.

In the Senate a decided majority was against him, comprehending (not to speak of younger men afterwards become eminent,) Mr. Macon of North Carolina, Mr. Tazewell of Virginia, Mr. Van Buren of New-York, General Samuel Smith of Maryland, Mr. Gaillard of South Carolina (the long-continued temporary President of the Senate), Dickerson of New Jersey, Governor Edward Lloyd of Maryland, Rowan of Kentucky, and Findlay of Pennsylvania. In the House of Representatives there was a strong minority opposed to the new President, destined to be increased at the first election to a decided majority: so that no President could have commenced his administration under more unfavorable auspices, or with less expectation of a popular career.

The cabinet was composed of able and experienced men—Mr. Clay, Secretary of State; Mr. Richard Rush, of Pennsylvania, Secretary of the Treasury, recalled from the London mission for that purpose; Mr. James Barbour, of Virginia, Secretary at War; Mr. Samuel L. Southard, of New Jersey, Secretary of the Navy under Mr. Monroe, continued in that place; the same of Mr. John McLean, of Ohio, Postmaster General, and of Mr. Wirt, Attorney General—both occupying the same places respectively under Mr. Monroe, and continued by his successor. The place of Secretary of the Treasury was offered by Mr. Adams to Mr. William H. Crawford, and declined by him—an offer which deserves to be commemorated to show how little there was of personal feeling between these two eminent citizens, who had just been rival candidates for the Presidency of the United States. If Mr. Crawford had accepted the

Treasury department, the administration of Mr. John Quincy Adams would have been entirely composed of the same individuals which composed that of Mr. Monroe, with the exception of the two (himself and Mr. Calhoun) elected President and Vice-President;—a fact which ought to have been known to Mons. de Tocqueville, when he wrote, that "Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor."

There was opposition in the Senate to the confirmation of Mr. Clay's nomination to the State department, growing out of his support of Mr. Adams in the election of the House of Representatives, and acceptance of office from him; but overruled by a majority of two to one. The affirmative votes were Messrs. Barton and Benton of Missouri; Mr. Bell of New Hampshire; Messrs. Bouligny and Josiah F. Johnston of Louisiana; Messrs. Chandler and Holmes of Maine; Messrs. Chase and Seymour of Vermont; Messrs. Thomas Clayton and Van Dyke of Delaware; Messrs. DeWolf and Knight of Rhode Island; Mr. Mahlon Dickerson of New Jersey; Mr. Henry W. Edwards of Connecticut; Mr. Gaillard of South Carolina; Messrs. Harrison (the General) and Ruggles of Ohio; Mr. Hendrics of Indiana; Mr. Elias Kent Kane of Illinois; Mr. William R. King of Alabama; Messrs. Edward Lloyd and General Samuel Smith from Maryland; Messrs. James Lloyd and Elijah H. Mills from Massachusetts; Mr. John Rowan of Kentucky; Mr. Van Buren of New-York—27. The negatives were: Messrs. Berrien and Thos. W. Cobb of Georgia; Messrs. Branch and Macon of North Carolina; Messrs. Jackson (the General) and Eaton of Tennessee; Messrs. Findlay and Marks of Pennsylvania; Mr. Hayne of South Carolina; Messrs. David Holmes and Thomas A. Williams of Mississippi; Mr. McIlvaine of New Jersey; Messrs. Littleton W. Tazewell and John Randolph of Virginia; Mr. Jesse B. Thomas of Illinois. Seven senators were absent, one of whom (Mr. Noble of Indiana) declared he should have voted for the confirmation of Mr. Clay, if he had been present; and of those voting for him about the one half were his political opponents.

22. Case Of Mr. Lanman—Temporary Senatorial Appointment From Connecticut

Mr. Lanman had served a regular term as senator from Connecticut. His term of service expired on the 3d of March of this year, and the General Assembly of the State having failed to make an election of senator in his place, he received a temporary appointment from the governor. On presenting himself to take the oath of office, on the 4th day of March, being the first day of the special senatorial session convoked by the retiring President (Mr. Monroe), according to usage, for the inauguration of his successor; his appointment was objected to, as not having been made in a case in which a governor of a State could fill a vacancy by making a temporary appointment. Mr. Tazewell was the principal speaker against the validity of the appointment, arguing against it both on the words of the constitution, and the reason for the provision. The words of the constitution are: "If vacancies happen (in the Senate) by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the legislature." "Happen" was held by Mr. Tazewell to be the governing word in this provision, and it always implied a contingency, and an unexpected one. It could not apply to a foreseen event, bound to occur at a fixed period. Here the vacancy was foreseen; there was no contingency in it. It was regular and certain. It was the right of the legislature to fill it, and if they failed, no matter from what cause, there was no right in the governor to supply their omission. The reason of the phraseology was evident. The Assembly was the appointing body. It was the regular authority to elect senators. It was a body of more or less members, but always representing the whole body of the State, and every county in the State, and on that account vested by the constitution with the power of choosing senators. The terms choose and elect are the words applied to the legislative election of senators. The term appoint is the word applied to a gubernatorial appointment. The election was the regular mode of the constitution, and was not to be superseded by an appointment in any case in which the legislature could act, whether they acted or not. Some debate took place, and precedents were called for. On motion of Mr. Eaton, a committee was appointed to search for them and found several. The committee consisted of Mr. Eaton, of Tennessee; Mr. Edwards, of Connecticut; and Mr. Tazewell, of Virginia. They reported the cases of William Cooke, of Tennessee, appointed by the governor of the State, in April, 1797, to fill the vacancy occasioned by the expiration of his own term, the 3d of March preceding; of Uriah Tracy, of Connecticut, appointed by the governor of the State, in February, 1801, to fill the vacancy to occur upon the expiration of his own term, on the 3d of March following; of Joseph Anderson, of Tennessee, appointed by the governor of the State, in February, 1809, to fill the vacancy which the expiration of his own term would make on the 4th of March following; of John Williams, of Tennessee, appointed by the governor of the State, in January, 1817, to fill the vacancy to occur from the expiration of his term, on the ensuing 3d of March; and in all these cases the persons so appointed had been admitted to their seats, and all of them, except in the case of Mr. Tracy, without any question being raised; and in his case by a vote of 13 to 10. These precedents were not satisfactory to the Senate; and after considering Mr. Lanman's case, from the 4th to the 7th of March, the motion to admit him to a seat was rejected by a vote of 23 to 18. The senators voting in favor of the motion were Messrs. Bell, Bouligny, Chase, Clayton, DeWolf, Edwards, Harrison (General), Hendricks, Johnston of Louisiana, Kane, Knight, Lloyd of Massachusetts, McIlvaine, Mills, Noble, Rowan, Seymour, Thomas—10. Those voting against it were Messrs. Barton, Benton, Berrien, Branch, Chandler, Dickerson, Eaton,

Findlay, Gaillard, Hayne, Holmes of Maine, Holmes of Mississippi, Jackson (General), King of Alabama, Lloyd of Maryland, Marks, Macon, Ruggles, Smith of Maryland, Tazewell, Van Buren, Vandyke, Williams, of Mississippi—23; and with this decision, the subsequent practice of the Senate has conformed, leaving States in part or in whole unrepresented, when the legislature failed to fill a regular vacancy.

23. Retiring Of Mr. Rufus King

In the summer of this year, this gentleman terminated a long and high career in the legislative department of the federal government, but not entirely to quit its service. He was appointed by the new President, Mr. John Quincy Adams, to the place of Minister Plenipotentiary and Envoy Extraordinary to the Court of St. James, the same place to which he had been appointed thirty years before, and from the same place (the Senate) by President Washington; and from which he had *not* been removed by President Jefferson, at the revolution of parties, which took place in 1800. He had been connected with the government forty years, having served in the Congress of the Confederation, and in the convention which framed the federal constitution (in both places from his native State of Massachusetts), in the Senate from the State of New-York, being one of the first senators from that State, elected in 1789, with General Philip Schuyler, the father-in-law of General Hamilton. He was afterwards minister to Great Britain,—again senator, and again minister—having, in the mean time, declined the invitation of President Washington to be his Secretary of State. He was a federalist of the old school, and the head of that party after the death of General Hamilton; and when the name discriminated a party, with whose views on government and systems of policy, General Washington greatly coincided. As chief of that party, he was voted for as Vice-President in 1808, and as President in 1816. He was one of the federalists who supported the government in the war of 1812 against Great Britain. Opposed to its declaration, he went into its support as soon as it was declared, and in his place in the Senate voted the measures and supplies required; and (what was most essential) exerted himself in providing for the defence of his adopted State, New-York (on the strength and conduct of which so much then depended); assisting to raise and equip her volunteer regiments and militia quotas, and co-operating with the republican leaders (Gov. Tompkins and Mr. Van Buren), to maintain the great State of New-York in the strong and united position which the war in Canada and repugnance to the war in New England, rendered essential to the welfare of the Union. History should remember this patriotic conduct of Mr. King, and record it for the beautiful and instructive lesson which it teaches.

Like Mr. Macon and John Taylor of Carolina, Mr. King had his individuality of character, manners and dress, but of different type; they, of plain country gentlemen; and he, a high model of courtly refinement. He always appeared in the Senate in full dress; short small-clothes, silk stockings, and shoes, and was habitually observant of all the courtesies of life. His colleague in the Senate, during the chief time that I saw him there, was Mr. Van Buren: and it was singular to see a great State represented in the Senate, at the same time, by the chiefs of opposite political parties; Mr. Van Buren was much the younger, and it was delightful to behold the deferential regard which he paid to his elder colleague, always returned with marked kindness and respect.

I felt it to be a privilege to serve in the Senate with three such senators as Mr. King, Mr. Macon, and John Taylor of Carolina, and was anxious to improve such an opportunity into a means of benefit to myself. With Mr. Macon it came easily, as he was the cotemporary and friend of my father and grandfather; with the venerable John Taylor there was no time for any intimacy to grow up, as we only served together for one session; with Mr. King it required a little system of advances on my part, which I had time to make, and which the urbanity of his manners rendered easy. He became kind to me; readily supplied me with information from his own vast stores, allowed me to consult him, and assisted me in the business of the State (of whose admission he had been the great opponent), whenever I could satisfy him that I was

right,—even down to the small bills which were entirely local, or merely individual. More, he gave me proofs of real regard, and in that most difficult of all friendly offices,—admonition, counselling against a fault; one instance of which was so marked and so agreeable to me (reproof as it was), that I immediately wrote down the very words of it in a letter to Mrs. Benton (who was then absent from the city), and now copy it, both to do honor to an aged senator, who could thus act a "*father's*" part towards a young one, and because I am proud of the words he used to me. The letter says:

"Yesterday (May 20th, 1824), we carried $75,000 for improving the navigation of the Mississippi and the Ohio. I made a good speech, but no part of it will be published. I spoke in *reply*, and with force and animation. When it was over, Mr. King, of N. Y., came and sat down in a chair by me, and took hold of my hand and said he would speak to me as a father—that I had great powers, and that he felt a sincere pleasure in seeing me advance and rise in the world, and that he would take the liberty of warning me against an effect of my temperament when heated by opposition; that under these circumstances I took an authoritative manner, and a look and tone of defiance, which sat ill upon the older members; and advised me to moderate my manner."

This was real friendship, enhanced by the kindness of manner, and had its effect. I suppressed that speech, through compliment to him, and have studied moderation and forbearance ever since. Twenty-five years later I served in Congress with two of Mr. King's sons (Mr. James Gore King, representative from New-York, and Mr. John Alsop King, a representative from New Jersey); and was glad to let them both see the sincere respect which I had for the memory of their father.

In one of our conversations, and upon the formation of the constitution in the federal convention of 1787, he said some things to me which, I think ought to be remembered by future generations, to enable them to appreciate justly those founders of our government who were in favor of a stronger organization than was adopted. He said: "You young men who have been born since the Revolution, look with horror upon the name of a King, and upon all propositions for a strong government. It was not so with us. We were born the subjects of a King, and were accustomed to subscribe ourselves 'His Majesty's most faithful subjects;' and we began the quarrel which ended in the Revolution, not against the King, but against his parliament; and in making the new government many propositions were submitted which would not bear discussion; and ought not to be quoted against their authors, being offered for consideration, and to bring out opinions, and which, though behind the opinions of this day, were in advance of those of that day."—These things were said chiefly in relation to General Hamilton, who had submitted propositions stronger than those adopted, but nothing like those which party spirit attributed to him. I heard these words, I hope, with profit; and commit them, in the same hope, to after generations.

24. Removal Of The Creek Indians From Georgia

By an agreement with the State of Georgia in the year 1802, the United States became bound, in consideration of the cession of the western territory, now constituting the States of Alabama and Mississippi, to extinguish the remainder of the Indian title within her limits, and to remove the Indians from the State; of which large and valuable portions were then occupied by the Creeks and Cherokees. No time was limited for the fulfilment of this obligation, and near a quarter of a century had passed away without seeing its full execution. At length Georgia, seeing no end to this delay, became impatient, and justly so, the long delay being equivalent to a breach of the agreement; for, although no time was limited for its execution, yet a reasonable time was naturally understood, and that incessant and faithful endeavors should be made by the United States to comply with her undertaking. In the years 1824-'25 this had become a serious question between the United States and Georgia—the compact being but partly complied with—and Mr. Monroe, in the last year of his Administration, and among its last acts, had the satisfaction to conclude a treaty with the Creek Indians for a cession of all their claims in the State, and their removal from it. This was the treaty of the Indian Springs, negotiated the 12th of February, 1825, the famous chief, Gen. Wm. McIntosh, and some fifty other chiefs signing it in the presence of Mr. Crowell, the United States Indian agent. It ceded all the Creek country in Georgia, and also several millions of acres in the State of Alabama. Complaints followed it to Washington as having been concluded by McIntosh without the authority of the nation. The ratification of the treaty was opposed, but finally carried, and by the strong vote of 34 to 4. Disappointed in their opposition to the treaty at Washington, the discontented party became violent at home, killed McIntosh and another chief, declared forcible resistance to the execution of the treaty, and prepared to resist. Georgia, on her part, determined to execute it by taking possession of the ceded territory. The Government of the United States felt itself bound to interfere. The new President, Mr. Adams, became impressed with the conviction that the treaty had been made without due authority, and that its execution ought not to be enforced; and sent Gen. Gaines with federal troops to the confines of Georgia. All Georgia was in a flame at this view of force, and the neighboring States sympathized with her. In the mean time the President, anxious to avoid violence, and to obtain justice for Georgia, treated further; and assembling the head men and chiefs of the Creeks at Washington City, concluded a new treaty with them (January, 1826); by which the treaty of Indian Springs was annulled, and a substitute for it negotiated, ceding all the Creek lands in Georgia, but none in Alabama. This treaty, with a message detailing all the difficulties of the question, was immediately communicated by the President to the Senate, and by it referred to the Committee on Indian Affairs, of which I was chairman. The committee reported against the ratification of the treaty, earnestly deprecated a collision of arms between the federal government and a State, and recommended further negotiations—a thing the more easy as the Creek chiefs were still at Washington. The objections to the new treaty were:

1. That it annulled the McIntosh treaty; thereby implying its illegality, and apparently justifying the fate of its authors.

2. Because it did not cede the whole of the Creek lands in Georgia.

3. Because it ceded none in Alabama.

Further negotiations according to the recommendation of the Senate, were had by the President; and on the 31st of March of the same year, a supplemental article was concluded,

by which all the Creek lands in Georgia were ceded to her; and the Creeks within her borders bound to emigrate to a new home beyond the Mississippi. The vote in the Senate on ratifying this new treaty, and its supplemental article, was full and emphatic—thirty to seven: and the seven negatives all Southern senators favorable to the object, but dissatisfied with the clause which annulled the McIntosh treaty and implied a censure upon its authors. Northern senators voted in a body to do this great act of justice to Georgia, restrained by no unworthy feeling against the growth and prosperity of a slave State. And thus was carried into effect, after a delay of a quarter of a century, and after great and just complaint on the part of Georgia, the compact between that State and the United States of 1802. Georgia was paid at last for her great cession of territory, and obtained the removal of an Indian community out of her limits, and the use and dominion of all her soil for settlement and jurisdiction. It was an incalculable advantage to her, and sought in vain under three successive Southern Presidents—Jefferson, Madison, Monroe—(who could only obtain part concessions from the Indians)—and now accomplished under a Northern President, with the full concurrence and support of the Northern delegations in Congress: for the Northern representatives in the House voted the appropriations to carry the treaty into effect as readily as the senators had voted the ratification of the treaty itself. Candid men, friends to the harmony and stability of this Union, should remember these things when they hear the Northern States, on account of the conduct of some societies and individuals, charged with unjust and criminal designs towards the South.

An incident which attended the negotiation of the supplemental article to the treaty of January deserves to be commemorated, as an instance of the frauds which may attend Indian negotiations, and for which there is so little chance of detection by either of the injured parties,—by the Indians themselves, or by the federal government. When the President sent in the treaty of January, and after its rejection by the Senate became certain, thereby leaving the federal government and Georgia upon the point of collision, I urged upon Mr. James Barbour, the Secretary at War (of whose department the Indian Office was then a branch) the necessity of a supplemental article ceding all the Creek lands in Georgia; and assured him that, with that additional article, the treaty would be ratified, and the question settled. The Secretary was very willing to do all this, but said it was impossible,—that the chiefs would not agree to it. I recommended to him to make them some presents, so as to overcome their opposition; which he most innocently declined, because it would savor of bribery. In the mean time it had been communicated, to me, that the treaty already made was itself the work of great bribery; the sum of $160,000 out of $247,000, which it stipulated to the Creek nation, as a first payment, being a fund for private distribution among the chiefs who negotiated it. Having received this information, I felt quite sure that the fear of the rejection of the treaty, and the consequent loss of these $160,000, to the negotiating chiefs, would insure their assent to the supplemental article without the inducement of further presents. I had an interview with the leading chiefs, and made known to them the inevitable fact that the Senate would reject the treaty as it stood, but would ratify it with a supplemental article ceding all their lands in Georgia. With this information they agreed to the additional article: and then the whole was ratified, as I have already stated. But a further work remained behind. It was to balk the fraud of the corrupt distribution of $160,000 among a few chiefs; and that was to be done in the appropriation bill, and by a clause directing the whole treaty money to be paid to the nation instead of the chiefs. The case was communicated to the Senate in secret session, and a committee of conference appointed (Messrs. Benton, Van Buren, and Berrien) to agree with the House committee upon the proper clause to be put into the appropriation bill. It was also communicated to the Secretary at War. He sent in a report from Mr. McKinney, the Indian bureau clerk, and actual negotiator of the treaty, admitting the fact of the intended private distribution; which, in fact, could not be denied, as I held an original paper showing

the names of all the intended recipients, with the sum allowed to each, beginning at $20,000 and ranging down to $5000: and that it was done with his cognizance.

Some extracts from speeches delivered on that occasion will well finish this view of a transaction which at one time threatened violence between a State and the federal government, and in which a great fraud in an Indian treaty Was detected and frustrated.

EXTRACTS FROM THE SPEECHES IN THE SENATE AND IN THE HOUSE OF REPRESENTATIVES.

“Mr. Van Buren said he should state the circumstances of this case, and the views of the committee of conference. A treaty was made in this city, in which it was stipulated on the part of the United States, that $247,000, together with an annuity of $20,000 a year, and other considerations, should be paid to the Creeks, as a consideration for the extinguishment of their title to lands in the State of Georgia, which the United States, under the cession of 1802, were under obligations to extinguish. The bill from the other House to carry this treaty into effect, directed that the money should be paid and distributed among the chiefs and warriors. That bill came to the Senate, and a confidential communication was made to the Senate, from which it appeared that strong suspicions were entertained that a design existed on the part of the chiefs who made the treaty, to practise a fraud on the Creek nation, by dividing the money amongst themselves and associates. An amendment was proposed by the Senate, which provided for the payment of those moneys in the usual way, and the distribution of them in the usual manner, and in the usual proportion to which the Indians were entitled. That amendment was sent to the other House, who, unadvised as to the facts which were known to the Senate, refused to concur in it, and asked a conference. The conferees, on the part of the Senate, communicated their suspicions to the conferees on the part of the House, and asked them to unite in an application to the Department of War, for information on the subject. This was accordingly done, and the documents sent, in answer, were a letter from the Secretary of War, and a report by Mr. McKenney. From that report it appeared clear and satisfactory, that a design thus existed on the part of the Indians, by whom the treaty was negotiated, to distribute of the $247,000 to be paid for the cession by the United States, $159,750 among themselves, and a few favorite chiefs at home, and three Cherokee chiefs who had no interest in the property. Ridge and Vann were to receive by the original treaty $5000 each. By this agreement of the distribution of the money each was to receive $15,000 more, making $20,000 for each. Ridge, the father of Ridge who is here, was to receive $10,000. The other $100,000 was to be distributed, $5000, and, in some instances, $10,000 to the chiefs who negotiated the treaty here, varying from one to ten thousand dollars each.

“Mr. V. B. said, in his judgment, the character of the government was involved in this subject, and it would require, under the circumstances of this case, that they should take every step they could rightfully take to exculpate themselves from having, in any degree or form, concurred in this fraud. The sentiment of the American people where he resided was, and had been, highly excited on this subject; they had applauded, in the most ardent manner, the zeal manifested by the government to preserve themselves pure in their negotiations with the Indians; and though he was satisfied—though he deemed it impossible to suppose for a moment that government could have countenanced the practice of this fraud, yet there were circumstances in the case which required exculpation. Between the negotiation of the treaty and the negotiation of the supplementary article on which the treaty was finally adopted, all these circumstances were communicated to the Department of War by the two Cherokees. Mr. V. B. said it was not his purpose, because the necessity of the case did not require it, to say what the Secretary of War ought to have done, or to censure what he did do, when the information was given to him. He had known him many years, and there was not an honester

man, or a man more devoted to his country, than that gentleman was. Mr. V. B. said it was not for him to have said what should have been the course of the President of the United States, if the information had been given to him on the subject. It could not fail to make a mortifying and most injurious impression on the minds of the people of this country, to find that no means whatever were taken for the suppression of this fraud. There was, and there ought to be, an excitement on the subject in the public mind."

"Mr. Benton said, that after the explanation of the views of the committee of conference which had been given by the senator from New-York (Mr. Van Buren), he would limit himself to a statement of facts on two or three points, on which references had been made to his personal knowledge.

"The Secretary of War had referred to him, in his letter to the committee, as knowing the fact that the Secretary had refused to give private gratuities to the Creek chiefs to promote the success of the negotiation. The reference was correct. Mr. B. had himself recommended the Secretary to do so; it was, however, about forty days after the treaty had been signed. He referred to a paper which fixed the date to the 9th or 10th of March, and the treaty had been signed in the month of January preceding. It was done at the time that Mr. B. had offered his services to procure the supplemental article to be adopted. The Secretary entirely condemned the practice of giving these gratuities. Mr. B. said he had recommended it as the only way of treating with barbarians; that, if not gratified in this way, the chiefs would prolong the negotiation, at a great daily expense to the government, until they got their gratuity in one way or other, or defeated the treaty altogether. He considered the practice to be sanctioned by the usage of the United States: he believed it to be common in all barbarous nations, and in many that were civilized; and referred to the article in the federal constitution against receiving "*presents*" from foreign powers, as a proof that the convention thought such a restriction to be necessary, even among ourselves.

"The *time* at which Mr. B. had offered his services to aid this negotiation, had appeared to him to be eminently critical, and big with consequences which he was anxious to avert. It was after this committee had resolved to report against the new treaty, and before they had made the report to the Senate. The decision, whatsoever it might be, and the consequent discussions, criminations, and recriminations, were calculated to bring on a violent struggle in the Senate itself; between the Senate and the Executive; perhaps between the two Houses (for a reference of the subject to both would have taken place); and between one or more States and the federal government. Mr. B. had concurred in the report against the new treaty, because it divested Georgia of vested rights; and, though objectionable in many other respects, he was willing, for the sake of peace, to ratify it, provided the vested rights of Georgia were not invaded. The supplemental article had relieved him upon this point. He thought that *Georgia* had no further cause of dissatisfaction with the treaty; it was *Alabama* that was injured by the loss of some millions of acres, which she had acquired under the treaty of 1825, and lost under that of 1826. Her case commanded his regrets and sympathy. She had lost the right of jurisdiction over a considerable extent of territory; and the advantages of settling, cultivating, and taxing the same, were postponed; but, he hoped, not indefinitely. But these were *consequential* advantages, resulting from an act which the government was not *bound* to do; and, though the loss of them was an injury, yet this injury could not be considered as a violation of vested rights; but the circumstance certainly increased the strength of her claim to the total extinction of the Indian titles within her limits and, he trusted, would have its due effect upon the Government of the United States.

"The third and last point on which Mr. B. thought references to his name had made it proper for him to give a statement, related to the circumstance which had induced the Senate to

make the amendment which had become the subject of the conference between the two Houses. He had himself come to the knowledge of that circumstance in the last days of April, some weeks after the supplemental article had been ratified. He had deemed it to be his duty to communicate it to the Senate, and do it in a way that would avoid a groundless agitation of the public feeling, or unjust reflections upon any individual, white or red, if, peradventure, his information should turn out to have been untrue. He therefore communicated it to the Senate in secret session; and the effect of the information was immediately manifested in the unanimous determination of the Senate to adopt the amendment which was now under consideration. He deemed the amendment, or one that would effect the same object, to be called for by the circumstances of the case, and the relative state of the parties. It was apparent that a few chiefs were to have an undue proportion of the money—they had realized what he had foretold to the Secretary; and it was certain that the knowledge of this, whenever it should be found out by the nation, would occasion disturbances, and, perhaps, bloodshed. He thought that the United States should prevent these consequences, by preventing the cause of them, and, for this purpose, he would concur in any amendment that would effect a fair distribution of the money, or any distribution that was agreeable to the nation in open counsel."

Mr. Berrien: "You have arrived at the last scene in the present act of the great political drama of the Creek controversy. In its progress, you have seen two of the sovereign States of the American Confederation—especially, you have seen one of those States, which has always been faithful and forward in the discharge of her duties to this Union, driven to the wall, by the combined force of the administration and its allies consisting of a portion of the Creek nation, and certain Cherokee diplomatists. Hitherto, in the discussions before the Senate on this subject, I have imposed a restraint upon my own feelings under the influence of motives which have now ceased to operate. It was my first duty to obtain an acknowledgment, on this floor, of the rights of Georgia, repressing, for that purpose, even the story of her wrongs. It was my first duty, sir, and I have sacrificed to it every other consideration. As a motive to forbearance it no longer exists. The rights of Georgia have been prostrated.

"Sir, in the progress of that controversy, which has grown out of the treaty of the Indian Springs, the people of Georgia have been grossly and wantonly calumniated, and the acts of the administration have assisted to give currency to these calumnies. Her chief magistrate has been traduced. The solemn act of her legislature has been set at naught by a rescript of the federal Executive. A military force has been quartered on her borders to coerce her to submission; and without a trial, without the privilege of being heard, without the semblance of evidence, she has been deprived of rights secured to her by the solemn stipulations of treaty.

"When, in obedience to the will of the legislature of Georgia, her chief magistrate had communicated to the President his determination to survey the ceded territory, his right to do so was admitted. It was declared by the President that the act would be 'wholly' on the responsibility of the government of Georgia, and that 'the Government of the United States would not be in any manner responsible for any consequences which might result from the measure.' When his willingness to encounter this responsibility was announced, it was met by the declaration that the President would 'not permit the survey to be made,' and he was referred to a major-general of the army of the United States, and one thousand regulars.

"The murder of McIntosh—the defamation of the chief magistrate of Georgia—the menace of military force to coerce her to submission—were followed by the traduction of two of her cherished citizens, employed as the agents of the General Government in negotiating the treaty—gentlemen whose integrity will not shrink from a comparison with that of the

proudest and loftiest of their accusers. Then the sympathies of the people of the Union were excited in behalf of 'the children of the forest,' who were represented as indignantly spurning the gold, which was offered to entice them from the graves of their fathers, and resolutely determined never to abandon them. The incidents of the plot being thus prepared, the affair hastens to its consummation. A new treaty is negotiated here—*a pure and spotless treaty*. The rights of Georgia and of Alabama are sacrificed; the United States obtain a part of the lands, and pay double the amount stipulated by the old treaty; and those poor and noble, and unsophisticated sons of the forest, having succeeded in imposing on the simplicity of this government, next concert, under its eye, and with its knowledge, the means of defrauding their own constituents, the chiefs and warriors of the Creek nation.

"For their agency in exciting the Creeks to resist the former treaty, and in deluding this government to annul it, *three Cherokees—Ridge, Vann, and the father of the former*—are to receive forty thousand dollars of the money stipulated to be paid by the United States to the chiefs of the *Creek* nation; and the government, when informed of the projected fraud, deems itself powerless to avert it. Nay, when apprised by your amendment, that you had also detected it, that government does not hesitate to interpose, by one of its high functionaries, to resist your proceeding, by a singular fatuity, thus giving its countenance and support to the commission of the fraud. Sir, I speak of what has passed before your eyes even in this hall.

"One fifth of the whole purchase money is to be given to *three Cherokees*. Ten thousand dollars reward one of the heroes of Fort Mims—a boon which it so well becomes us to bestow. A few chosen favorites divide among themselves upwards of one hundred and fifty thousand dollars, leaving a pittance for distribution among the great body of the chiefs and warriors of the nation.

"But the administration, though it condemns the fraud, thinks that we have no power to prevent its consummation. What, sir, have we no power to see that our own treaty is carried into effect? Have we no interest in doing so? Have we no power? We have stipulated for the payment of two hundred and forty-seven thousand dollars to the chiefs of the Creek nation, *to be distributed among the chiefs and warriors of that nation*. Is not the *distribution* part of the contract as well as the *payment*? We know that a few of those chiefs, in fraudulent violation of the rights secured by that treaty, are about to appropriate this money to themselves. Are we powerless to prevent it? Nay, must we, too, suffer ourselves to be made the conscious instruments of its consummation? We have made a bargain with a savage tribe which you choose to dignify with the name of a treaty concerning whom we legislate with their consent, or without it, as it seems good in our eyes. We know that some ten or twenty of them are about to cheat the remainder. We have the means in our hands, without which their corrupt purpose cannot be effected. Have we not the right to see that our own bargain is honestly fulfilled? Consistently with common honesty, can we put the consideration money of the contract into the hands of those who we know are about to defraud the people who trusted them? Sir, the proposition is absurd.

"Mr. Forsyth (of the House of Representatives) said: A stupendous fraud, it seems, was intended by the delegation who had formed, with the Secretary of War, the new contract. The chiefs composing the Creek diplomatic train, assisted by their Cherokee secretaries of legation, had combined to put into their own pockets, and those of a few select friends, somewhere about three fourths of the first payment to be made for the second cession of the lands lying in Georgia. The facts connected with this transaction, although concealed from the Senate when the second contract was before them for ratification, and from the House when the appropriation bill to carry it into effect was under consideration, were perfectly understood at the War Department by the Secretary, and by his clerk, who is called the head

of the Indian Bureau (Mr. Thomas L. McKinney). The Senate having, by some strange fortune, discovered the intended fraud, after the ratification of the contract, and before they acted on the appropriation bill, wished, by an amendment to the bill, to prevent the success of the profitable scheme of villany. The House, entirely ignorant of the facts, and not suspecting the motive of the amendment, had rejected it, insisted upon their disagreement to it, and a committee of the two Houses, as usual, had conferred on the subject. Now, that the facts are ascertained by the separate reports of the Committees, there can be no difference of opinion on the great point of defeating the intended treachery of the delegation and secretaries to the Creek tribe. The only matter which can bear discussion, is, how shall the treachery be punished?—how shall the Creek tribe be protected from the abominable designs of their worthless and unprincipled agents? Will the amendment proposed by the committee reach their object? The plan is, to pay the money to the chiefs, to be divided among the chiefs and warriors, under the direction of the Secretary of War, in a full council of the nation, convened for the purpose. Suppose the council in solemn session, the money before them, and the division about to be made, under the direction of the Secretary of War—may not the chiefs and their secretaries claim the money, as promised to them under the treaty, and how will the Secretary or his agent resist the claim? They assented—the House will perceive that the only difficulty was the amount of the bribe. The Secretary was willing to go as high as five thousand dollars, but could not stretch to ten thousand dollars. Notwithstanding the assent of the Cherokees, and the declaration of the Secretary, that five thousand dollars each was the extent that they could be allowed, Ridge and Vann, after the treaty was signed, and before it was acted on by the Senate, or submitted to that body, brought a paper, the precious list of the price of each traitor, for the inspection and information of the head of the bureau and the head of the department; and what answer did they receive from both? The head of the bureau said it was their own affair. The Secretary said he presumed it was their own affair. But I ask this House, if the engagement for the five thousand dollars, and the list of the sums to be distributed, may not be claimed as part of this new contract? If these persons have not a right to claim, in the face of the tribe, these sums, as promised to them by their Great Father? Ay, sir; and, if they are powerful enough in the tribe, they will enforce their claim. Under what pretext will your Secretary of War direct a different disposition or division of the money, after his often repeated declaration, ‘it is their own affair’—the affair of the delegation? Yes, sir, so happily has this business been managed at the seat of government, under the Executive eye, that this division which the negotiators proposed to make of the spoil, may be termed a part of the consideration of the contract. It must be confessed that these exquisite ambassadors were quite liberal to themselves, their secretaries, and particular friends: one hundred and fifty-nine thousand seven hundred dollars, to be divided among some twenty persons, is pretty well! What name shall we give to this division of money among them? To call it a bribe, would shock the delicacy of the War Department, and possibly offend those gentle spirited politicians, who resemble Cowper’s preachers, ‘who could not mention hell to ears polite.’ The transcendent criminality of this design cannot be well understood, without recalling to recollection the dark and bloody scenes of the year past. The chief McIntosh, distinguished at all times by his courage and devotion to the whites, deriving his name of the White Warrior, from his mixed parentage, had formed, with his party, the treaty of the Indian Springs. He was denounced for it. His midnight sleep was broken by the crackling flames of his dwelling burning over his head. Escaping from the flames, he was shot down by a party acting under the orders of the persons who accused him of betraying, for his own selfish purposes, the interest of the tribe. Those who condemned that chief, the incendiaries and the murderers, are the negotiators of this new contract; the one hundred and fifty-nine thousand dollars, is to be the fruit of their victory over the assassinated chief. What evidence of fraud, and selfishness, and treachery, has red or white malice been able to exhibit against the dead

warrior? A reservation of land for him, in the contract of 1821, was sold by him to the United States, for twenty-five thousand dollars; a price he could have obtained from individuals, if his title had been deemed secure. This sale of property given to him by the tribe, was the foundation of the calumnies that have been heaped upon his memory, and the cause which, in the eyes of our administration newspaper editors, scribblers, and reviewers, justified his execution. Now, sir, the executioners are to be rewarded by pillaging the public Treasury. I look with some curiosity for the indignant denunciations of this accidentally discovered treachery. Perhaps it will be discovered that all this new business of the Creeks is 'their own affair,' with which the white editors and reviewers have nothing to do. Fortunately, Mr. F. said, Congress had something to do with this affair. We owe a justice to the tribe. This amendment, he feared, would not do justice. The power of Congress should be exerted, not only to keep the money out of the hands of these wretches, but to secure a faithful and equal distribution of it among the whole Creek nation. The whole tribe hold the land; their title by occupancy resides in all; all are rightfully claimants to equal portions of the price of their removal from it. The country is not aware how the Indian annuities are distributed, or the moneys paid to the tribes disposed of. They are divided according to the discretion of the Indian government, completely aristocratical—all the powers vested in a few chiefs. Mr. F. had it from authority he could not doubt, that the Creek annuities had, for years past, been divided in very unequal proportions, not among the twenty thousand souls of which the tribe was believed to be composed, but among about one thousand five hundred chiefs and warriors.

"Mr. Forsyth expressed his hope that the House would reject the report of the committee. Before taking his seat, he asked the indulgence of the House, while he made a few comments on this list of worthies, and the prices to be paid to each. At the head of the list stands Mr. Ridge, with the sum of $15,000 opposite to his elevated name. This man is no Creek, but a Cherokee, educated among the whites, allied to them by marriage—has received lessons in Christianity, morality, and sentiment—perfectly civilized, according to the rules and customs of Cornwall. This negotiation, of which he has been, either as actor or instrument, the principal manager is an admirable proof of the benefits he has derived from his residence among a moral and religious people. Vann, another Cherokee, half savage and half civilized, succeeds him with $15,000 bounty. A few inches below comes another Ridge, the major, father to the secretary—a gallant old fellow, who did some service against the hostile Creeks, during the late war, for which he deserved and received acknowledgments—but what claims he had to this Creek money, Mr. F. could not comprehend. Probably his name was used merely to cover another gratuity for the son, whose modesty would not permit him to take more than $15,000 in his own name. These Cherokees were together to receive $40,000 of Creek money, and the Secretary of War is of opinion it is quite consistent with the contract, which provides for the distribution of it among the chiefs and warriors of the Creeks. Look, sir, at the distinction made for these exquisites. Yopothle Yoholo, whose word General Gaines would take against the congregated world, is set down for but $10,000. The Little Prince but $10,000. Even Menawee, distinguished as he is as the leader of the party who murdered McIntosh and Etome Tustunnuggee—as one of the accursed band who butchered three hundred men, women, and children, at Fort Mims—has but $10,000. A distinguished Red Stick, in these days, when kindness to Indians is shown in proportion to their opposition to the policy of the General Government, might have expected better treatment—only ten thousand dollars to our enemy in war and in peace! But, sir, I will not detain the House longer. I should hold myself criminal if I had exposed these things unnecessarily or uselessly. That patriotism only is lovely which, imitating the filial piety of the sons of the Patriarch, seeks, with averted face, to cover the nakedness of the country from the eye of a vulgar and

invidious curiosity. But the commands of public duty must be obeyed; let those who have imposed this duty upon us answer for it to the people."

"Mr. Tatnall, of Geo. (H. R.) He was as confident as his colleagues could be, that the foulest fraud had been projected by some of the individuals calling themselves a part of the Creek delegation, and that it was known to the department of war before the ratification of the treaty, and was not communicated by that department to the Senate, either before or during the pendency of the consideration of the treaty by that body. Mr. T. said he would not, however, for the reasons just mentioned, dwell on this ground, but would proceed to state, that he was in favor of the amendment offered by the committee of conference, (and therein he differed from his colleague), which, whilst it would effectually prevent the commission of the fraud intended, would, also, avoid a violation of the terms of 'the new treaty,' as it was styled. He stated, that the list which he held in his hand was, itself, conclusive evidence of a corrupt intention to divide the greater part of the money among the few persons named in it. In this list, different sums were written opposite the names of different individuals, such, for instance, as the following: 'John Ridge, $15,000—Joseph Vann, 15,000' (both Cherokees, and not Creeks, and, therefore, not entitled to one cent). The next, a long and barbarous Indian name, which I shall not attempt to pronounce. '$10,000'—next, John Stedham, '$10,000,' &c. This list, as it appears in the documents received from the Secretary of War, was presented to the war department by Ridge and Vann."

25. The Panama Mission

The history of this mission, or attempted mission (for it never took effect, though eventually sanctioned by both Houses of Congress), deserves a place in this inside view of the working of our government. Though long since sunk into oblivion, and its name almost forgotten, it was a master subject on the political theatre during its day; and gave rise to questions of national, and of constitutional law, and of national policy, the importance of which survive the occasion from which they sprung; and the solution of which (as then solved), may be some guide to future action, if similar questions again occur. Besides the grave questions to which the subject gave rise, the subject itself became one of unusual and painful excitement. It agitated the people, made a violent debate in the two Houses of Congress, inflamed the passions of parties and individuals, raised a tempest before which Congress bent, made bad feeling between the President and the Senate; and led to the duel between Mr. Randolph and Mr. Clay. It was an administration measure, and pressed by all the means known to an administration. It was evidently relied upon as a means of acting upon the people—as a popular movement, which might have the effect of turning the tide which was then running high against Mr. Adams and Mr. Clay on account of the election in the House of Representatives, and the broad doctrines of the inaugural address, and of the first annual message; and it was doubtless well imagined for that purpose. It was an American movement, and republican. It was the assembly of the American states of Spanish origin, counselling for their mutual safety and independence; and presenting the natural wish for the United States to place herself at their head, as the eldest sister of the new republics, and the one whose example and institutions the others had followed. The monarchies of Europe had formed a "Holy Alliance," to check the progress of liberty: it seemed just that the republics of the New World should confederate against the dangers of despotism. The subject had a charm in it; and the name and place of meeting recalled classic and cherished recollections. It was on an isthmus—the Isthmus of Panama—which connected the two Americas, the Grecian republics had their isthmus—that of Corinth—where their deputies assembled. All the advantages in the presentation of the question were on the side of the administration. It addressed itself to the imagination—to the passions—to the prejudices;—and could only be met by the cold and sober suggestions of reason and judgment. It had the prestige of name and subject, and was half victor before the contest began; and it required bold men to make head against it.

The debate began in the Senate, upon the nomination of ministers; and as the Senate sat with closed doors, their objections were not heard, while numerous presses, and popular speakers, excited the public mind in favor of the measure, and inflamed it against the Senate for delaying its sanction. It was a plan conceived by the new Spanish American republics, and prepared as a sort of amphictyonic council for the settlement of questions among themselves; and, to which, in a manner which had much the appearance of our own procuring, we had received an invitation to send deputies. The invitation was most seductively exhibited in all the administration presses; and captivated all young and ardent imaginations. The people were roused: the majority in both Houses of Congress gave way (many against their convictions, as they frankly told me), while the project itself—our participation in it—was utterly condemned by the principles of our constitution, and by the policy which forbade "entangling alliances," and the proposed congress itself was not even a diplomatic body to which ministers could be sent under the law of nations. To counteract the effect of this outside current, the Senate, on the motion of Mr. Van Buren, adopted a resolve to debate the question with open doors, "unless, in the opinion of the President, the publication of documents necessary to be referred to in debate should be prejudicial to existing

negotiations:" and a copy of the resolve was sent to Mr. Adams for his opinion on that point. He declined to give it, and left it to the Senate to decide for itself, "*the question of an unexampled departure from its own usages, and upon the motives of which not being himself informed, he did not feel himself competent to decide*." This reference to the motives of the members, and the usages of the Senate, with its clear implication of the badness of one, and the violation of the other, gave great offence in the Senate, and even led to a proposition (made by Mr. Rowan of Kentucky), not to act on the nominations until the information requested should be given. In the end the Senate relinquished the idea of a public debate, and contented itself with its publication after it was over. Mr. John Sergeant of Pennsylvania, and Mr. Richard Clark Anderson of Kentucky, were the ministers nominated; and, the question turning wholly upon the mission itself, and not upon the persons nominated (to whose fitness there was no objection), they were confirmed by a close vote—24 to 20. The negatives were: *Messrs.* Benton, Berrien, Branch, Chandler, Cobb (Thomas W. of Georgia), Dickerson, Eaton, Findlay, Hayne, Holmes of Maine, Kane, King of Alabama, Macon, Randolph, Tazewell, Rowan, Van Buren, White of Tennessee, Williams of Mississippi, Woodbury. The Vice-President, Mr. Calhoun, presiding in the Senate, had no vote, the constitutional contingency to authorize it not having occurred: but he was full and free in the expression of his opinion against the mission.

It was very nearly a party vote, the democracy as a party, being against it: but of those of the party who voted for it, the design of this history (which is to show the working of the government) requires it to be told that there was afterwards, either to themselves or relatives, some large dispensations of executive patronage. Their votes may have been conscientious; but in that case, it would have been better to have vindicated the disinterestedness of the act, by the total refusal of executive favor. Mr. Adams commenced right, by asking the advice of the Senate, before he instituted the mission; but the manner in which the object was pursued, made it a matter of opposition to the administration to refuse it, and greatly impaired the harmony which ought to exist between the President and the Senate. After all, the whole conception of the Panama congress was an abortion. It died out of itself, without ever having been once held—not even by the states which had conceived it. It was incongruous and impracticable, even for them,—more apt to engender disputes among themselves than to harmonize action against Spain,—and utterly foreign to us, and dangerous to our peace and institutions. The basis of the agreement for the congress, was the existing state of war between all the new states and the mother country—Spanish pride and policy being slow to acknowledge the independence of revolted colonies, no matter how independent in fact;—and the wish to establish concert among themselves, in the mode of treating her commerce, and that of such of her American possessions (Cuba, Porto Rico), as had not thrown off their subjection. We were at peace with Spain, and could not go into any such council without compromising our neutrality, and impairing the integrity of our national character. Besides the difficulties it would involve with Spain, there was one subject specified in the treaties for discussion and settlement in that congress, namely, the considerations of future relations with the government of Haiti, which would have been a firebrand in the southern half of our Union,—not to be handled or touched by our government any where. The publication of the secret debates in the Senate on the nomination of the ministers, and the public discussion in the House of Representatives on the appropriation clauses, to carry the mission into effect, succeeded, after some time, in dissipating all the illusions which had fascinated the public mind—turned the current against the administration—made the project a new head of objection to its authors; and in a short time it would have been impossible to obtain any consideration for it, either in Congress or before the people. It is now entirely forgotten, but deserves to be remembered in this View of the working of the government, to show the questions of policy, of national and constitutional law which were discussed—the excitement

which can be got up without foundation, and against reason—how public men can bend before a storm—how all the departments of the government can go wrong:—and how the true conservative power in our country is in the people, in their judgment and reason, and in steady appeals to their intelligence and patriotism.

Mr. Adams communicated the objects of the proposed congress, so far as the United States could engage in them, in a special message to the Senate; in which, disclaiming all part in any deliberations of a belligerent character, or design to contract alliances, or to engage in any project importing hostility to any other nation, he enumerated, as the measures in which we could well take part, 1. The establishment of liberal principles of commercial intercourse, which he supposed could be best done in an assembly of all the American states together. 2. The consentaneous adoption of principles of maritime neutrality. 3. The doctrine that free ships make free goods. 4. An agreement that the "Monroe doctrine," as it is called, should be adopted by the congress, each state to guard, by its own means, its own territory from future European colonization. The enunciation of this doctrine, so different from what it has of late been supposed to be, as binding the United States to guard all the territory of the New World from European colonization, makes it proper to give this passage from Mr. Adams's message in his own words. They are these: "An agreement between all the parties represented at the meeting, that each will guard, by its own means, against the establishment of any future European colony within its borders, may be found advisable. This was, more than two years since, announced by my predecessor to the world, as a principle resulting from the emancipation of both the American continents. It may be so developed to the new southern nations, that they may feel it as an essential appendage to their independence." These were the words of Mr. Adams, who had been a member of Mr. Monroe's cabinet, and filling the department from which the doctrine would emanate; written at a time when the enunciation of it was still fresh, and when he himself, in a communication to the American Senate, was laying it down for the adoption of all the American nations in a general congress of their deputies. The circumstances of the communication render it incredible that Mr. Adams could be deceived in his understanding; and, according to him, this "Monroe doctrine" (according to which it has been of late believed that the United States were to stand guard over the two Americas, and repulse all intrusive colonists from their shores), was entirely confined to our own borders: that it was only proposed to get the other states of the New World to agree that, each for itself, and by its own means, should guard its own territories: and, consequently, that the United States, so far from extending gratuitous protection to the territories of other states, would neither give, nor receive, aid in any such enterprise, but that each should use its own means, within its own borders, for its own exemption from European colonial intrusion. 5. A fifth object proposed by Mr. Adams, in which he supposed our participation in the business of the Panama congress might be rightfully and beneficially admitted, related to the advancement of religious liberty: and as this was a point at which the message encountered much censure, I will give it in its own words. They are these "There is yet another subject upon which, with out entering into any treaty, the moral influence of the United States may, perhaps, be exerted with beneficial influence at such meeting—the advancement of religious liberty. Some of the southern nations are, even yet, so far under the dominion of prejudice, that they have incorporated, with their political constitutions, an exclusive Church, without toleration of any other than the dominant sect. The abandonment of this last badge of religious bigotry and oppression, may be pressed more effectually by the united exertions of those who concur in the principles of freedom of conscience, upon those who are yet to be convinced of their justice and wisdom, than by the solitary efforts of a minister to any one of their separate governments." 6. The sixth and last object named by Mr. Adams was, to give proofs of our good will to all the new southern republics, by accepting their invitation to join them in the congress which they proposed of American nations. The President enumerated no

others of the objects to which the discussions of the congress might be directed; but in the papers which he communicated with the invitations he had received, many others were mentioned, one of which was, “the basis on which the relations with Haiti should be placed;” and the other, “to consider and settle the future relations with Cuba and Porto Rico.”

The message was referred to the Senate’s Committee on Foreign Affairs, consisting of Mr. Macon, Mr. Tazewell, and Mr. Gaillard of South Carolina, Mr. Mills of Massachusetts, and Mr. Hugh L. White of Tennessee. The committee reported adversely to the President’s recommendation, and replied to the message, point by point. It is an elaborate document, of great ability and research, and well expressed the democratic doctrines of that day. It was presented by Mr. Macon, the chairman of the committee, and was drawn, by Mr. Tazewell, and was the report of which Mr. Macon, when complimented upon it, was accustomed to answer, ”Yes: it is a good report. Tazewell wrote it.” But it was his also; for no power could have made him present it, without declaring the fact, if he had not approved it. The general principle of the report was that of good will and friendship to all the young republics, and the cultivation of social, commercial and political relations with each one individually; but no entangling connection, and no internal interference with any one. On the suggestion of advancing religious freedom, the committee remark:

“In the opinion of this committee, there is no proposition, concerning which the people of the United States are now and ever have been more unanimous, than that which denies, not merely the expediency, but the right of intermeddling with the internal affairs of other states; and especially of seeking to alter any provision they may have thought proper to adopt as a fundamental law, or may have incorporated with their political constitutions. And if there be any such subject more sacred and delicate than another, as to which the United States ought never to intermeddle, even by obtrusive advice, it is that which concerns religious liberty. The most cruel and devastating wars have been produced by such interferences; the blood of man has been poured out in torrents; and, from the days of the crusades to the present hour, no benefit has resulted to the human family, from discussions carried on by nations upon such subjects. Among the variety even of Christian nations which now inhabit the earth, rare indeed are the examples to be found of states who have not established an exclusive church; and to far the greater number of these toleration is yet unknown. In none of the communications which have taken place, is the most distant allusion made to this delicate subject, by any of the ministers who have given this invitation; and the committee feel very confident in the opinion, that, if ever an intimation shall be made to the sovereignties they represent, that it was the purpose of the United States to discuss at the proposed congress, their plans of internal civil polity, or any thing touching the supposed interests of their religious establishments, the invitation given would soon be withdrawn.”

On the subject of the “Monroe doctrine,” the report shows that, one of the new republics (Colombia) proposed that this doctrine should be enforced “by the joint and united efforts of all the states to be represented in the congress, who should be bound by a solemn convention to secure this end. It was in answer to this proposition that the President in his message showed the extent of that doctrine to be limited to our own territories, and that all that we could do, would be to enter into agreement that each should guard, by its own means, against the establishment of any foreign colony within its borders. Even such an agreement the committee deemed unadvisable, and that there was no more reason for making it a treaty stipulation than there was for reducing to such stipulations any other of the “high, just, and universally admitted rights of all nations.” The favorable commercial treaties which the President expected to obtain, the committee believed would be more readily obtained from each nation separately (in which opinion their foresight has been justified by the event); and that each treaty would be the more easily kept in proportion to the smaller number of parties

to it. The ameliorations of the laws of nations which the President proposed, in the adoption of principles of maritime neutrality, and that free ships should make free goods, and the restriction of paper blockades, were deemed by the committee objects beyond the enforcement of the American states alone; and the enforcement of which, if agreed to, might bring the chief burthen of enforcement upon the United States; and the committee doubted the policy of undertaking, by negotiation with these nations, to settle abstract propositions, as parts of public law. On the subject of Cuba and Porto Rico, the report declared that the United States could never regard with indifference their actual condition, or future destiny;—but deprecated any joint action in relation to them, or any action to which they themselves were not parties; and it totally discountenanced any joint discussion or action in relation to the future of Haïti. To the whole of the new republics, the report expressed the belief that, the retention of our present unconnected and friendly position towards them, would be most for their own benefit, and enable the United States to act most effectually for them in the case of needing our good offices. It said:

"While the United States retain the position which they have hitherto occupied, and manifest a constant determination not to mingle their interests with those of the other states of America, they may continue to employ the influence which they possess, and have already happily exerted, with the nations of Europe, in favor of these new republics. But, if ever the United States permit themselves to be associated with these nations in any general congress, assembled for the discussion of common plans, in the way affecting European interests, they will, by such an act, not only deprive themselves of the ability they now possess, of rendering useful assistance to the other American states, but also produce other effects, prejudicial to their own interests. Then, the powers of Europe, who have hitherto confided in the sagacity, vigilance, and impartiality of the United States, to watch, detect, announce, and restrain any disposition that the heat of the existing contest might excite in the new states of America, to extend their empires beyond their own limits, and who have, therefore, considered their possessions and commerce in America safe, while so guarded, would no longer feel this confidence."

The advantage of pursuing our old policy, and maintaining friendly relations with all powers, "entangling alliances with none," was forcibly presented in a brief and striking paragraph:

"And the United States, who have grown up in happiness, to their present prosperity, by a strict observance of their old well-known course of policy, and by manifesting entire good will and most profound respect for all other nations, must prepare to embark their future destinies upon an unknown and turbulent ocean, directed by little experience, and destined for no certain haven. In such a voyage the dissimilitude existing between themselves and their associates, in interest, character, language, religion, manners, customs, habits, laws, and almost every other particular: and the rivalship these discrepancies must surely produce amongst them, would generate discords, which, if they did not destroy all hope of its successful termination, would make even success itself the ultimate cause of new and direful conflicts between themselves. Such has been the issue of all such enterprises in past time; and we have therefore strong reasons to expect in the future, similar results from similar causes."

The committee dissented from the President on the point of his right to institute the mission without the previous advice and consent of the Senate. The President averred his right to do so: but deemed it advisable, under all the circumstances, to waive the right, and ask the advice. The committee averred the right of the Senate to decide directly upon the expedience of this *new mission*; grounding the right upon its originality, and holding that when a *new mission* is to be instituted it is the creation of an office, not the filling of a vacancy; and that the Senate have a right to decide upon the expediency of the *office itself*.

I spoke myself on this question, and to all the points which it presented, and on the subject of relations with Haiti (on which a uniform rule was to be determined on, or a rule with modifications, according to the proposition of Colombia) I held that our policy was fixed, and could be neither altered, nor discussed in any foreign assembly; and especially in the one proposed; all the other parties to which had already placed the two races (black and white) on the basis of political equality. I said:

"Our policy towards Haïti, the old San Domingo, has been fixed for three and thirty years. We trade with her, but no diplomatic relations have been established between us. We purchase coffee from her, and pay her for it; but we interchange no consuls or ministers. We receive no mulatto consuls, or black ambassadors from her. And why? Because the peace of eleven States in this Union will not permit the fruits of a successful negro insurrection to be exhibited among them. It will not permit black consuls and ambassadors to establish themselves in our cities, and to parade through our country, and give to their fellow blacks in the United States, proof in hand of the honors which await them, for a like successful effort on their part. It will not permit the fact to be seen, and told, that for the murder of their masters and mistresses, they are to find *friends* among the white people of these United States. No, this is a question which has been *determined* HERE for three and thirty years; one which has never been open for discussion, at home or abroad, neither under the Presidency of Gen. Washington, of the first Mr. Adams, of Mr. Jefferson, Mr. Madison, or Mr. Monroe. It is one which cannot be discussed in *this* chamber on *this* day; and shall we go to Panama to discuss it? I take it in the mildest supposed character of this Congress—shall we go there to *advise* and *consult* in council about it? Who are to advise and sit in judgment upon it? Five nations who have already put the black man upon an equality with the white, not only in their constitutions but in real life: five nations who have at this moment (at least some of them) black generals in their armies and mulatto senators in their congresses!"

No question, in its day, excited more heat and intemperate discussion, or more feeling between a President and Senate, than this proposed mission to the congress of American nations at Panama; and no heated question ever cooled off, and died out so suddenly and completely. And now the chief benefit to be derived from its retrospect—and that indeed is a real one—is a view of the firmness with which was then maintained by a minority, the old policy of the United States, to avoid entangling alliances and interference with the affairs of other nations;—and the exposition of the Monroe doctrine, from one so competent to give it as Mr. Adams.

26. Duel Between Mr. Clay And Mr. Randolph

It was Saturday, the first day of April, towards noon, the Senate not being that day in session, that Mr. Randolph came to my room at Brown's Hotel, and (without explaining the reason of the question) asked me if I was a blood-relation of Mrs. Clay? I answered that I was, and he immediately replied that that put an end to a request which he had wished to make of me; and then went on to tell me that he had just received a challenge from Mr. Clay, had accepted it, was ready to go out, and would apply to Col. Tatnall to be his second. Before leaving, he told me he would make my bosom the depository of a secret which he should commit to no other person: it was, that he did not intend to fire at Mr. Clay. He told it to me because he wanted a witness of his intention, and did not mean to tell it to his second or any body else; and enjoined inviolable secrecy until the duel was over. This was the first notice I had of the affair. The circumstances of the delivery of the challenge I had from Gen. Jesup, Mr. Clay's second, and they were so perfectly characteristic of Mr. Randolph that I give them in detail, and in the General's own words:

"I was unable to see Mr. Randolph until the morning of the 1st of April, when I called on him for the purpose of delivering the note. Previous to presenting it however, I thought it proper to ascertain from Mr. Randolph himself whether the information which Mr. Clay had received—that he considered himself personally accountable for the attack on him—was correct. I accordingly informed Mr. Randolph that I was the bearer of a message from Mr. Clay, in consequence of an attack which he had made upon his private as well as public character in the Senate; that I was aware no one had the right to question him out of the Senate for any thing said in debate, unless he chose voluntarily to waive his privileges as a member of that body. Mr. Randolph replied, that the constitution did protect him, but he would never shield himself under such a subterfuge as the pleading of his privilege as a senator from Virginia; that he did hold himself accountable to Mr. Clay; but he said that gentleman had first two pledges to redeem: one that he had bound himself to fight any member of the House of Representatives, who should acknowledge himself the author of a certain publication in a Philadelphia paper; and the other that he stood pledged to establish certain facts in regard to a great man, whom he would not name; but, he added he could receive no verbal message from Mr. Clay—that any message from him must be in writing. I replied that I was not authorized by Mr. Clay to enter into or receive any verbal explanations—that the inquiries I had made were for my own satisfaction and upon my own responsibility—that the only message of which I was the bearer was in writing. I then presented the note, and remarked that I knew nothing of Mr. Clay's pledges; but that if they existed as he (Mr. Randolph) understood them, and he was aware of them when he made the attack complained of, he could not avail himself of them—that by making the attack I thought he had waived them himself. He said he had not the remotest intention of taking advantage of the pledges referred to; that he had mentioned them merely to remind me that he was waiving his privilege, not only as a senator from Virginia, but as a private gentleman; that he was ready to respond to Mr. Clay, and would be obliged to me if I would bear his note in reply; and that he would in the course of the day look out for a friend. I declined being the bearer of his note, but informed him my only reason for declining was, that I thought he owed it to himself to consult his friends before taking so important a step. He seized my hand, saying, 'You are right, sir. I thank you for the suggestion: but as you do not take my note, you must not be impatient if you should not hear from me to-day. I now think of only two friends, and there are circumstances connected with one of them which may deprive me of his services, and the other is in bad health—he was sick yesterday, and may not be out to-day.' I assured

him that any reasonable time which he might find necessary to take would be satisfactory. I took leave of him; and it is due to his memory to say that his bearing was, throughout the interview, that of a high-toned, chivalrous gentleman of the old school."

These were the circumstances of the delivery of the challenge, and the only thing necessary to give them their character is to recollect that, with this prompt acceptance and positive refusal to explain, and this extra cut about the two pledges, there was a perfect determination not to fire at Mr. Clay. That determination rested on two grounds; first, an entire unwillingness to hurt Mr. Clay; and, next, a conviction that to return the fire would be to answer, and would be an implied acknowledgment of Mr. Clay's right to make him answer. This he would not do, neither by implication nor in words. He denied the right of any person to question him out of the Senate for words spoken within it. He took a distinction between man and senator. As senator he had a constitutional immunity, given for a wise purpose, and which he would neither surrender nor compromise; as individual he was ready to give satisfaction for what was deemed an injury. He would receive, but not return a fire. It was as much as to say: Mr. Clay may fire at me for what has offended him; I will not, by returning the fire, admit his right to do so. This was a subtle distinction, and that in case of life and death, and not very clear to the common intellect; but to Mr. Randolph both clear and convincing. His allusion to the "two pledges unredeemed," which he might have plead in bar to Mr. Clay's challenge, and would not, was another sarcastic cut at Mr. Adams and Mr. Clay, while rendering satisfaction for cuts already given. The "member of the House" was Mr. George Kremer, of Pennsylvania, who, at the time of the presidential election in the House of Representatives, had avowed himself to be the author of an anonymous publication, the writer of which Mr. Clay had threatened to call to account if he would avow himself—and did not. The "great man" was President Adams, with whom Mr. Clay had had a newspaper controversy, involving a question of fact,—which had been postponed. The cause of this sarcastic cut, and of all the keen personality in the Panama speech, was the belief that the President and Secretary, the latter especially, encouraged the newspapers in their interest to attack him, which they did incessantly; and he chose to overlook the editors and retaliate upon the instigators, as he believed them to be. This he did to his heart's content in that speech—and to their great annoyance, as the coming of the challenge proved. The "two friends" alluded to were Col. Tatnall and myself, and the circumstances which might disqualify one of the two were those of my relationship to Mrs. Clay, of which he did not know the degree, and whether of affinity or consanguinity—considering the first no obstacle, the other a complete bar to my appearing as his second—holding, as he did, with the tenacity of an Indian, to the obligations of blood, and laying but little stress on marriage connections. His affable reception and courteous demeanor to Gen. Jesup were according to his own high breeding, and the decorum which belonged to such occasions. A duel in the circle to which he belonged was "an affair of honor;" and high honor, according to its code, must pervade every part of it. General Jesup had come upon an unpleasant business. Mr. Randolph determined to put him at his ease; and did it so effectually as to charm him into admiration. The whole plan of his conduct, down to contingent details, was cast in his mind instantly, as if by intuition, and never departed from. The acceptance, the refusal to explain, the determination not to fire, the first and second choice of a friend, and the circumstances which might disqualify one and delay the other, the additional cut, and the resolve to fall, if he fell, on the soil of Virginia—was all, to his mind, a single emanation, the flash of an instant. He needed no consultations, no deliberations to arrive at all these important conclusions. I dwell upon these small circumstances because they are characteristic, and show the man—a man who belongs to history, and had his own history, and should be known as he was. That character can only be shown in his own conduct, his own words and acts: and this duel with Mr. Clay illustrates it at many points. It is in that point of view that I dwell upon circumstances which might seem

trivial, but which are not so, being illustrative of character and significant to their smallest particulars.

The acceptance of the challenge was in keeping with the whole proceeding—prompt in the agreement to meet, exact in protesting against the *right* to call him out, clear in the waiver of his constitutional privilege, brief and cogent in presenting the case as one of some reprehension—the case of a member of an administration challenging a senator for words spoken in debate of that administration; and all in brief, terse, and superlatively decorous language. It ran thus:

"Mr. Randolph accepts the challenge of Mr. Clay. At the same time he protests against the *right* of any minister of the Executive Government of the United States to hold him responsible for words spoken in debate, as a senator from Virginia, in crimination of such minister, or the administration under which he shall have taken office. Colonel Tatnall, of Georgia, the bearer of this letter, is authorized to arrange with General Jesup (the bearer of Mr. Clay's challenge) the terms of the meeting to which Mr. Randolph is invited by that note."

This *protest* which Mr. Randolph entered against the right of Mr. Clay to challenge him, led to an explanation between their mutual friends on that delicate point—a point which concerned the independence of debate, the privileges of the Senate, the immunity of a member, and the sanctity of the constitution. It was a point which Mr. Clay felt; and the explanation which was had between the mutual friends presented an excuse, if not a justification, for his proceeding. He had been informed that Mr. Randolph, in his speech, had avowed his responsibility to Mr. Clay, and waived his privilege—a thing which, if it had been done, would have been a defiance, and stood for an invitation to Mr. Clay to send a challenge. Mr. Randolph, through Col. Tatnall, disavowed that imputed avowal, and confined his waiver of privilege to the time of the delivery of the challenge, and in answer to an inquiry before it was delivered.

The following are the communications between the respective seconds on this point:

"In regard to the *protest* with which Mr. Randolph's note concludes, it is due to Mr. Clay to say that he had been informed Mr. Randolph did, and would, hold himself responsible to him for any observations he might make in relation to him; and that I (Gen. Jesup) distinctly understood from Mr. Randolph, before I delivered the note of Mr. Clay, that he waived his privilege as a senator."

To this Col. Tatnall replied:

"As this expression (did and would hold himself responsible, &c.) may be construed to mean that Mr. Randolph had given this intimation not only before called upon, but in such a manner as to throw out to Mr. Clay something like an invitation to make such a call, I have, on the part of Mr. Randolph, to disavow any disposition, when expressing his readiness to waive his privilege as a senator from Virginia, to invite, in any case, a call upon him for personal satisfaction. The concluding paragraph of your note, I presume, is intended to show merely that you did not present a note, such as that of Mr. Clay to Mr. Randolph, until you had ascertained his willingness to waive his privilege as a senator. This I infer, as it was in your recollection that the expression of such a readiness on the part of Mr. Randolph was in reply to an inquiry on that point made by yourself."

Thus an irritating circumstance in the affair was virtually negatived, and its offensive import wholly disavowed. For my part, I do not believe that Mr. Randolph used such language in his speech. I have no recollection of having heard it. The published report of the speech, as taken down by the reporters and not revised by the speaker, contains nothing of it. Such gasconade

was foreign to Mr. Randolph's character. The occasion was not one in which these sort of defiances are thrown out, which are either to purchase a cheap reputation when it is known they will be despised, or to get an advantage in extracting a challenge when there is a design to kill. Mr. Randolph had none of these views with respect to Mr. Clay. He had no desire to fight him, or to hurt him, or gain cheap character by appearing to bully him. He was above all that, and had settled accounts with him in his speech, and wanted no more. I do not believe it was said; but there was a part of the speech which might have received a wrong application, and led to the erroneous report: a part which applied to a quoted passage in Mr. Adams's Panama message, which he condemned and denounced, and dared the President and his friends to defend. His words were, as reported unrevised: "Here I plant my foot; here I fling defiance right into his (the President's) teeth; here I throw the gauntlet to him and the bravest of his compeers to come forward and defend these lines," &c. A very palpable defiance this, but very different from a summons to personal combat, and from what was related to Mr. Clay. It was an unfortunate report, doubtless the effect of indistinct apprehension, and the more to be regretted as, after having been a main cause inducing the challenge, the disavowal could not stop it.

Thus the agreement for the meeting was absolute; and, according to the expectation of the principals, the meeting itself would be immediately; but their seconds, from the most laudable feelings, determined to delay it, with the hope to prevent it, and did keep it off a week, admitting me to a participation in the good work, as being already privy to the affair and friendly to both parties. The challenge stated no specific ground of offence, specified no exceptionable words. It was peremptory and general, for an "unprovoked attack on his (Mr. Clay's) character," and it dispensed with explanations by alleging that the notoriety and indisputable existence of the injury superseded the necessity for them. Of course this demand was bottomed on a report of the words spoken—a verbal report, the full daily publication of the debates having not then begun—and that verbal report was of a character greatly to exasperate Mr. Clay. It stated that in the course of the debate Mr. Randolph said:

"That a letter from General Salazar, the Mexican Minister at Washington, submitted by the Executive to the Senate, bore the ear-mark of having been manufactured or forged by the Secretary of State, and denounced the administration as a corrupt coalition between the puritan and blackleg; and added, at the same time, that he (Mr. Randolph) held himself personally responsible for all that he had said."

This was the report to Mr. Clay, and upon which he gave the absolute challenge, and received the absolute acceptance, which shut out all inquiry between the principals into the causes of the quarrel. The seconds determined to open it, and to attempt an accommodation, or a peaceable determination of the difficulty. In consequence, General Jesup stated the complaint in a note to Col. Tatnall, thus:

"The injury of which Mr. Clay complains consists in this, that Mr. Randolph has charged him with having forged or manufactured a paper connected with the Panama mission; also, that he has applied to him in debate the epithet of blackleg. The explanation which I consider necessary is, that Mr. Randolph declare that he had no intention of charging Mr. Clay, either in his public or private capacity, with forging or falsifying any paper, or misrepresenting any fact; and also that the term blackleg was not intended to apply to him."

To this exposition of the grounds of the complaint, Col. Tatnall answered:

"Mr. Randolph informs me that the words used by him in debate were as follows: 'That I thought it would be in my power to show evidence sufficiently presumptive to satisfy a Charlotte (county) jury that this invitation was manufactured here—that Salazar's letter

struck me as bearing a strong likeness in point of style to the other papers. I did not undertake to prove this, but expressed my suspicion that the fact was so. I applied to the administration the epithet, puritanic-diplomatic-black-legged administration.' Mr. Randolph, in giving these words as those uttered by him in debate, is unwilling to afford any explanation as to their meaning and application."

In this answer Mr. Randolph remained upon his original ground of refusing to answer out of the Senate for words spoken within it. In other respects the statement of the words actually spoken greatly ameliorated the offensive report, the coarse and insulting words, "*forging and falsifying*," being disavowed, as in fact they were not used, and are not to be found in the published report. The speech was a bitter philippic, and intended to be so, taking for its point the alleged coalition between Mr. Clay and Mr. Adams with respect to the election, and their efforts to get up a popular question contrary to our policy of non-entanglement with foreign nations, in sending ministers to the congress of the American states of Spanish origin at the Isthmus of Panama. I heard it all, and, though sharp and cutting, I think it might have been heard, had he been present, without any manifestation of resentment by Mr. Clay. The part which he took so seriously to heart, that of having the Panama invitations manufactured in his office, was to my mind nothing more than attributing to him a diplomatic superiority which enabled him to obtain from the South American ministers the invitations that he wanted; and not at all that they were spurious fabrications. As to the expression, "*blackleg and puritan*," it was merely a sarcasm to strike by antithesis, and which, being without foundation, might have been disregarded. I presented these views to the parties, and if they had come from Mr. Randolph they might have been sufficient; but he was inexorable, and would not authorize a word to be said beyond what he had written.

All hope of accommodation having vanished, the seconds proceeded to arrange for the duel. The afternoon of Saturday, the 8th of April, was fixed upon for the time; the right bank of the Potomac, within the State of Virginia, above the Little Falls bridge, was the place,—pistols the weapons,—distance ten paces; each party to be attended by two seconds and a surgeon, and myself at liberty to attend as a mutual friend. There was to be no practising with pistols, and there was none; and the words "one," "two," "three," "stop," after the word "fire," were, by agreement between the seconds, and for the humane purpose of reducing the result as near as possible to chance, to be given out in quick succession. The Virginia side of the Potomac was taken at the instance of Mr. Randolph. He went out as a Virginia senator, refusing to compromise that character, and, if he fell in defence of its rights, Virginia soil was to him the chosen ground to receive his blood. There was a statute of the State against duelling within her limits; but, as he merely went out to receive a fire without returning it, he deemed that no fighting, and consequently no breach of her statute. This reason for choosing Virginia could only be explained to me, as I alone was the depository of his secret.

The week's delay which the seconds had contrived was about expiring. It was Friday evening, or rather night, when I went to see Mr. Clay for the last time before the duel. There had been some alienation between us since the time of the presidential election in the House of Representatives, and I wished to give evidence that there was nothing personal in it. The family were in the parlor—company present—and some of it staid late. The youngest child, I believe James, went to sleep on the sofa—a circumstance which availed me for a purpose the next day. Mrs. Clay was, as always since the death of her daughters, the picture of desolation, but calm, conversable, and without the slightest apparent consciousness of the impending event. When all were gone, and she also had left the parlor, I did what I came for, and said to Mr. Clay, that, notwithstanding our late political differences, my personal feelings towards him were the same as formerly, and that, in whatever concerned his life or honor my best

wishes were with him. He expressed his gratification at the visit and the declaration, and said it was what he would have expected of me. We parted at midnight.

Saturday, the 8th of April—the day for the duel—had come, and almost the hour. It was noon, and the meeting was to take place at 4½ o'clock. I had gone to see Mr. Randolph before the hour, and for a purpose; and, besides, it was so far on the way, as he lived half way to Georgetown, and we had to pass through that place to cross the Potomac into Virginia at the Little Falls bridge. I had heard nothing from him on the point of not returning the fire since the first communication to that effect, eight days before. I had no reason to doubt the steadiness of his determination, but felt a desire to have fresh assurance of it after so many days' delay, and so near approach of the trying moment. I knew it would not do to ask him the question—any question which would imply a doubt of his word. His sensitive feelings would be hurt and annoyed at it. So I fell upon a scheme to get at the inquiry without seeming to make it. I told him of my visit to Mr. Clay the night before—of the late sitting—the child asleep—the unconscious tranquillity of Mrs. Clay; and added, I could not help reflecting how different all that might be the next night. He understood me perfectly, and immediately said, with a quietude of look and expression which seemed to rebuke an unworthy doubt, "*I shall do nothing to disturb the sleep of the child or the repose of the mother*," and went on with his employment—(his seconds being engaged in their preparations in a different room)—which was, making codicils to his will, all in the way of remembrance to friends; the bequests slight in value, but invaluable in tenderness of feeling and beauty of expression, and always appropriate to the receiver. To Mr. Macon he gave some English shillings, to keep the game when he played whist. His namesake, John Randolph Bryan, then at school in Baltimore, and since married to his niece, had been sent for to see him, but sent off before the hour for going out, to save the boy from a possible shock at seeing him brought back. He wanted some gold—that coin not being then in circulation, and only to be obtained by favor or purchase—and sent his faithful man, Johnny, to the United States Branch Bank to get a few pieces, American being the kind asked for. Johnny returned without the gold, and delivered the excuse that the bank had none. Instantly Mr. Randolph's clear silver-toned voice was heard above its natural pitch, exclaiming, "Their name is legion! and they are liars from the beginning. Johnny, bring me my horse." His own saddle-horse was brought him—for he never rode Johnny's, nor Johnny his, though both, and all his hundred horses, were of the finest English blood—and rode off to the bank down Pennsylvania avenue, now Corcoran & Riggs's—Johnny following, as always, forty paces behind. Arrived at the bank, this scene, according to my informant, took place:

"Mr. Randolph asked for the state of his account, was shown it, and found to be some four thousand dollars in his favor. He asked for it. The teller took up packages of bills, and civilly asked in what sized notes he would have it. 'I want money,' said Mr. Randolph, putting emphasis on the word; and at that time it required a bold man to intimate that United States Bank notes were not money. The teller, beginning to understand him, and willing to make sure, said, inquiringly, 'You want silver?' 'I want my money!' was the reply. Then the teller, lifting boxes to the counter, said politely: 'Have you a cart, Mr. Randolph, to put it in?' 'That is my business, sir,' said he. By that time the attention of the cashier (Mr. Richard Smith) was attracted to what was going on, who came up, and understanding the question, and its cause, told Mr. Randolph there was a mistake in the answer given to his servant; that they had gold, and he should have what he wanted."

In fact, he had only applied for a few pieces, which he wanted for a special purpose. This brought about a compromise. The pieces of gold were received, the cart and the silver dispensed with; but the account in bank was closed, and a check taken for the amount on New-York. He returned and delivered me a sealed paper, which I was to open if he was

killed—give back to him if he was not; also an open slip, which I was to read before I got to the ground. This slip was a request to feel in his left breeches pocket, if he was killed, and find so many pieces of gold—I believe nine—take three for myself, and give the same number to Tatnall and Hamilton each, to make seals to wear in remembrance of him. We were all three at Mr. Randolph's lodgings then, and soon set out, Mr. Randolph and his seconds in a carriage, I following him on horseback.

I have already said that the count was to be quick after giving the word "fire," and for a reason which could not be told to the principals. To Mr. Randolph, who did not mean to fire, and who, though agreeing to be shot at, had no desire to be hit, this rapidity of counting out the time and quick arrival at the command "stop" presented no objection. With Mr. Clay it was different. With him it was all a real transaction, and gave rise to some proposal for more deliberateness in counting off the time; which being communicated to Col. Tatnall, and by him to Mr. Randolph, had an ill effect upon his feelings, and, aided by an untoward accident on the ground, unsettled for a moment the noble determination which he had formed not to fire at Mr. Clay. I now give the words of Gen. Jesup:

"When I repeated to Mr. Clay the 'word' in the manner in which it would be given, he expressed some apprehension that, as he was not accustomed to the use of the pistol, he might not be able to fire within the time, and for that reason alone desired that it might be prolonged. I mentioned to Col. Tatnall the desire of Mr. Clay. He replied, 'If you insist upon it, the time must be prolonged, but I should very much regret it.' I informed him I did not insist upon prolonging the time, and I was sure Mr. Clay would acquiesce. The original agreement was carried out."

I knew nothing of this until it was too late to speak with the seconds or principals. I had crossed the Little Falls bridge just after them, and come to the place where the servants and carriages had stopped. I saw none of the gentlemen, and supposed they had all gone to the spot where the ground was being marked off; but on speaking to Johnny, Mr. Randolph, who was still in his carriage and heard my voice, looked out from the window, and said to me: "Colonel, since I saw you, and since I have been in this carriage, I have heard something which *may* make me change my determination. Col. Hamilton will give you a note which will explain it." Col. Hamilton was then in the carriage, and gave me the note, in the course of the evening, of which Mr. Randolph spoke. I readily comprehended that this possible change of determination related to his firing; but the emphasis with which he pronounced the word "*may*" clearly showed that his mind was undecided, and left it doubtful whether he would fire or not. No further conversation took place between us; the preparations for the duel were finished; the parties went to their places; and I went forward to a piece of rising ground, from which I could see what passed and hear what was said. The faithful Johnny followed me close, speaking not a word, but evincing the deepest anxiety for his beloved master. The place was a thick forest, and the immediate spot a little depression, or basin, in which the parties stood. The principals saluted each other courteously as they took their stands. Col. Tatnall had won the choice of position, which gave to Gen. Jesup the delivery of the word. They stood on a line east and west—a small stump just behind Mr. Clay; a low gravelly bank rose just behind Mr. Randolph. This latter asked Gen. Jesup to repeat the word as he would give it; and while in the act of doing so, and Mr. Randolph adjusting the butt of his pistol to his hand, the muzzle pointing downwards, and almost to the ground, it fired. Instantly Mr. Randolph turned to Col. Tatnall and said: "I protested against that hair trigger." Col. Tatnall took blame to himself for having sprung the hair. Mr. Clay had not then received his pistol. Senator Johnson, of Louisiana (Josiah), one of his seconds, was carrying it to him, and still several steps from him. This untimely fire, though clearly an accident, necessarily gave rise to some remarks, and a species of inquiry, which was conducted with the utmost delicacy, but which,

in itself, was of a nature to be inexpressibly painful to a gentleman's feelings. Mr. Clay stopped it with the generous remark that the fire was clearly an accident: and it was so unanimously declared. Another pistol was immediately furnished; and exchange of shots took place, and, happily, without effect upon the persons. Mr. Randolph's bullet struck the stump behind Mr. Clay, and Mr. Clay's knocked up the earth and gravel behind Mr. Randolph, and in a line with the level of his hips, both bullets having gone so true and close that it was a marvel how they missed. The moment had come for me to interpose. I went in among the parties and offered my mediation; but nothing could be done. Mr. Clay said, with that wave of the hand with which he was accustomed to put away a trifle, "*This is child's play!*" and required another fire. Mr. Randolph also demanded another fire. The seconds were directed to reload. While this was doing I prevailed on Mr. Randolph to walk away from his post, and renewed to him, more pressingly than ever, my importunities to yield to some accommodation; but I found him more determined than I had ever seen him, and for the first time impatient, and seemingly annoyed and dissatisfied at what I was doing. He was indeed annoyed and dissatisfied. The accidental fire of his pistol preyed upon his feelings. He was doubly chagrined at it, both as a circumstance susceptible in itself of an unfair interpretation, and as having been the immediate and controlling cause of his firing at Mr. Clay. He regretted this fire the instant it was over. He felt that it had subjected him to imputations from which he knew himself to be free—a desire to kill Mr. Clay, and a contempt for the laws of his beloved State; and the annoyances which he felt at these vexatious circumstances revived his original determination, and decided him irrevocably to carry it out.

It was in this interval that he told me what he had heard since we parted, and to which he alluded when he spoke to me from the window of the carriage. It was to this effect: That he had been informed by Col. Tatnall that it was proposed to give out the words with more deliberateness, so as to prolong the time for taking aim. This information grated harshly upon his feelings. It unsettled his purpose, and brought his mind to the inquiry (as he now told me, and as I found it expressed in the note which he had immediately written in pencil to apprise me of his possible change), whether, under these circumstances, he might not "*disable*" his adversary? This note is so characteristic, and such an essential part of this affair, that I here give its very words, so far as relates to this point. It ran thus:

"Information received from Col. Tatnall since I got into the carriage *may* induce me to change my mind, of not returning Mr. Clay's fire. I seek not his death. I would not have his blood upon my hands—it will not be upon my soul if shed in self-defence—for the world. He has determined, by the use of a long, preparatory caution by words, to get time to kill me. May I not, then, disable him? Yes, if I please."

It has been seen, by the statement of Gen. Jesup, already given, that this "*information*" was a misapprehension; that Mr. Clay had not applied for a prolongation of time for the purpose of getting sure aim, but only to enable his unused hand, long unfamiliar with the pistol, to fire within the limited time; that there was no prolongation, in fact, either granted or insisted upon; but he was in doubt, and General Jesup having won the word, he was having him repeat it in the way he was to give it out, when his finger touched the hair-trigger. How unfortunate that I did not know of this in time to speak to General Jesup, when one word from him would have set all right, and saved the imminent risks incurred! This inquiry, "May I not disable him?" was still on Mr. Randolph's mind, and dependent for its solution on the rising incidents of the moment, when the accidental fire of his pistol gave the turn to his feelings which solved the doubt. But he declared to me that he had not aimed at the life of Mr. Clay; that he did not level as high as the knees—not higher than the knee-band; "for it was no mercy to shoot a man in the knee;" that his only object was to disable him and spoil his aim. And then added, with a beauty of expression and a depth of feeling which no studied

oratory can ever attain, and which I shall never forget, these impressive words: "*I would not have seen him fall mortally, or even doubtfully wounded, for all the land that is watered by the King of Floods and all his tributary streams.*" He left me to resume his post, utterly refusing to explain out of the Senate any thing that he had said in it, and with the positive declaration that he would not return the next fire. I withdrew a little way into the woods, and kept my eyes fixed on Mr. Randolph, who I then knew to be the only one in danger. I saw him receive the fire of Mr. Clay, saw the gravel knocked up in the same place, saw Mr. Randolph raise his pistol—discharge it in the air; heard him say, '*I do not fire at you, Mr. Clay*;' and immediately advancing and offering his hand. He was met in the same spirit. They met half way, shook hands, Mr. Randolph saying, jocosely, '*You owe me a coat, Mr. Clay*'—(the bullet had passed through the skirt of the coat, very near the hip)—to which Mr. Clay promptly and happily replied, '*I am glad the debt is no greater.*' I had come up, and was prompt to proclaim what I had been obliged to keep secret for eight days. The joy of all was extreme at this happy termination of a most critical affair; and we immediately left, with lighter hearts than we brought. I stopped to sup with Mr. Randolph and his friends—none of us wanted dinner that day—and had a characteristic time of it. A runner came in from the bank to say that they had overpaid him, by mistake, $130 that day. He answered, 'I believe *it is your rule not to correct mistakes, except at the time, and at your counter*.' And with that answer the runner had to return. When gone, Mr. Randolph said, '*I will pay it on Monday: people must be honest, if banks are not.*' He asked for the sealed paper he had given me, opened it, took out a check for $1,000, drawn in my favor, and with which I was requested to have him carried, if killed, to Virginia, and buried under his patrimonial oaks—not let him be buried at Washington, with an hundred hacks after him. He took the gold from his left breeches pocket, and said to us (Hamilton, Tatnall, and I), 'Gentlemen, Clay's bad shooting shan't rob you of your seals. I am going to London, and will have them made for you;' which he did, and most characteristically, so far as mine was concerned. He went to the herald's office in London and inquired for the Benton family, of which I had often told him there was none, as we only dated on that side from my grandfather in North Carolina. But the name was found, and with it a coat of arms—among the quarterings a lion rampant. That is the family, said he; and had the arms engraved on the seal, the same which I have since habitually worn; and added the motto, *Factis non verbis*: of which he was afterwards accustomed to say the non should be changed into et. But, enough. I run into these details, not merely to relate an event, but to show character; and if I have not done it, it is not for want of material, but of ability to use it.

On Monday the parties exchanged cards, and social relations were formally and courteously restored. It was about the last high-toned duel that I have witnessed, and among the highest-toned that I have ever witnessed, and so happily conducted to a fortunate issue—a result due to the noble character of the seconds as well as to the generous and heroic spirit of the principals. Certainly duelling is bad, and has been put down, but not quite so bad as its substitute—revolvers, bowie-knives, blackguarding, and street-assassinations under the pretext of self-defence.

27. Death Of Mr. Gaillard

He was a senator from South Carolina, and had been continuously, from the year 1804. He was five times elected to the Senate—the first time for an unexpired term—and died in the course of a term; so that the years for which he had been elected were nearly thirty. He was nine times elected president of the Senate *pro tempore*, and presided fourteen years over the deliberations of that body,—the deaths of two Vice-Presidents during his time (Messrs. Clinton and Gerry), and the much absence of another (Gov. Tompkins), making long continued vacancies in the President's chair,—which he was called to fill. So many elections, and such long continued service, terminated at last only by death, bespeaks an eminent fitness both for the place of Senator, and that of presiding officer over the Senate. In the language of Mr. Macon, he seemed born for that station. Urbane in his manners, amiable in temper, scrupulously impartial, attentive to his duties, exemplary patience, perfect knowledge of the rules, quick and clear discernment, uniting absolute firmness of purpose, with the greatest gentleness of manners, setting young Senators right with a delicacy and amenity, which spared the confusion of a mistake—preserving order, not by authority of rules, but by the graces of deportment: such were the qualifications which commended him to the presidency of the Senate, and which facilitated the transaction of business while preserving the decorum of the body. There was probably not an instance of disorder, or a disagreeable scene in the chamber, during his long continued presidency. He classed democratically in politics, but was as much the favorite of one side of the house as of the other, and that in the high party times of the war with Great Britain, which so much exasperated party spirit.

Mr. Gaillard was, as his name would indicate, of French descent, having issued from one of those Huguenot families, of which the bigotry of Louis XIV., dominated by an old woman, deprived France, for the benefit of other countries.

28. Amendment Of The Constitution In Relation To The Election Of President And Vice-President

The attempt was renewed at the session of 1825-'26 to procure an amendment to the constitution, in relation to the election of the two first magistrates of the republic, so as to do away with all intermediate agencies, and give the election to the direct vote of the people. Several specific propositions were offered in the Senate to that effect, and all substituted by a general proposition submitted by Mr. Macon—"that a select committee be appointed to report upon the best and most practicable mode of electing the President and Vice-President:" and, on the motion of Mr. Van Buren, the number of the committee was raised to nine—instead of five—the usual number. The members of it were appointed by Mr. Calhoun, the Vice-President, and were carefully selected, both geographically as coming from different sections of the Union, and personally and politically as being friendly to the object and known to the country. They were: Mr. Benton, chairman, Mr. Macon, Mr. Van Buren, Mr. Hugh L. White of Tennessee, Mr. Findlay of Pennsylvania, Mr. Dickerson of New Jersey, Mr. Holmes of Maine, Mr. Hayne of South Carolina, and Col. Richard M. Johnson of Kentucky. The committee agreed upon a proposition of amendment, dispensing with electors, providing for districts in which the direct vote of the people was to be taken; and obviating all excuse for caucuses and conventions to concentrate public opinion by proposing a second election between the two highest in the event of no one receiving a majority of the whole number of district votes in the first election. The plan reported was in these words:

"That, hereafter the President and Vice-President of the United States shall be chosen by the People of the respective States, in the manner following: Each State shall be divided by the legislature thereof, into districts, equal in number to the whole number of senators and representatives, to which such State may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons, entitled to be represented, under the constitution, and to be laid off, for the first time, immediately after the ratification of this amendment, and afterwards at the session of the legislature next ensuing the appointment of representatives, by the Congress of the United States; or oftener, if deemed necessary by the State; but no alteration, after the first, or after each decennial formation of districts, shall take effect, at the next ensuing election, after such alteration is made. That, on the first Thursday, and succeeding Friday, in the month of August, of the year one thousand eight hundred and twenty-eight, and on the same days in every fourth year thereafter, the citizens of each State, who possess the qualifications requisite for electors of the most numerous branch of the State Legislature, shall meet within their respective districts, and vote for a President and Vice-President of the United States, one of whom, at least, shall not be an inhabitant of the same State with himself: and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice-President in each district shall be holden to have received one vote: which fact shall be immediately certified to the Governor of the State, to each of the senators in Congress from such State, and to the President of the Senate. The right of affixing the places in the districts at which the elections shall be held, the manner of holding the same, and of canvassing the votes, and certifying the returns, is reserved, exclusively, to the legislatures of the States. The Congress of the United States shall be in session on the second Monday of October, in the year one thousand eight hundred and twenty-eight, and on the same day in every fourth year thereafter: and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the

certificates, and the votes shall then be counted. The person having the greatest number of votes for President, shall be President, if such number be equal to a majority of the whole number of votes given; but if no person have such majority, then a second election shall be held, on the first Thursday and succeeding Friday, in the month of December, then next ensuing, between the persons having the two highest numbers, for the office of President: which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first; and the person having the greatest number of votes for President, shall be the President. But, if two or more persons shall have received the greatest and equal number of votes, at the second election, the House of Representatives shall choose one of them for President, as is now prescribed by the constitution. The person having the greatest number of votes for Vice-President, at the first election, shall be the Vice-President, if such number be equal to a majority of the whole number of votes given, and, if no person have such majority, then a second election shall take place, between the persons having the two highest numbers, on the same day that the second election is held for President, and the person having the highest number of votes for Vice-President, shall be the Vice-President. But if two or more persons shall have received the greatest number of votes in the second election, then the Senate shall choose one of them for Vice-President, as is now provided in the constitution. But, when a second election shall be necessary, in the case of Vice-President, and not necessary in the case of President, then the Senate shall choose a Vice-President, from the persons having the two highest numbers in the first election, as is now prescribed in the constitution."

The prominent features of this plan of election are: 1. The abolition of electors, and the direct vote of the people; 2. A second election between the two highest on each list, when no one has a majority of the whole; 3. Uniformity in the mode of election.—The advantages of this plan would be to get rid of all the machinery by which the *selection* of their two first magistrates is now taken out of the hands of the people, and usurped by self-constituted, illegal, and irresponsible bodies,—and place it in the only safe, proper, and disinterested hands—those of the people themselves. If adopted, there would be no pretext for caucuses or conventions, and no resort to the House of Representatives,—where the largest State is balanced by the smallest. If any one received a majority of the whole number of districts in the first election, then the democratic principle—the *demos krateo*—the majority to govern—is satisfied. If no one receives such majority, then the first election stands for a popular nomination of the two highest—a nomination by the people themselves—out of which two the election is sure to be made on the second trial. But to provide for a possible contingency—too improbable almost ever to occur—and to save in that case the trouble of a third popular election, a resort to the House of Representatives is allowed; it being *nationally* unimportant which is elected where the candidates were exactly equal in the public estimation.—Such was the plan the committee reported; and it is the perfect plan of a popular election, and has the advantage of being applicable to all elections, federal and State, from the highest to the lowest. The machinery of its operation is easy and simple, and it is recommended by every consideration of public good, which requires the abandonment of a defective system, which has failed—the overthrow of usurping bodies, which have seized upon the elections—and the preservation to the people of the business of selecting, as well as electing, their own high officers. The plan was unanimously recommended by the whole committee, composed as it was of experienced men taken from every section of the Union. But it did not receive the requisite support of two-thirds of the Senate to carry it through that body; and a similar plan proposed in the House of Representatives received the same fate there—reported by a committee, and unsustained by two-thirds of the House: and such, there is too much reason to apprehend, may be the fate of future similar propositions, originating in Congress, without the powerful impulsion of the people to urge them through. Select bodies

are not the places for popular reforms. These reforms are for the benefit of the people, and should begin with the people; and the constitution itself, sensible of that necessity in this very case, has very wisely made provision for the popular initiative of constitutional amendments. The fifth article of that instrument gives the power of beginning the reform of itself to the States, in their legislatures, as well as to the federal government in its Congress: and there is the place to begin, and before the people themselves in their elections to the general assembly. And there should be no despair on account of the failures already suffered. No great reform is carried suddenly. It requires years of persevering exertion to produce the unanimity of opinion which is necessary to a great popular reformation: but because it is difficult, it is not impossible. The greatest reform ever effected by peaceful means in the history of any government was that of the parliamentary reform of Great Britain, by which the rotten boroughs were disfranchised, populous towns admitted to representation, the elective franchise extended, the House of Commons purified, and made the predominant branch—the master branch of the British government. And how was that great reform effected? By a few desultory exertions in the parliament itself? No, but by forty years of continued exertion, and by incessant appeals to the people themselves. The society for parliamentary reform, founded in 1792, by Earl Grey and Major Cartwright, succeeded in its efforts in 1832; and in their success there is matter for encouragement, as in their conduct there is an example for imitation. They carried the question to the people, and kept it there forty years, and saw it triumph—the two patriotic founders of the society living to see the consummation of their labors, and the country in the enjoyment of the inestimable advantage of a “Reformed Parliament.”

29. Reduction Of Executive Patronage

In the session 1825-'26, Mr. Macon moved that the select committee, to which had been committed the consideration of the propositions for amending the constitution in relation to the election of President and Vice-President, should also be charged with an inquiry into the expediency of reducing Executive patronage, in cases in which it could be done by law consistently with the constitution, and without impairing the efficiency of the government. The motion was adopted, and the committee (Messrs. Benton, Macon, Van Buren, White of Tennessee, Findlay of Pennsylvania, Dickerson, Holmes, Hayne, and Johnson of Kentucky) made a report, accompanied by six bills; which report and bills, though not acted upon at the time, may still have their use in showing the democratic principles, on practical points of that day (when some of the fathers of the democratic church were still among us);—and in recalling the administration of the government, to the simplicity and economy of its early days. The six bills reported were. 1. To regulate the publication of the laws of the United States, and of the public advertisements. 2. To secure in office the faithful collectors and disbursers of the revenue, and to displace defaulters. 3. To regulate the appointment of postmasters. 4. To regulate the appointment of cadets. 5. To regulate the appointment of midshipmen. 6. To prevent military and naval officers from being dismissed the service at the pleasure of the President.—In favor of the general principle, and objects of all the bills, the report accompanying them, said:

"In coming to the conclusion that Executive patronage ought to be diminished and regulated, on the plan proposed, the committee rest their opinion on the ground that the exercise of great patronage in the hands of one man, has a constant tendency to sully the purity of our institutions, and to endanger the liberties of the country. This doctrine is not new. A jealousy of power, and of the influence of patronage, which must always accompany its exercise, has ever been a distinguished feature in the American character. It displayed itself strongly at the period of the formation, and of the adoption, of the federal constitution. At that time the feebleness of the old confederation had excited a much greater dread of anarchy than of power—'of anarchy among the members than of power in the head'—and although the impression was nearly universal that a government of more energetic character had become indispensably necessary, yet, even under the influence of this conviction—such was the dread of power and patronage—that the States, with extreme reluctance, yielded their assent to the establishment of the federal government. Nor was this the effect of idle and visionary fears, on the part of an ignorant multitude, without knowledge of the nature and tendency of power. On the contrary, it resulted from the most extensive and profound political knowledge,—from the heads of statesmen, unsurpassed, in any age, in sagacity and patriotism. Nothing could reconcile the great men of that day to a constitution of so much power, but the guards which were put upon it against the abuse of power. Dread and jealousy of this abuse displayed itself throughout the instrument. To this spirit we are indebted for the freedom of the press, trial by jury, liberty of conscience, freedom of debate, responsibility to constituents, power of impeachment, the control of the Senate over appointments to office; and many other provisions of a like character. But the committee cannot imagine that the jealous foresight of the time, great as it was, or that any human sagacity, could have foreseen, and placed a competent guard upon, every possible avenue to the abuse of power. The nature of a constitutional act excludes the possibility of combining minute perfection with general excellence. After the exertion of all possible vigilance, something of what ought to have been done, has been omitted; and much of what has been attempted, has been found insufficient and unavailing in practice. Much remains for us to do, and much will still remain for posterity

to do—for those unborn generations to do, on whom will devolve the sacred task of guarding the temple of the constitution, and of keeping alive the vestal flame of liberty.

"The committee believe that they will be acting in the spirit of the constitution, in laboring to multiply the guards, and to strengthen the barriers, against the possible abuse of power. If a community could be imagined in which the laws should execute themselves—in which the power of government should consist in the enactment of laws—in such a state the machine of government would carry on its operations without jar or friction. Parties would be unknown, and the movements of the political machine would but little more disturb the passions of men, than they are disturbed by the operations of the great laws of the material world. But this is not the case. The scene shifts from this imaginary region, where laws execute themselves, to the theatre of real life, wherein they are executed by civil and military officers, by armies and navies, by courts of justice, by the collection and disbursement of revenue, with all its train of salaries, jobs, and contracts; and in this aspect of the reality, we behold the working of PATRONAGE, and discover the reason why so many stand ready, in any country, and in all ages, to flock to the standard of POWER, wheresoever, and by whomsoever, it may be raised.

"The patronage of the federal government at the beginning, was founded upon a revenue of two millions of dollars. It is now operating upon twenty-two millions; and, within the lifetime of many now living, must operate upon fifty. The whole revenue must, in a few years, be wholly applicable to subjects of patronage. At present about one half, say ten millions of it, are appropriated to the principal and interest of the public debt, which, from the nature of the object, involves but little patronage. In the course of a few years, this debt, without great mismanagement, must be paid off. A short period of peace, and a faithful application of the sinking fund, must speedily accomplish that most desirable object. Unless the revenue be then reduced, a work as difficult in republics as in monarchies, the patronage of the federal government, great as it already is, must, in the lapse of a few years, receive a vast accession of strength. The revenue itself will be doubled, and instead of one half being applicable to objects of patronage, the whole will take that direction. Thus, the reduction of the public debt, and the increase of revenue, will multiply in a four-fold degree the number of persons in the service of the federal government, the quantity of public money in their hands, and the number of objects to which it is applicable; but as each person employed will have a circle of greater or less diameter, of which he is the centre and the soul—a circle composed of friends and relations, and of individuals employed by himself on public or on private account—the actual increase of federal power and patronage by the duplication of the revenue, will be, not in the arithmetical ratio, but in geometrical progression—an increase almost beyond the power of the mind to calculate or to comprehend."

This was written twenty-five years ago. Its anticipations of increased revenue and patronage are more than realized. Instead of fifty millions of annual revenue during the lifetime of persons then living, and then deemed a visionary speculation, I saw it rise to sixty millions before I ceased to be a senator; and saw all the objects of patronage expanding and multiplying in the same degree, extending the circle of its influence, and, in many cases, reversing the end of its creation. Government was instituted for the protection of individuals—not for their support. Office was to be given upon qualifications to fill it—not upon the personal wants of the recipient. Proper persons were to be sought out and appointed—(by the President in the higher appointments, and by the heads of the different branches of service in the lower ones); and importunate suppliants were not to beg themselves into an office which belonged to the public, and was only to be administered for the public good. Such was the theory of the government. Practice has reversed it. Now office is sought for support, and for the repair of dilapidated fortunes; applicants obtrude

themselves, and prefer "claims" to office. Their personal condition and party services, not qualification, are made the basis of the demand: and the crowds which congregate at Washington, at the change of an administration, supplicants for office, are humiliating to behold, and threaten to change the contests of parties from a contest for principle into a struggle for plunder.

The bills which were reported were intended to control, and regulate different branches of the public service, and to limit some exercises of executive power. 1. The publication of the government advertisements had been found to be subject to great abuse—large advertisements, and for long periods, having been often found to be given to papers of little circulation, and sometimes of no circulation at all, in places where the advertisement was to operate—the only effect of that favor being to conciliate the support of the paper, or to sustain an efficient one. For remedy, the bill for that purpose provided for the selection, and the limitation of the numbers, of the newspapers which were to publish the federal laws and advertisements, and for the periodical report of their names to Congress. 2. The four years' limitation law was found to operate contrary to its intent, and to have become the facile means of getting rid of faithful disbursing officers, instead of retaining them. The object of the law was to pass the disbursing officers every four years under the supervision of the appointing power, for the inspection of their accounts, in order that defaulters might be detected and dropped, while the faithful should be ascertained and continued. Instead of this wholesome discrimination, the expiration of the four years' term came to be considered as the termination and vacation of all the offices on which it fell, and the creation of vacancies to be filled by new appointments at the option of the President. The bill to remedy this evil gave legal effect to the original intention of the law by confining the vacation of office to actual defaulters. The power of the President to dismiss civil officers was not attempted to be curtailed, but the restraints of responsibility were placed upon its exercise by requiring the cause of dismission to be communicated to Congress in each case. The section of the bill to that effect was in these words: "*That in all nominations made by the President to the Senate, to fill vacancies occasioned by an exercise of the President's power to remove from office, the fact of the removal shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed.*" This was intended to operate as a restraint upon removals without cause, and to make legal and general what the Senate itself, and the members of the committee individually, had constantly refused to do in isolated cases. It was the recognition of a principle essential to the proper exercise of the appointing power, and entirely consonant to Mr. Jefferson's idea of removals; but never admitted by any administration, nor enforced by the Senate against any one—always waiting the legal enactment. The opinion of nine such senators as composed the committee who proposed to legalize this principle, all of them democratic, and most of them aged and experienced, should stand for a persuasive reason why this principle should be legalized. 3. The appointment of military cadets was distributed according to the Congressional representation, and which has been adopted in practice, and perhaps become the patronage of the member from a district instead of the President. 5. The selection of midshipmen was placed on the same footing, and has been followed by the same practical consequence. 6. To secure the independence of the army and navy officers, the bill proposed to do, what never has been done by law,—define the tenure by which they held their commissions, and substitute "good behavior" for the clause which now runs "during the pleasure of the President." The clause in the existing commission was copied from those then in use, derived from the British government; and, in making army and navy officers subject to dismission at the will of the President, departs from the principle of our republican institutions, and lessens the independence of the officers.

30. Exclusion Of Members Of Congress From Civil Office Appointments

An inquiry into the expediency of amending the constitution so as to prevent the appointment of any member of Congress to any federal office of trust or profit, during the period for which he was elected, was moved at the session 1825-26, by Mr. Senator Thomas W. Cobb, of Georgia; and his motion was committed to the consideration of the same select committee to which had been referred the inquiries into the expediency of reducing executive patronage, and amending the constitution in relation to the election of President and Vice-President. The motion as submitted only applied to the term for which the senator or representative was elected—only carried the exclusion to the end of his constitutional term; but the committee were of opinion that such appointments were injurious to the independence of Congress and to the purity of legislation; and believed that the limitation on the eligibility of members should be more comprehensive than the one proposed, and should extend to the President's term under whom the member served as well as to his own—so as to cut off the possibility for a member to receive an appointment from the President to whom he might have lent a subservient vote: and the committee directed their chairman (Mr. Benton) to report accordingly. This was done; and a report was made, chiefly founded upon the proceedings of the federal convention which framed the constitution, and the proceedings of the conventions of the States which adopted it—showing that the total exclusion of members of Congress from all federal appointments was actually adopted in the convention on a full vote, and struck out in the absence of some members; and afterwards modified so as to leave an inadequate, and easily evaded clause in the constitution in place of the full remedy which had been at first provided. It also showed that conventions of several of the States, and some of the earlier Congresses, endeavored to obtain amendments to the constitution to cut off members of Congress entirely from executive patronage. Some extracts from that report are here given to show the sense of the early friends of the constitution on this important point. Thus:

"That, having had recourse to the history of the times in which the constitution was formed, the committee find that the proposition now referred to them, had engaged the deliberations of the federal convention which framed the constitution, and of several of the State conventions which ratified it.

"In an early stage of the session of the federal convention, it was resolved, as follows:

"'Article 6, section 9. The members of each House (of Congress) shall be ineligible to, and incapable of holding, any office under the authority of the United States, during the time for which they shall respectively be elected; and the members of the Senate shall be ineligible to, and incapable of holding any such office for one year afterwards.'

"It further appears from the journal, that this clause, in the first draft of the constitution, was adopted with great unanimity; and that afterwards, in the concluding days of the session, it was altered, and its intention defeated, by a majority of a single vote, in the absence of one of the States by which it had been supported.

"Following the constitution into the State conventions which ratified it, and the committee find, that, in the New-York convention, it was recommended, as follows:

"'That no senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States.

“By the Virginia convention, as follows:

“‘That the members of the Senate and House of Representatives shall be ineligible to, and incapable of holding, any civil office under the authority of the United States, during the term for which they shall respectively be elected.’

“By the North Carolina convention, the same amendment was recommended, in the same words.

“In the first session of the first Congress, which was held under the constitution, a member of the House of Representatives submitted a similar proposition of amendment; and, in the third session of the eleventh Congress, James Madison being President, a like proposition was again submitted, and being referred to a committee of the House, was reported by them in the following words:

“‘No senator or representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, untill the expiration of the presidential term in which such person shall have served as a senator or representative.’

“Upon the question to adopt this resolution, the vote stood 71 yeas, 40 nays.—wanting but three votes of the constitutional number for referring it to the decision of the States.

“Having thus shown, by a reference to the venerable evidence of our early history, that the principle of the amendment now under consideration, has had the support and approbation of the first friends of the constitution, the committee will now declare their own opinion in favor of its correctness, and expresses its belief that the ruling principle in the organization of the federal government demands its adoption.”

It is thus seen that in the formation of the constitution, and in the early ages of our government, there was great jealousy on this head—great fear of tampering between the President and the members—and great efforts made to keep each independent of the other. For the safety of the President, and that Congress should not have him in their power, he was made independent of them in point of salary. By a constitutional provision his compensation was neither to be diminished nor increased during the term for which he was elected;—not diminished, lest Congress should starve him into acquiescence in their views;—not increased, lest Congress should seduce him by tempting his cupidity with an augmented compensation. That provision secured the independence of the President; but the independence of the two Houses was still to be provided for; and that was imperfectly effected by two provisions—the first, prohibiting office holders under the federal government from taking a seat in either House; the second, by prohibiting their appointment to any civil office that might have been created, or its emoluments increased, during the term for which he should have been elected. These provisions were deemed by the authors of the federalist (No. 55) sufficient to protect the independence of Congress, and would have been, if still observed in their spirit, as well as in their letter, as was done by the earlier Presidents. A very strong instance of this observance was the case of Mr. Alexander Smythe, of Virginia, during the administration of President Monroe. Mr. Smythe had been a member of the House of Representatives, and in that capacity had voted for the establishment of a judicial district in Western Virginia, and by which the office of judge was created. His term of service had expired: he was proposed for the judgeship: the letter of the constitution permitted the appointment: but its spirit did not. Mr. Smythe was entirely fit for the place, and Mr. Monroe entirely willing to bestow it upon him. But he looked to the spirit of the act, and the mischief it was intended to prevent, as well as to its letter; and could see no difference between bestowing the appointment the day after, or the day before, the expiration of Mr. Smythe’s term of service: and he refused to make the appointment. This was protecting the purity of legislation according to the intent of the

constitution; but it has not always been so. A glaring case to the contrary occurred in the person of Mr. Thomas Butler King, under the presidency of Mr. Fillmore. Mr. King was elected a member of Congress for the term at which the office of collector of the customs at San Francisco had been created, and had resigned his place: but the resignation could not work an evasion of the constitution, nor affect the principle of its provision. He had been appointed in the recess of Congress, and sent to take the place before his two years had expired—and did take it; and that was against the words of the constitution. His nomination was not sent in until his term expired—the day after it expired—having been held back during the regular session; and was confirmed by the Senate. I had then ceased to be a member of the Senate, and know not whether any question was raised on the nomination; but if I had been, there should have been a question.

But the constitutional limitation upon the appointment of members of Congress, even when executed beyond its letter and according to its spirit, as done by Mr. Monroe, is but a very small restraint upon their appointment, only applying to the few cases of new offices created, or of compensation increased, during the period of their membership. The whole class of regular vacancies remain open! All the vacancies which the President pleases to create, by an exercise of the removing power, are opened! and between these two sources of supply, the fund is ample for as large a commerce between members and the President—between subservient votes on one side, and executive appointments on the other—as any President, or any set of members, might choose to carry on. And here is to be noted a wide departure from the theory of the government on this point, and how differently it has worked from what its early friends and advocates expected. I limit myself now to Hamilton, Madison and Jay; and it is no narrow limit which includes three such men. Their names would have lived for ever in American history, among those of the wise and able founders of our government, without the crowning work of the "Essays" in behalf of the constitution which have been embodied under the name of "Federalist"—and which made that name so respectable before party assumed it. The defects of the constitution were not hidden from them in the depths of the admiration which they felt for its perfections; and these defects were noted, and as far as possible excused, in a work devoted to its just advocation. This point (of dangerous commerce between the executive and the legislative body) was obliged to be noticed—forced upon their notice by the jealous attacks of the "Anti-Federalists"—as the opponents of the constitution were called: and in the number 55 of their work, they excused, and diminished, this defect in these terms:

"Sometimes we are told, that this fund of corruption (Executive appointments) is to be exhausted by the President in subduing the virtue of the Senate. Now, the fidelity of the other House is to be the victim. The improbability of such a mercenary and perfidious combination of the several members of the government, standing on as different foundations as republican principles will well admit, and at the same time accountable to the society over which they are placed, ought alone to quiet this apprehension. But, fortunately, the constitution has provided a still further safeguard. The members of the Congress are rendered ineligible to any civil offices that may be created, or of which the emoluments may be increased, during the term of their election. No offices, therefore, can be dealt out to the existing members, but such as may become vacant by *ordinary casualties*; and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain."

Such was their defence—the best which their great abilities, and ardent zeal, and patriotic devotion, could furnish. They could not deny the danger. To diminish its quantum, and to cover with a brilliant declamation the little that remained, was their resource. And, certainly

if the working of the government had been according to their supposition, their defence would have been good, I have taken the liberty to mark in italics the ruling words contained in the quotation which I have made from their works—"*ordinary casualties*." And what were they? deaths, resignations, removals upon impeachment, and dismissions by the President and Senate. This, in fact, would constitute a very small amount of vacancies during the presidential term; and as new offices, and those of increased compensation, were excluded, the answer was undoubtedly good, and even justified the visible contempt with which the objection was repulsed. But what has been the fact? what has been the working of the government at this point? and how stands this narrow limitation of vacancies to "*ordinary casualties*?" In the first place, the main stay of the argument in the Federalist was knocked from under it at the outset of the government; and so knocked by a side-blow from construction. In the very first year of the constitution a construction was put on that instrument which enabled the President to create as many vacancies as he pleased, and at any moment that he pleased. This was effected by yielding to him the kingly prerogative of dismissing officers without the formality of a trial, or the consent of the other part of the appointing power. The authors of the Federalist had not foreseen this construction: so far from it they had asserted the contrary: and arguing logically from the premises, "*that the dismissing power was appurtenant to the appointing power*," they had maintained in that able and patriotic work—(No. 77)—that, as the consent of the Senate was necessary to the appointment of an officer, so the consent of the same body would be equally necessary to his dismission from office. But this construction was overruled by the first Congress which sat under the constitution. The power of dismission from office was abandoned to the President alone; and, with the acquisition of this prerogative, the power and patronage of the presidential office was instantly increased to an indefinite extent; and the argument of the Federalist against the capacity of the President to corrupt members of Congress, founded on the small number of places which he could use for that purpose, was totally overthrown. This is what has been done by construction. Now for the effects of legislation: and without going into an enumeration of statutes so widely extending and increasing executive patronage in the multiplication of offices, jobs, contracts, agencies, retainers, and sequiturs of all sorts, holding at the will of the President, it is enough to point to a single act—the four years' limitation act; which, by vacating almost the entire civil list—the whole "Blue Book"—the 40,000 places which it registers—in every period of a presidential term—puts more offices at the command of the President than the authors of the Federalist ever dreamed of; and enough to equip all the members and all their kin if they chose to accept his favors. But this is not the end. Large as it opens the field of patronage, it is not the end. There is a practice grown up in these latter times, which, upon every revolution of parties, makes a political exodus among the adversary office-holders, marching them off into the wilderness, and leaving their places for new-comers. This practice of itself, also unforeseen by the authors of the Federalist, again over-sets their whole argument, and leaves the mischief from which they undertook to defend the constitution in a degree of vigor and universality of which the original opposers of that mischief had never formed the slightest conception.

Besides the direct commerce which may take place between the Executive and a member, there are other evils resulting from their appointment to office, wholly at war with the theory of our government, and the purity of its action. Responsibility to his constituents is the corner-stone and sheet-anchor, in the system of representative government. It is the substance without which representation is but a shadow. To secure that responsibility the constitution has provided that the members shall be periodically returned to their constituents—those of the House at the end of every two years, those of the Senate at the end of every six—to pass in review before them—to account for what may have been done amiss, and to receive the reward or censure of good or bad conduct. This responsibility is totally

destroyed if the President takes a member out of the hands of his constituents, prevents his return home, and places him in a situation where he is independent of their censure. Again: the constitution intended that the three departments of the government,—the executive, the legislative, and the judicial—should be independent of each other: and this independence ceases, between the executive and legislative, the moment the members become expectants and recipients of presidential favor;—the more so if the President should have owed his office to their nomination. Then it becomes a commerce, upon the regular principle of trade—a commerce of mutual benefit. For this reason Congress caucuses for the nomination of presidential candidates fell under the ban of public opinion, and were ostracised above twenty years ago—only to be followed by the same evil in a worse form, that of illegal and irresponsible "conventions;" in which the nomination is an election, so far as party power is concerned; and into which the member glides who no longer dares to go to a Congress caucus;—whom the constitution interdicts from being an elector—and of whom some do not blush to receive office, and even to demand it, from the President whom they have created. The framers of our government never foresaw—far-seeing as they were—this state of things, otherwise the exclusion of members from presidential appointments could never have failed as part of the constitution, (after having been first adopted in the original draught of that instrument); nor repulsed when recommended by so many States at the adoption of the constitution; nor rejected by a majority of one in the Congress of 1789, when proposed as an amendment, and coming so near to adoption by the House.

Thus far I have spoken of this abuse as a potentiality—as a possibility—as a thing which might happen: the inexorable law of history requires it to be written that it has happened, is happening, becomes more intense, and is ripening into a chronic disease of the body politic. When I first came to the Senate thirty years ago, aged members were accustomed to tell me that there were always members in the market, waiting to render votes, and to receive office; and that in any closely contested, or nearly balanced question, in which the administration took an interest, they could turn the decision which way they pleased by the help of these marketable votes. It was a humiliating revelation to a young senator—but true; and I have seen too much of it in my time—seen members whose every vote was at the service of government—to whom a seat in Congress was but the stepping-stone to executive appointment—to whom federal office was the pabulum for which their stomachs yearned—and who to obtain it, were ready to forget that they had either constituents or country. And now, why this mortifying exhibition of a disgusting depravity? I answer—to correct it:—if not by law and constitutional amendment (for it is hard to get lawgivers to work against themselves), at least by the force of public opinion, and the stern rebuke of popular condemnation.

I have mentioned Mr. Monroe as a President who would not depart, even from the spirit of the constitution, in appointing, not a member, but an ex-member of Congress, to office. Others of the earlier Presidents were governed by the same principle, of whom I will only mention (for his example should stand for all) General Washington, who entirely condemned the practice. In a letter to General Hamilton (vol. 6, page 53, of Hamilton's Works), he speaks of his objections to these appointments as a thing well known to that gentleman, and which he was only driven to think of in a particular instance, from the difficulty of finding a Secretary of State, successor to Mr. Edmund Randolph. No less than four persons had declined the offer of it; and seeing no other suitable person without going into the Senate, he offered it to Mr. Rufus King of that body—who did not accept it: and for this offer, thus made in a case of so much urgency, and to a citizen so eminently fit, Washington felt that the honor of his administration required him to show a justification. What would the Father of his country have thought if members had come to him to solicit office? and especially, if these

members (a thing almost blasphemous to be imagined in connection with his name) had mixed in caucuses and conventions to procure his nomination for President? Certainly he would have given them a look which would have sent such suppliants for ever from his presence. And I, who was senator for thirty years, and never had office for myself or any one of my blood, have a right to condemn a practice which my conduct rebukes, and which the purity of the government requires to be abolished, and which the early Presidents carefully avoided.

31. Death Of The Ex-Presidents John Adams And Thomas Jefferson

It comes within the scope of this View to notice the deaths and characters of eminent public men who have died during my time, although not my contemporaries, and who have been connected with the founding or early working of the federal government. This gives me a right to head a chapter with the names of Mr. John Adams and Mr. Jefferson—two of the most eminent political men of the revolution, who, entering public life together, died on the same day,—July 4th, 1826,—exactly fifty years after they had both put their hands to that Declaration of Independence which placed a new nation upon the theatre of the world. Doubtless there was enough of similitude in their lives and deaths to excuse the belief in the interposition of a direct providence, and to justify the feeling of mysterious reverence with which the news of their coincident demise was received throughout the country. The parallel between them was complete. Born nearly at the same time, Mr. Adams the elder, they took the same course in life—with the same success—and ended their earthly career at the same time, and in the same way:—in the regular course of nature, in the repose and tranquillity of retirement, in the bosom of their families, and on the soil which their labors had contributed to make free.

Born, one in Massachusetts, the other in Virginia, they both received liberal educations, embraced the same profession (that of the law), mixed literature and science with their legal studies and pursuits, and entered early into the ripening contest with Great Britain—first in their counties and States, and then on the broader field of the General Congress of the Confederated Colonies. They were both members of the Congress which declared Independence—both of the committee which reported the Declaration—both signed it—were both employed in foreign missions—both became Vice Presidents—and both became Presidents. They were both working men; and, in the great number of efficient laborers in the cause of Independence which the Congresses of the Revolution contained, they were doubtless the two most efficient—and Mr. Adams the more so of the two. He was, as Mr. Jefferson styled him, “the Colossus” of the Congress—speaking, writing, counselling—a member of ninety different committees, and (during his three years’ service) chairman of twenty five—chairman also of the board of war and board of appeals: his soul on fire with the cause, left no rest to his head, hands, or tongue. Mr. Jefferson drew the Declaration of Independence, but Mr. Adams was “the pillar of its support, and its ablest advocate and defender,” during the forty days it was before the Congress. In the letter which he wrote that night to Mrs. Adams (for, after all the labors of the day, and such a day, he could still write to her), he took a glowing view of the future, and used those expressions, “gloom” and “glory,” which his son repeated in the paragraph of his message to Congress in relation to the deaths of the two ex-Presidents, which I have heard criticized by those who did not know their historical allusion, and could not feel the force and beauty of their application. They were words of hope and confidence when he wrote them, and of history when he died. “I am well aware of the toil, and blood, and treasure, that it will cost to maintain this Declaration, and to support and defend these States; yet through all the *gloom*, I can see the rays of light and *glory*!” and he lived to see it—to see the glory—with the bodily, as well as with the mental eye. And (for the great fact will bear endless repetition) it was he that conceived the idea of making Washington commander-in-chief, and prepared the way for his unanimous nomination.

In the division of parties which ensued the establishment of the federal government, Mr. Adams and Mr. Jefferson differed in systems of policy, and became heads of opposite divisions, but without becoming either unjust or unkind to each other. Mr. Adams sided with the party discriminated as federal; and in that character became the subject of political attacks, from which his competitor generously defended him, declaring that “a more perfectly honest man never issued from the hands of his Creator;” and, though opposing candidates for the presidency, neither would have any thing to do with the election, which they considered a question between the systems of policy which they represented, and not a question between themselves. Mr. Jefferson became the head of the party then called republican—now democratic; and in that character became the founder of the political school which has since chiefly prevailed in the United States. He was a statesman: that is to say, a man capable of conceiving measures useful to the country and to mankind—able to recommend them to adoption, and to administer them when adopted. I have seen many politicians—a few statesmen—and, of these few, he their pre-eminent head. He was a republican by nature and constitution, and gave proofs of it in the legislation of his State, as well as in the policy of the United States. He was no speaker, but a most instructive and fascinating talker; and the Declaration of Independence, even if it had not been sistered by innumerable classic productions, would have placed him at the head of political writers. I never saw him but once, when I went to visit him in his retirement; and then I felt, for four hours, the charms of his bewitching talk. I was then a young senator, just coming on the stage of public life—he a patriarchal statesman just going off the stage of natural life, and evidently desirous to impress some views of policy upon me—a design in which he certainly did not fail. I honor him as a patriot of the Revolution—as one of the Founders of the Republic—as the founder of the political school to which I belong; and for the purity of character which he possessed in common with his compatriots, and which gives to the birth of the United States a beauty of parentage which the genealogy of no other nation can show.

32. British Indemnity For Deported Slaves

In this year was brought to a conclusion the long-continued controversy with Great Britain in relation to the non-fulfilment of the first article of the treaty of Ghent (1814), for the restitution of slaves carried off by the British troops in the war of 1812. It was a renewal of the misunderstanding, but with a better issue, which grew up under the seventh article of the treaty of peace of 1783 upon the same subject. The power of Washington's administration was not able to procure the execution of that article, either by restoration of the slaves or indemnity. The slaves then taken away were carried to Nova Scotia, where, becoming an annoyance, they were transferred to Sierra Leone; and thus became the foundation of the British African colony there. The restitution of deported slaves, stipulated in the first article of the Ghent treaty, could not be accomplished between the two powers; they disagreed as to the meaning of words; and, after seven years of vain efforts to come to an understanding, it was agreed to refer the question to arbitrament. The Emperor Alexander accepted the office of arbitrator, executed it, and decided in favor of the United States. That decision was as unintelligible to Great Britain as all the previous treaty stipulations on this same subject had been. She could not understand it. A second misunderstanding grew up, giving rise to a second negotiation, which was concluded by a final agreement to pay the value of the slaves carried off. In 1827 payment was made—twelve years after the injury and the stipulation to repair it, and after continued and most strenuous exertions to obtain redress.

The case was this: it was a part of the system of warfare adopted by the British, when operating in the slave States, to encourage the slaves to desert from their owners, promising them freedom; and at the end of the war these slaves were carried off. This carrying off was foreseen by the United States Commissioners at Ghent, and in the first article of the treaty was provided against in these words; "all places taken, &c. shall be restored without delay, &c., or carrying away any of the artillery, or other public property originally captured in the said posts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property." The British Government undertook to extend the limitation which applied to public property to that which was private also; and so to restore only such slaves as were originally captured within the forts, and which remained therein at the time of the exchange of ratifications—a construction which would have excluded all that were induced to run away, being nearly the whole; and all that left the forts before the exchange of ratifications, which would have included the rest. She adhered to the construction given to the parallel article in the treaty of 1783, and by which all slaves taken during the war were held to be lawful prize of war, and free under the British proclamation, and not to be compensated for. The United States, on the contrary, confined this local limitation to things appurtenant to the forts; and held the slaves to be private property, subject to restitution, or claim for compensation, if carried away at all, no matter how acquired.

The point was solemnly carried before the Emperor Alexander, the United States represented by their minister, Mr. Henry Middleton, and Great Britain by Sir Charles Bagot—the Counts Nesselrode and Capo D'Istrias receiving the arguments to be laid before the Emperor. His Majesty's decision was peremptory; "that the United States of America are entitled to a just indemnification from Great Britain for all private property carried away by the British forces; and, as the question regards slaves more especially, for all such slaves as were carried away by the British forces from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories." This was explicit; but the British minister undertook to understand it as not applying to slaves who *voluntarily* joined the

British troops to free themselves from bondage, and who came from places never in *possession* of the British troops; and he submitted a note to that effect to the Russian minister, Count Nesselrode, to be laid before the Emperor. To this note Alexander gave an answer which is a model of categorical reply to unfounded dubitation. He said: "the Emperor having, by the mutual consent of the two plenipotentiaries, given an opinion, founded solely upon the sense which results from the text of the article in dispute, does not think himself called upon to decide here any question relative to what the laws of war permit or forbid to the belligerents; but, always faithful to the grammatical interpretation of the first article of the treaty of Ghent, his Imperial Majesty declares, a second time, that it appears to him, according to this interpretation, that, in quitting the places and territories of which the treaty of Ghent stipulates the restitution to the United States, his Britannic Majesty's forces had no right to carry away from the same places and territories, absolutely, any slave, by whatever means he had fallen or come into their power." This was the second declaration, the second decision of the point; and both parties having bound themselves to abide the decision, be it what it might, a convention was immediately concluded for the purpose of carrying the Emperor's decision into effect, by establishing a board to ascertain the number and value of the deported slaves. It was a convention formally drawn up, signed by the ministers of the three powers, done in triplicate, ratified, and ratifications exchanged, and the affair considered finished. Not so the fact! New misunderstanding, new negotiation, five years more consumed in diplomatic notes, and finally a new convention concluded! Certainly it was not the value of the property in controversy, not the amount of money to be paid, that led Great Britain to that pertinacious resistance, bordering upon cavilling and bad faith. It was the loss of an advantage in war—the loss of the future advantage of operating upon the slave States through their slave property, and which advantage would be lost if this compensation was enforced,—which induced her to stand out so long against her own stipulations, and the decisions of her own accepted arbitrator.

This new or third treaty, making indemnity for these slaves, was negotiated at London, November, 1826, between Mr. Gallatin on the part of the United States, and Messrs. Huskisson and Addington on the part of Great Britain. It commenced with reciting that "difficulties having arisen in the execution of the convention concluded at St. Petersburg, July 12th, 1822, under the mediation of his majesty the Emperor of all the Russias, between the United States of America and Great Britain, for the purpose of carrying into effect the decision of his Imperial Majesty upon the differences which had arisen between the said United States and Great Britain as to the true construction and meaning of the first article of the treaty of Ghent, *therefore* the said parties agree to treat again," &c. The result of this third negotiation was to stipulate for the payment of a gross sum to the government of the United States, to be by it divided among those whose slaves had been carried off: and the sum of one million two hundred and four thousand nine hundred and sixty dollars was the amount agreed upon. This sum was satisfactory to the claimants, and was paid to the United States for their benefit in the year 1827—just twelve years after the conclusion of the war, and after two treaties had been made, and two arbitrations rendered to explain the meaning of the first treaty, and which fully explained itself. Twelve years of persevering exertion to obtain the execution of a treaty stipulation which solely related to private property, and which good faith and sheer justice required to have been complied with immediately! At the commencement of the session of Congress, 1827-28, the President, Mr. John Quincy Adams, was able to communicate the fact of the final settling and closing up of this demand upon the British government for the value of the slaves carried off by its troops. The sum received was large, and ample to pay the damages; but that was the smallest part of the advantage gained. The example and the principle were the main points—the enforcement of such a demand against a government so powerful, and after so much resistance, and the condemnation which

it carried, and the responsibility which it implied—this was the grand advantage. Liberation and abduction of slaves was one of the modes of warfare adopted by the British, and largely counted on as a means of harassing and injuring one half of the Union. It had been practised during the Revolution, and indemnity avoided. If avoided a second time, impunity would have sanctioned the practice and rendered it inveterate; and in future wars, not only with Great Britain but with all powers, this mode of annoyance would have become an ordinary resort, leading to servile insurrections. The indemnity exacted carried along with it the condemnation of the practice, as a spoliation of private property to be atoned for; and was both a compensation for the past and a warning for the future. It implied a responsibility which no power, or art, or time could evade, and the principle of which being established, there will be no need for future arbitrations.

I have said that this article in the treaty of Ghent for restitution, or compensation, for deported slaves was brought to a better issue than its parallel in the treaty of peace of 1783. By the seventh article of this treaty it was declared that the evacuation (by the British troops) should be made "without carrying away any negroes or other property belonging to the American inhabitants." Yet three thousand slaves were carried away (besides ten times that number—27,000 in Virginia alone—perishing of disease in the British camps); and neither restitution nor compensation made for any part of them. Both were resisted—the restitution by Sir Guy Carleton in his letter of reply to Washington's demand, declaring it to be an impossible infamy in a British officer to give up those whom they had invited to their standard; but reserving the point for the consideration of his government, and, in the mean time, allowing and facilitating the taking of schedules of all slaves taken away—names, ages, sex, former owners, and States from which taken. The British government resisted compensation upon the ground of war captures; that, being taken in war, no matter how, they became, like other plunder, the property of the captors, who had a right to dispose of it as they pleased, and had chosen to set it free; that the slaves, having become free, belonged to nobody, and consequently it was no breach of the treaty stipulation to carry them away. This ground was contested by the Congress of the confederation to the end of its existence, and afterwards by the new federal government, from its commencement until the claim for indemnity was waived or abandoned, at the conclusion of Jay's treaty, in 1796. The very first message of Washington to Congress when he became President, presented the inexecution of the treaty of peace in this particular, among others, as one of the complaints justly existing against Great Britain; and all the diplomacy of his administration was exerted to obtain redress—in vain. The treaties of '94 and '96 were both signed without allusion to the subject; and, being left unprovided for in these treaties, the claim sunk into the class of obsolete demands; and the stipulation remained in the treaty a dead letter, although containing the precise words, and the additional one "negroes," on which the Emperor Alexander took the stand which commanded compensation and dispensed with arguments founded in the laws of war. Not a shilling had been received for that immense depredation upon private property; although the Congress of the confederation adopted the strongest resolves, and even ordered each State to be furnished with copies of the schedules of the slaves taken from it; and hopes of indemnity were kept alive until extinguished by the treaty of '96. It was a bitter complaint against that treaty, as the Congress debates of the time, and the public press, abundantly show.

Northern men did their duty to the South in getting compensation (and, what is infinitely more, establishing the principle that there shall be compensation in such cases) for the slaves carried away in the war of 1812. A majority of the commissioners at Ghent who obtained the stipulation for indemnity were Northern men—Adams, Russell, Gallatin, from the free, and Clay and Bayard from the slave States. A Northern negotiator (Mr. Gallatin), under a Northern President (Mr. John Quincy Adams), finally obtained it; and it is a coincidence

worthy of remark that this Northern negotiator, who was finally successful, was the same debater in Congress, in ‘96, who delivered the best argument (in my opinion surpassing even that of Mr. Madison), against the grounds on which the British Government resisted the execution of this article of the treaty.

I am no man to stir up old claims against the federal government; and, I detest the trade which exhumes such claims, and deplore the facility with which they are considered—too often in the hands of speculators who gave nothing, or next to nothing, for them. But I must say that the argument on which the French spoliation claim is now receiving so much consideration, applies with infinitely more force to the planters whose slaves were taken during the war of the Revolution than in behalf of these French spoliation claims. They were contributing—some in their persons in the camp or council, all in their voluntary or tax contributions—to the independence of their country when they were thus despoiled of their property. They depended upon these slaves to support their families while they were supporting their country. They were in debt to British merchants, and relied upon compensation for these slaves to pay those debts, at the very moment when compensation was abandoned by the same treaty which enforced the payment of the debts. They had a treaty obligation for indemnity, express in its terms, and since shown to be valid, when deprived of this stipulation by another treaty, in order to obtain general advantages for the whole Union. This is something like taking private property for public use. Three thousand slaves, the property of ascertained individuals, protected by a treaty stipulation, and afterwards abandoned by another treaty, against the entreaties and remonstrances of the owners, in order to obtain the British commercial treaty of ‘94, and its supplement of ‘96: such is the case which this revolutionary spoliation of slave property presents, and which puts it immeasurably ahead of the French spoliation claims prior to 1800. There is but four years’ difference in their ages—in the dates of the two treaties by which they were respectively surrendered—and every other difference between the two cases is an argument of preference in favor of the losers under the treaty of 1796. Yet I am against both, and each, separately or together; and put them in contrast to make one stand as an argument against the other. But the primary reason for introducing the slave spoliation case of 1783, and comparing its less fortunate issue with that of 1812, was to show that Northern men will do justice to the South; that Northern men obtained for the South an indemnity and security in our day which a Southern Administration, with Washington at its head, had not been able to obtain in the days of our fathers.

33. Meeting Of The First Congress Elected Under The Administration Of Mr. Adams

The nineteenth Congress, commencing its legal existence, March the 4th, 1825, had been chiefly elected at the time that Mr. Adams' administration commenced, and the two Houses stood divided with respect to him—the majority of the Representatives being favorable to him, while the majority of the Senate was in opposition. The elections for the twentieth Congress—the first under his administration—were looked to with great interest, both as showing whether the new President was supported by the country, and his election by the House sanctioned, and also as an index to the issue of the ensuing presidential election. For, simultaneously with the election in the House of Representatives did the canvass for the succeeding election begin—General Jackson being the announced candidate on one side, and Mr. Adams on the other; and the event involving not only the question of merits between the parties, but also the question of approved or disapproved conduct on the part of the representatives who elected Mr. Adams. The elections took place, and resulted in placing an opposition majority in the House of Representatives, and increasing the strength of the opposition majority in the Senate. The state of parties in the House was immediately tested by the election of speaker, Mr. John W. Taylor, of New-York, the administration candidate, being defeated by Mr. Andrew Stevenson, of Virginia, in the opposition. The appointment of the majority of members on all the committees, and their chairmen, in both Houses adverse to the administration, was a regular consequence of the inflamed state of parties, although the proper conducting of the public business would demand for the administration the chairman of several important committees, as enabling it to place its measures fairly before the House. The speaker (Mr. Stevenson) could only yield to this just sense of propriety in the case of one of the committees, that of foreign relations, to which Mr. Edward Everett, classing as the political and personal friend of the President, was appointed chairman. In other committees, and in both Houses, the stern spirit of the times prevailed; and the organization of the whole Congress was adverse to the administration.

The presidential message contained no new recommendations, but referred to those previously made, and not yet acted upon; among which internal improvement, and the encouragement of home industry, were most prominent. It gave an account of the failure of the proposed congress of Panama; and, consequently, of the inutility of all our exertions to be represented there. And, as in this final and valedictory notice by Mr. Adams of that once far-famed congress, he took occasion to disclaim some views attributed to him, I deem it just to give him the benefit of his own words, both in making the disclaimer, and in giving the account of the abortion of an impracticable scheme which had so lately been prosecuted, and opposed, with so much heat and violence in our own country. He said of it:

"Disclaiming alike all right and all intention of interfering in those concerns which it is the prerogative of their independence to regulate as to them shall seem fit, we hail with joy every indication of their prosperity, of their harmony, of their persevering and inflexible homage to those principles of freedom and of equal rights, which are alone suited to the genius and temper of the American nations. It has been therefore with some concern that we have observed indications of intestine divisions in some of the republics of the South, and appearances of less union with one another, than we believe to be the interest of all. Among the results of this state of things has been that the treaties concluded at Panama do not appear to have been ratified by the contracting parties, and that the meeting of the Congress at Tacubaya has been indefinitely postponed. In accepting the invitations to be represented at

this Congress, while a manifestation was intended on the part of the United States, of the most friendly disposition towards the Southern republics by whom it had been proposed, it was hoped that it would furnish an opportunity for bringing all the nations of this hemisphere to the common acknowledgment and adoption of the principles, in the regulation of their international relations, which would have secured a lasting peace and harmony between them, and have promoted the cause of mutual benevolence throughout the globe. But as obstacles appear to have arisen to the reassembling of the Congress, one of the two ministers commissioned on the part of the United States has returned to the bosom of his country, while the minister charged with the ordinary mission to Mexico remains authorized to attend at the conferences of the Congress whenever they may be resumed."

This is the last that was heard of that so much vaunted Congress of American nations, and in the manner in which it died out of itself, among those who proposed it, without ever having been reached by a minister from the United States, we have the highest confirmation of the soundness of the objections taken to it by the opposition members of the two Houses of our Congress.

In stating the condition of the finances, the message, without intending it, gave proof of the paradoxical proposition, first, I believe, broached by myself, that an annual revenue to the extent of a fourth or a fifth below the annual expenditure, is sufficient to meet that annual expenditure; and consequently that there is no necessity to levy as much as is expended, or to provide by law for keeping a certain amount in the treasury when the receipts are equal, or superior to the expenditure. He said:

"The balance in the treasury on the first of January last was six millions three hundred and fifty-eight thousand six hundred and eighty-six dollars and eighteen cents. The receipts from that day to the 30th of September last, as near as the returns of them yet received can show, amount to sixteen millions eight hundred and eighty-six thousand five hundred and eighty-one dollars and thirty-two cents. The receipts of the present quarter, estimated at four millions five hundred and fifteen thousand, added to the above, form an aggregate of twenty-one millions four hundred thousand dollars of receipts. The expenditures of the year may perhaps amount to twenty-two millions three hundred thousand dollars, presenting a small excess over the receipts. But of these twenty-two millions, upwards of six have been applied to the discharge of the principal of the public debt; the whole amount of which, approaching seventy-four millions on the first of January last, will on the first day of next year fall short of sixty-seven millions and a half. The balance in the treasury on the first of January next, it is expected, will exceed five millions four hundred and fifty thousand dollars; a sum exceeding that of the first of January, 1825, though falling short of that exhibited on the first of January last."

In this statement the expenditures of the year are shown to exceed the income, and yet to leave a balance, about equal to one fourth of the whole in the treasury at the end of the year; also that the balance was larger at the end of the preceding year, and nearly the same at the end of the year before. And the message might have added, that these balances were about the same at the end of every quarter of every year, and every day of every quarter—all resulting from the impossibility of applying money to objects until there has been time to apply it. Yet in the time of those balances of which Mr. Adams speaks, there was a law to retain two millions in the treasury; and now there is a law to retain six millions; while the current balances, at the rate of a fourth or a fifth of the income, are many times greater than the sum ordered to be retained; and cannot be reduced to that sum, by regular payments from the treasury, until the revenue itself is reduced below the expenditure. This is a financial paradox, sustainable upon reason, proved by facts, and visible in the state of the treasury at all times;

yet I have endeavored in vain to establish it; and Congress is as careful as ever to provide an annual income equal to the annual expenditure; and to make permanent provision by law to keep up a reserve in the treasury; which would be there of itself without such law as long as the revenue comes within a fourth or a fifth of the expenditure.

The following members composed the two Houses at this, the first session of the twentieth Congress:

SENATE.

Maine—John Chandler, Albion K. Parris.

New Hampshire—Samuel Bell, Levi Woodbury.

Massachusetts—Nathaniel Silsbee, Daniel Webster.

Connecticut—Samuel A. Foot, Calvin Willey.

Rhode Island—Nehemiah R. Knight, Asher Robbins.

Vermont—Dudley Chase, Horatio Seymour.

New-York—Martin Van Buren, Nathan Sanford.

New Jersey—Mahlon Dickerson, Ephraim Bateman.

Pennsylvania—William Marks, Isaac D. Barnard.

Delaware—Louis M'Lane, Henry M. Ridgeley.

Maryland—Ezekiel F. Chambers, Samuel Smith.

Virginia—Littleton W. Tazewell, John Tyler.

North Carolina—John Branch, Nathaniel Macon.

South Carolina—William Smith, Robert Y. Hayne.

Georgia—John M'Pherson Berrien, Thomas W. Cobb.

Kentucky—Richard M. Johnson, John Rowan.

Tennessee—John H. Eaton, Hugh L. White.

Ohio—William H. Harrison, Benjamin Ruggles.

Louisiana—Dominique Bouligny, Josiah S. Johnston.

Indiana—William Hendricks, James Noble.

Mississippi—Powhatan Ellis, Thomas H. Williams.

Illinois—Elias K. Kane, Jesse B. Thomas.

Alabama—John McKinley, William R. King.

Missouri—David Barton, Thomas H. Benton.

HOUSE OF REPRESENTATIVES.

Maine—John Anderson, Samuel Butman, Rufus M'Intire, Jeremiah O'Brien, James W. Ripley, Peleg Sprague, Joseph F. Wingate—7.

New Hampshire—Ichabod Bartlett, David Barker, jr., Titus Brown, Joseph Healey, Jonathan Harvey, Thomas Whipple, jr.—6.

Massachusetts—Samuel C. Allen, John Bailey, Isaac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, James L. Hodges, John Locke, John Reed, Joseph Richardson, John Varnum—15.

Rhode Island—Tristam Burges; Dutee J. Pearce—2.

Connecticut—John Baldwin, Noyes Barber, Ralph J. Ingersoll, Orange Merwin, Elisha Phelps, David Plant—6.

Vermont—Daniel A. A. Buck, Jonathan Hunt, Rolin C. Mallary, Benjamin Swift, George E. Wales—5.

New-York—Daniel D. Barnard, George O. Belden, Rudolph Bunner, C. C. Cambreleng, Samuel Chase, John C. Clark, John D. Dickinson, Jonas Earll, jr., Daniel G. Garnsey, Nathaniel Garrow, John I. De Graff, John Hallock, jr., Selah R. Hobbie, Michael Hoffman, Jeromus Johnson, Richard Keese, Henry Markell, H. C. Martindale, Dudley Marvin, John Magee, John Maynard, Thomas J. Oakley, S. Van Rensselaer, Henry R. Storrs, James Strong, John G. Stower, Phineas L. Tracy, John W. Taylor, G. C. Verplanck, Aaron Ward, John J. Wood, Silas Wood, David Woodcock, Silas Wright, jr.—34.

New Jersey—Lewis Condict, George Holcombe, Isaac Pierson, Samuel Swan, Edge Thompson, Ebenezer Tucker—6.

Pennsylvania—William Addams, Samuel Anderson, Stephen Barlow, James Buchanan, Richard Coulter, Chauncey Forward, Joseph Fry, jr., Innes Green, Samuel D. Ingham, George Kremer, Adam King, Joseph Lawrence, Daniel H. Miller, Charles Miner, John Mitchell, Samuel M'Kean, Robert Orr, jr., William Ramsay, John Sergeant, James S. Stevenson, John B. Sterigere, Andrew Stewart, Joel B. Sutherland, Espy Van Horn, James Wilson, George Wolf—26.

Delaware—Kensy Johns, jr.—1.

Maryland—John Barney, Clement Dorsey, Levin Gale, John Leeds Kerr, Peter Little, Michael C. Sprigg, G. C. Washington, John C. Weems, Ephraim K. Wilson—9.

Virginia—Mark Alexander, Robert Allen, Wm. S. Archer, Wm. Armstrong, jr., John S. Barbour, Philip P. Barbour, Burwell Bassett, N. H. Claiborne, Thomas Davenport, John Floyd, Isaac Leffler, Lewis Maxwell, Charles F. Mercer, William M'Coy, Thomas Newton, John Randolph, William C. Rives, John Roane, Alexander Smyth, A. Stevenson, John Talliaferro, James Trezvant—22.

North Carolina—Willis Alston, Daniel L. Barringer, John H. Bryan, Samuel P. Carson, Henry W. Conner, John Culpeper, Thomas H. Hall, Gabriel Holmes, John Long, Lemuel Sawyer, A. H. Shepperd, Daniel Turner, Lewis Williams—13.

South Carolina—John Carter, Warren R. Davis, William Drayton, James Hamilton, jr., George M'Duffie, William D. Martin, Thomas R. Mitchell, Wm. T. Nuckolls, Starling Tucker—9.

Georgia—John Floyd, Tomlinson Fort, Charles E. Haynes, George R. Gilmer, Wilson Lumpkin, Wiley Thompson, Richard H. Wilde—7.

Kentucky—Richard A. Buckner, James Clark, Henry Daniel, Joseph Lecompte, Robert P. Letcher, Chittenden Lyon, Thomas Metcalfe, Robert M'Hatton, Thomas P. Moore, Charles A. Wickliffe, Joel Yancey, Thomas Chilton—12.

Tennessee—John Bell, John Blair, David Crockett, Robert Desha, Jacob C. Isacks, Pryor Lea, John H. Marable, James C. Mitchell, James K. Polk—9.

Ohio—Mordecai Bartley, Philemon Beecher, William Creighton, jr., John Davenport, James Findlay, Wm. M'Lean, William Russell, John Sloane, William Stanberry, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey, John Woods, John C. Wright—14.

Louisiana—William L. Brent, Henry H. Gurley, Edward Livingston—3.

Indiana—Thomas H. Blake, Jonathan Jennings, Oliver H. Smith—3.

Mississippi—William Haile—1.

Illinois—Joseph Duncan—1.

Alabama—Gabriel Moore, John M'Kee, George W. Owen—3.

Missouri—Edward Bates—1.

DELEGATES.

Arkansas Territory—A. H. Sevier.

Michigan Territory—Austin E. Wing.

Florida Territory—Joseph M. White.

This list of members presents an immense array of talent, and especially of business talent; and in its long succession of respectable names, many will be noted as having attained national reputations—others destined to attain that distinction—while many more, in the first class of useful and respectable members, remained without national renown for want of that faculty which nature seems most capriciously to have scattered among the children of men—the faculty of fluent and copious speech;—giving it to some of great judgment—denying it to others of equal, or still greater judgment—and lavishing it upon some of no judgment at all. The national eyes are fixed upon the first of these classes—the men of judgment and copious speech; and even those in the third class obtain national notoriety; while the men in the second class—the men of judgment and few words—are extremely valued and respected in the bodies to which they belong and have great weight in the conduct of business. They are, in fact, the business men, often more practical and efficient than the great orators. This twentieth Congress, as all others that have been, contained a large proportion of these most useful and respectable members; and it will be the pleasant task of this work to do them the justice which their modest merit would not do for themselves.

34. Revision Of The Tariff

The tariff of 1828 is an era in our legislation, being the event from which the doctrine of "nullification" takes its origin, and from which a serious division dates between the North and the South. It was the work of politicians and manufacturers; and was commenced for the benefit of the woollen interest, and upon a bill chiefly designed to favor that branch of manufacturing industry. But, like all other bills of the kind, it required help from other interests to get itself along; and that help was only to be obtained by admitting other interests into the benefits of the bill. And so, what began as a special benefit, intended for the advantage of a particular interest, became general, and ended with including all manufacturing interests—or at least as many as were necessary to make up the strength necessary to carry it. The productions of different States, chiefly in the West, were favored by additional duties on their rival imports; as lead in Missouri and Illinois, and hemp of Kentucky; and thus, though opposed to the object of the bill, many members were necessitated to vote for it. Mr. Rowan, of Kentucky, well exposed the condition of others in this respect, in showing his own in some remarks which he made, and in which he said:

"He was not opposed to the tariff as a system of revenue, honestly devoted to the objects and purposes of revenue—on the contrary, he was friendly to a tariff of that character; but when perverted by the ambition of political aspirants, and the secret influence of inordinate cupidity, to purposes of individual, and sectional ascendency, he could not be seduced by the captivation of names, or terms, however attractive, to lend it his individual support.

"It is in vain, Mr. President, said he, that it is called the American System—names do not alter things. There is but one American System, and that is delineated in the State and Federal constitutions. It is the system of equal rights and privileges secured by the representative principle—a system, which, instead of subjecting the proceeds of the labor of some to taxation, in the view to enrich others, secures to all the proceeds of their labor—exempts all from taxation, except for the support of the protecting power of the government. As a tax necessary to the support of the government, he would support it—call it by what name you please;—as a tax for any other purpose, and especially for the purposes to which he had alluded—it had his individual reprobation, under whatever name it might assume.

"It might, he observed, be inferred from what he had said, that he would vote against the bill. He did not wish any doubts to be entertained as to the vote he should give upon this measure, or the reasons which would influence him to give it. He was not at liberty to substitute his individual opinion for that of his State. He was one of the organs here, of a State, that had, by the tariff of 1824, been chained to the car of the Eastern manufacturers—a State that had been from that time, and was now groaning under the pressure of that unequal and unjust measure—a measure from the pressure of which, owing to the prevailing illusion throughout the United States, she saw no hope of escape, by a speedy return to correct principles;—and seeing no hope of escaping from the ills of the system, she is constrained, on principles of self-defence, to avail herself of the mitigation which this bill presents, in the duties which it imposes upon foreign hemp, spirits, iron, and molasses. The hemp, iron, and distilled spirits of the West, will, like the woollens of the Eastern States, be encouraged to the extent of the tax indirectly imposed by this bill, upon those who shall buy and consume them. Those who may need, and buy those articles, must pay to the grower, or manufacturer of them, an increased price to the amount of the duties imposed upon the like articles of foreign growth or fabric. To this tax upon the labor of the consumer, his individual opinion was opposed. But,

as the organ of the State of Kentucky, he felt himself bound to surrender his individual opinion, and express the opinion of his State."

Thus, this tariff bill, like every one admitting a variety of items, contains a vicious principle, by which a majority may be made up to pass a measure which they do not approve. But besides variety of agricultural and manufacturing items collected into this bill, there was another of very different import admitted into it, namely, that of party politics. A presidential election was approaching: General Jackson and Mr. Adams were the candidates—the latter in favor of the "American System"—of which Mr. Clay (his Secretary of State) was the champion, and indissolubly connected with him in the public mind in the issue of the election. This tariff was made an administration measure, and became an issue in the canvass; and to this Mr. Rowan significantly alluded when he spoke of a tariff as being "perverted by the ambition of political aspirants." It was in vain that the manufacturers were warned not to mix their interests with the doubtful game of politics. They yielded to the temptation—yielded as a class, though with individual exceptions—for the sake of the temporary benefit, without seeming to realize the danger of connecting their interests with the fortunes of a political party. This tariff of '28, besides being remarkable for giving birth to "nullification," and heart-burning between the North and the South, was also remarkable for a change of policy in the New England States, in relation to the protective system. Being strongly commercial, these States had hitherto favored free trade; and Mr. Webster was the champion of that trade up to 1824. At this session a majority of those States, and especially those which classed politically with Mr. Adams and Mr. Clay, changed their policy: and Webster became a champion of the protective system. The cause of this change, as then alleged, was the fact that the protective system had become the established policy of the government, and that these States had adapted their industry to it; though it was insisted, on the other hand, that political calculation had more to do with the change than federal legislation: and, in fact, the question of this protection was one of those which lay at the foundation of parties, and was advocated by General Hamilton in one of his celebrated reports of fifty years ago. But on this point it is right that New England should speak for herself, which she did at the time of the discussion of the tariff in '28; and through the member, now a senator (Mr. Webster), who typified in his own person the change which his section of the Union had undergone. He said:

"New England, sir, has not been a leader in this policy. On the contrary, she held back, herself, and tried to hold others back from it, from the adoption of the constitution to 1824. Up to 1824, she was accused of sinister and selfish designs, because she discountenanced the progress of this policy. It was laid to her charge, then, that having established her manufactures herself, she wished that others should not have the power of rivalling her; and, for that reason, opposed all legislative encouragement. Under this angry denunciation against her, the act of 1824 passed. Now the imputation is precisely of an opposite character. The present measure is pronounced to be exclusively for the benefit of New England; to be brought forward by her agency, and designed to gratify the cupidity of her wealthy establishments.

"Both charges, sir, are equally without the slightest foundation. The opinion of New England, up to 1824, was founded in the conviction, that, on the whole, it was wisest and best, both for herself and others, that manufacturers should make haste slowly. She felt a reluctance to trust great interests on the foundation of government patronage; for who could tell how long such patronage would last, or with what steadiness, skill, or perseverance, it would continue to be granted? It is now nearly fifteen years, since, among the first things which I ever ventured to say here, was the expression of a serious doubt, whether this government was fitted by its construction, to administer aid and protection to particular pursuits; whether, having called such pursuits into being by indications of its favor, it would not, afterwards, desert them,

when troubles come upon them; and leave them to their fate. Whether this prediction, the result, certainly, of chance, and not of sagacity, will so soon be fulfilled, remains to be seen.

"At the same time it is true, that from the very first commencement of the government, those who have administered its concerns have held a tone of encouragement and invitation towards those who should embark in manufactures. All the Presidents, I believe, without exception, have concurred in this general sentiment; and the very first act of Congress, laying duties of impost, adopted the then unusual expedient of a preamble, apparently for little other purpose than that of declaring, that the duties, which it imposed, were imposed for the encouragement and protection of manufactures. When, at the commencement of the late war, duties were doubled, we were told that we should find a mitigation of the weight of taxation in the new aid and succor which would be thus afforded to our own manufacturing labor. Like arguments were urged, and prevailed, but not by the aid of New England votes, when the tariff was afterwards arranged at the close of the war, in 1816. Finally, after a whole winter's deliberation, the act of 1824 received the sanction of both Houses of Congress, and settled the policy of the country. What, then, was New England to do? She was fitted for manufacturing operations, by the amount and character of her population, by her capital, by the vigor and energy of her free labor, by the skill, economy, enterprise, and perseverance of her people. I repeat, what was she, under these circumstances, to do? A great and prosperous rival in her near neighborhood, threatening to draw from her a part, perhaps a great part, of her foreign commerce; was she to use, or to neglect, those other means of seeking her own prosperity which belonged to her character and her condition? Was she to hold out, forever, against the course of the government, and see herself losing, on one side, and yet making no efforts to sustain herself on the other? No, sir. Nothing was left to New England, after the act of 1824, but to conform herself to the will of others. Nothing was left to her, but to consider that the government had fixed and determined its own policy; and that policy was protection."

The question of a protective tariff had now not only become political, but sectional. In the early years of the federal government it was not so. The tariff bills, as the first and the second, that were passed, declared in their preambles that they were for the encouragement of manufactures, as well as for raising revenue; but then the duties imposed were all moderate—such as a revenue system really required; and there were no "*minimums*" to make a false basis for the calculation of duties, by enacting that all which cost less than a certain amount should be counted to have cost that amount; and be rated at the custom-house accordingly. In this early period the Southern States were as ready as any part of the Union in extending the protection to home industry which resulted from the imposition of revenue duties on rival imported articles, and on articles necessary to ourselves in time of war; and some of her statesmen were amongst the foremost members of Congress in promoting that policy. As late as 1816, some of her statesmen were still in favor of protection, not merely as an incident to revenue, but as a substantive object: and among these was Mr. Calhoun, of South Carolina—who even advocated the minimum provision—then for the first time introduced into a tariff bill, and upon his motion—and applied to the cotton goods imported. After that year (1816) the tariff bills took a sectional aspect—the Southern States, with the exception of Louisiana (led by her sugar-planting interest), against them: the New England States also against them: the Middle and Western States for them. After 1824 the New England States (always meaning the greatest portion when a section is spoken of) classed with the protective States—leaving the South alone, as a section, against that policy. My personal position was that of a great many others in the three protective sections—opposed to the policy, but going with it, on account of the interest of the State in the protection of some of its productions. I moved an additional duty upon lead, equal to one hundred per centum; and it was carried. I moved a

duty upon indigo, a former staple of the South, but now declined to a slight production; and I proposed a rate of duty in harmony with the protective features of the bill. No southern member would move that duty, because he opposed the principle: I moved it, that the "American System," as it was called, should work alike in all parts of our America. I supported the motion with some reasons, and some views of the former cultivation of that plant in the Southern States, and its present decline, thus:

"Mr. Benton then proposed an amendment, to impose a duty of 25 cents per pound on imported indigo, with a progressive increase at the rate of 25 cents per pound per annum, until the whole duty amounted to $1 per pound. He stated his object to be two-fold in proposing this duty, first, to place the American System beyond the reach of its enemies, by procuring a home supply of an article indispensable to its existence; and next, to benefit the South by reviving the cultivation of one of its ancient and valuable staples.

"Indigo was first planted in the Carolinas and Georgia about the year 1740, and succeeded so well as to command the attention of the British manufacturers and the British parliament. An act was passed for the encouragement of its production in these colonies, in the reign of George the Second; the preamble to which Mr. B. read, and recommended to the consideration of the Senate. It recited that a regular, ample, and certain supply of indigo was indispensable to the success of British manufacturers; that these manufacturers were then dependent upon foreigners for a supply of this article; and that it was the dictate of a wise policy to encourage the production of it at home. The act then went on to direct that a premium of sixpence sterling should be paid out of the British treasury for every pound of indigo imported into Great Britain, from the Carolinas and Georgia. Under the fostering influence of this bounty, said Mr. B., the cultivation of indigo became great and extensive. In six years after the passage of the act, the export was 217,000 lbs. and at the breaking out of the Revolution it amounted to 1,100,000 lbs. The Southern colonies became rich upon it; for the cultivation of cotton was then unknown; rice and indigo were the staples of the South. After the Revolution, and especially after the great territorial acquisitions which the British made in India, the cultivation of American indigo declined. The premium was no longer paid; and the British government, actuated by the same wise policy which made them look for a home supply of this article from the Carolinas, when they were a part of the British possessions, now looked to India for the same reason. The export of American indigo rapidly declined. In 1800 it had fallen to 400,000 lbs.; in 1814 to 40,000 lbs,; and in the last few years to 6 or 8,000 lbs. In the mean time our manufactories were growing up; and having no supply of indigo at home, they had to import from abroad. In 1826 this importation amounted to 1,150,000 lbs., costing a fraction less than two millions of dollars, and had to be paid for almost entirely in ready money, as it was chiefly obtained from places where American produce was in no demand. Upon this state of facts, Mr. B. conceived it to be the part of a wise and prudent policy to follow the example of the British parliament in the reign of George II. and provide a home supply of this indispensable article. Our manufacturers now paid a high price for fine indigo, no less than $2 50 per pound, as testified by one of themselves before the Committee on Manufactures raised in the House of Representatives. The duty which he proposed was only 40 per cent. upon that value, and would not even reach that rate for four years. It was less than one half the duty which the same bill proposed to lay instanter upon the very cloth which this indigo was intended to dye. In the end it would make all indigo come cheaper to the manufacturer, as the home supply would soon be equal, if not superior to the demand; and in the mean time, it could not be considered a tax on the manufacturer, as he would levy the advance which he had to pay, with a good interest, upon the wearer of the cloth.

“Mr. B. then went into an exposition of the reasons for encouraging the home production of indigo, and showed that the life of the American System depended upon it. Neither cotton nor woollen manufactures could be carried on without indigo. The consumption of that article was prodigious. Even now, in the infant state of our manufactories, the importation was worth two millions of dollars: and must soon be worth double or treble that sum. For this great supply of an indispensable article, we were chiefly indebted to the jealous rival, and vigilant enemy, of these very manufactures, to Great Britain herself. Of the 1,150,000 lbs. of indigo imported, we bring 620,000 lbs. from the British East Indies; which one word from the British government would stop for ever; we bring the further quantity of 120,000 lbs. from Manilla, a Spanish possession, which British influence and diplomacy could immediately stop: and the remainder came from different parts of South America, and might be taken from us by the arts of diplomacy, or by a monopoly of the whole on the part of our rival. A stoppage of a supply of indigo for one year, would prostrate all our manufactories, and give them a blow from which they would not recover in many years. Great Britain could effect this stoppage to the amount of three fourths of the whole quantity by speaking a single word, and of the remainder by a slight exertion of policy, or the expenditure of a sum sufficient to monopolize for one year, the purchase of what South America sent into the market.

“Mr. B. said he expected a unanimous vote in favor of his amendment. The North should vote for it to secure the life of the American System; to give a proof of their regard for the South; to show that the country south of the Potomac is included in the bill for some other purpose besides that of oppression. The South itself, although opposed to the further increase of duties, should vote for this duty; that the bill, if it passes, may contain one provision favorable to its interests. The West should vote for it through gratitude for fifty years of guardian protection, generous defence, and kind assistance, which the South had given it under all its trials; and for the purpose of enlarging the market, increasing the demand in the South and its ability to purchase the horses, mules, and provisions which the West can sell nowhere else. For himself he had personal reasons for wishing to do this little justice to the South. He was a native of one of these States (N. Carolina)—the bones of his father and his grandfathers rested there. Her Senators and Representatives were his early and his hereditary friends. The venerable Senator before him (Mr. Macon) had been the friend of him and his, through four generations in a straight line; the other Senator (Mr. Branch) was his schoolfellow: the other branch of the legislature, the House of Representatives, also showed him in the North Carolina delegation, the friends of him and his through successive generations. Nor was this all. He felt for the sad changes which had taken place in the South in the last fifty years. Before the Revolution it was the seat of wealth as well as of hospitality. Money, and all that it commanded, abounded there. But how now? All this is reversed.

“Wealth has fled from the South, and settled in the regions north of the Potomac, and this in the midst of the fact that the South, in four staples alone, in cotton, tobacco, rice and indigo (while indigo was one of its staples), had exported produce since the Revolution, to the value of eight hundred million of dollars, and the North had exported comparatively nothing. This sum was prodigious; it was nearly equal to half the coinage of the mint of Mexico since the conquest by Cortez. It was twice or thrice the amount of the product of the three thousand gold and silver mines of Mexico, for the same period of fifty years. Such an export would indicate unparalleled wealth; but what was the fact? In place of wealth, a universal pressure for money was felt; not enough for current expenses; the price of all property down; the country drooping and languishing; towns and cities decaying; and the frugal habits of the people pushed to the verge of universal self-denial, for the preservation of their family estates. Such a result is a strange and wonderful phenomenon. It calls upon statesmen to inquire into the cause; and if they inquire upon the theatre of this strange metamorphosis,

they will receive one universal answer from all ranks and all ages, that it is federal legislation which has worked this ruin. Under this legislation the exports of the South have been made the basis of the federal revenue. The twenty odd millions annually levied upon imported goods, are deducted out of the price of their cotton, rice and tobacco, either in the diminished price which they receive for these staples in foreign ports, or in the increased price which they pay for the articles they have to consume at home. Virginia, the two Carolinas and Georgia, may be said to defray three fourths of the annual expense of supporting the federal government; and of this great sum annually furnished by them, nothing, or next to nothing, is returned to them in the shape of government expenditure. That expenditure flows in an opposite direction; it flows northwardly, in one uniform, uninterrupted and perennial stream; it takes the course of trade and of exchange; and this is the reason why wealth disappears from the South and rises up in the North. Federal legislation does all this; it does it by the simple process of eternally taking away from the South, and returning nothing to it. If it returned to the South the whole, or even a good part of what it exacted, the four States south of the Potomac might stand the action of this system, as the earth is enabled to stand the exhausting influence of the sun's daily heat by the refreshing dews which are returned to it at night; but as the earth is dried up, and all vegetation destroyed in regions where the heat is great, and no dews returned, so must the South be exhausted of its money and its property by a course of legislation which is for ever taking from it, and never returning any thing to it.

"Every new tariff increases the force of this action. No tariff has ever yet included Virginia, the two Carolinas, and Georgia, within its provisions, except to increase the burdens imposed upon them. This one alone, presents the opportunity to form an exception, by reviving and restoring the cultivation of one of its ancient staples,—one of the sources of its wealth before the Revolution. The tariff of 1828 owes this reparation to the South, because the tariff of 1816 contributed to destroy the cultivation of indigo; sunk the duty on the foreign article, from twenty-five to fifteen cents per pound. These are the reasons for imposing the duty on indigo, now proposed. What objections can possibly be raised to it? Not to the quality; for it is the same which laid the foundation of the British manufactures, and sustained their reputation for more than half a century; not to the quantity; for the two Carolinas and Georgia alone raised as much fifty years ago as we now import, and we have now the States of Louisiana, Alabama, and Mississippi, and the Territories of Florida and Arkansas, to add to the countries which produce it; not to the amount of the duty; for its maximum will be but forty per cent., only one half of the duty laid by this bill on the cloth it is to dye; and that maximum, not immediate, but attained by slow degrees at the end of four years, in order to give time for the domestic article to supply the place of the imported. And after all, it is not a duty on the manufacturer, but on the wearer of the goods; from whom he levies, with a good interest on the price of the cloths, all that he expends in the purchase of materials. For once, said Mr. B., I expect a unanimous vote on a clause in the tariff. This indigo clause must have the singular and unprecedented honor of an unanimous voice in its favor. The South must vote for it, to revive the cultivation of one of its most ancient and valuable staples; the West must vote for it through gratitude for past favors—through gratitude for the vote on hemp this night[2]—and to save, enlarge, and increase the market for its own productions; the North must vote for it to show their disinterestedness; to give one proof of just feeling towards the South; and, above all, to save their favorite American System from the deadly blow which Great Britain can at any moment give it by stopping or interrupting the supplies of foreign indigo; and the whole Union, the entire legislative body, must vote for it, and vote for it with joy and enthusiasm, because it is impossible that Americans can deny to sister States of the

[2] "The vote on hemp this night." In rejecting Mr. Webster's motion to strike out the duty on hemp, and a vote in which the South went unanimously with the West.—*Note by Mr. B.*

Confederacy what a British King and a British Parliament granted to these same States when they were colonies and dependencies of the British crown."

Mr. Hayne, of South Carolina, seconded my motion in a speech of which this is an extract:

"Mr. Hayne said he was opposed to this bill in its principles as well as in its details. It could assume no shape which would make it acceptable to him, or which could prevent it from operating most oppressively and unjustly on his constituents. With these views, he had determined to make no motion to amend the bill in any respect whatever; but when such motions were made by others, and he was compelled to vote on them, he knew no better rule than to endeavor to make the bill consistent with itself. On this principle he had acted in all the votes he had given on this bill. He had endeavored to carry out to its legitimate consequences what gentlemen are pleased to miscall the 'American System.' With a fixed resolution to vote against the bill, he still considered himself at liberty to assist in so arranging the details as to extend to every great interest, and to all portions of the country, as far as may be practicable, equal protection, and to distribute the burdens of the system equally, in order that its benefits as well as its evils may be fully tested. On this principle, he should vote for the amendment of the gentleman from Missouri, because it was in strict conformity with all the principles of the bill. As a southern man, he would ask no boon for the South—he should propose nothing; but he must say that the protection of indigo rested on the same principles as every other article proposed to be protected by this bill, and he did not see how gentlemen could, consistently with their maxims, vote against it. What was the principle on which this bill was professedly founded? If there was any principle at all in the bill, it was that, whenever the country had the capacity to produce an article with which any imported article could enter into competition, the domestic product was to be protected by a duty. Now, had the Southern States the capacity to produce indigo? The soil and climate of those States were well suited to the culture of the article. At the commencement of the Revolution our exports of the article amounted to no less than 1,100,000 lbs. The whole quantity now imported into the United States is only 1,150,000 lbs.; so that the capacity of the country to produce a sufficient quantity of indigo to supply the wants of the manufacturers is unquestionable. It is true that the quantity now produced in the country is not great.

"In 1818 only 700 lbs. of domestic indigo were exported.

"In 1825 9,955 do.

"In 1826 5,289 do.

"This proves that the attention of the country is now directed to the subject. The senator from Indiana, in some remarks which he made on this subject yesterday, stated that, according to the principles of the American System (so called), protection was not extended to any article which the country was not in the habit of exporting. This is entirely a mistake. Of the articles protected by the tariff of 1824, as well as those included in this bill, very few are exported at all. Among these are iron, woollens, hemp, flax, and several others. If indigo is to be protected at all, the duties proposed must surely be considered extremely reasonable, the maximum proposed being much below that imposed by this bill on wool, woollens, and other articles. The duty on indigo till 1816, was 25 cents per pound. It was then (in favor of the manufacturers) reduced to 15 cents. The first increase of duty proposed here, is only to put back the old duty of 25 cents per pound, equal to an ad valorem duty of from 10 to 15 per cent.—and the maximum is only from 40 to 58 per cent. ad valorem, and that will not accrue for several years to come. With this statement of facts, Mr. H. said he would leave the

question in the hands of those gentlemen who were engaged in giving this bill the form in which it is to be submitted to the final decision of the Senate."

The proposition for this duty on imported indigo did not prevail. In lieu of the amount proposed, and which was less than any protective duty in the bill, the friends of the "American System" (constituting a majority of the Senate) substituted a nominal duty of five cents on the pound—to be increased five cents annually for ten years—and to remain at fifty. This was only about twenty per centum on the cost of the article, and that only to be attained after a progression of ten years; while all other duties in the bill were from four to ten times that amount—and to take effect immediately. A duty so contemptible, so out of proportion to the other provisions of the bill, and doled out in such miserable drops, was a mockery and insult; and so viewed by the southern members. It increased the odiousness of the bill, by showing that the southern section of the Union was only included in the "American System" for its burdens, and not for its benefits. Mr. McDuffie, in the House of Representatives, inveighed bitterly against it, and spoke the general feeling of the Southern States when he said:

"Sir, if the union of these States shall ever be severed, and their liberties subverted, the historian who records these disasters will have to ascribe them to measures of this description. I do sincerely believe that neither this government nor any free government, can exist for a quarter of a century, under such a system of legislation. Its inevitable tendency is to corrupt, not only the public functionaries, but all those portions of the Union and classes of society who have an interest, real or imaginary, in the bounties it provides, by taxing other sections and other classes. What, sir, is the essential characteristic of a freeman? It is that independence which results from an habitual reliance upon his own resources and his own labor for his support. He is not in fact a freeman, who habitually looks to the government for pecuniary bounties. And I confess that nothing in the conduct of those who are the prominent advocates of this system, has excited more apprehension and alarm in my mind, than the constant efforts made by all of them, from the Secretary of the Treasury down to the humblest coadjutor, to impress upon the public mind, the idea that national prosperity and individual wealth are to be derived, not from individual industry and economy, but from government bounties. An idea more fatal to liberty could not be inculcated. I said, on another occasion, that the days of Roman liberty were numbered when the people consented to receive bread from the public granaries. From that moment it was not the patriot who had shown the greatest capacity and made the greatest sacrifices to serve the republic, but the demagogue who would promise to distribute most profusely the spoils of the plundered provinces, that was elevated to office by a degenerate and mercenary populace. Every thing became venal, even in the country of Fabricius, until finally the empire itself was sold at public auction! And what, sir, is the nature and tendency of the system we are discussing? It bears an analogy, but too lamentably striking, to that which corrupted the republican purity of the Roman people. God forbid that it should consummate its triumph over the public liberty, by a similar catastrophe, though even that is an event by no means improbable, if we continue to legislate periodically in this way, and to connect the election of our Chief Magistrate with the question of dividing out the spoils of certain States—degraded into Roman provinces—among the influential capitalists of the other States of this Union! Sir, when I consider that, by a single act like the present, from five to ten millions of dollars may be transferred annually from one part of the community to another; when I consider the disguise of disinterested patriotism under which the basest and most profligate ambition may perpetrate such an act of injustice and political prostitution, I cannot hesitate, for a moment, to pronounce this very system of indirect bounties, the most stupendous instrument of corruption ever placed in the hands of public functionaries. It brings ambition and avarice and

wealth into a combination, which it is fearful to contemplate, because it is almost impossible to resist. Do we not perceive, at this very moment, the extraordinary and melancholy spectacle of less than one hundred thousand capitalists, by means of this unhallowed combination, exercising an absolute and despotic control over the opinions of eight millions of free citizens, and the fortunes and destinies of ten millions? Sir, I will not anticipate or forebode evil. I will not permit myself to believe that the Presidency of the United States will ever be bought and sold, by this system of bounties and prohibitions. But I must say that there are certain quarters of this Union in which, if a candidate for the Presidency were to come forward with the Harrisburg tariff in his hand, nothing could resist his pretensions, if his adversary were opposed to this unjust system of oppression. Yes, sir, that bill would be a talisman which would give a charmed existence to the candidate who would pledge himself to support it. And although he were covered with all the "multiplying villanies of nature," the most immaculate patriot and profound statesman in the nation could hold no competition with him, if he should refuse to grant this new species of imperial donative."

Allusions were constantly made to the combination of manufacturing capitalists and politicians in pressing this bill. There was evidently foundation for the imputation. The scheme of it had been conceived in a convention of manufacturers in the State of Pennsylvania, and had been taken up by politicians, and was pushed as a party measure, and with the visible purpose of influencing the presidential election. In fact these tariff bills, each exceeding the other in its degree of protection, had become a regular appendage of our presidential elections—coming round in every cycle of four years, with that returning event. The year 1816 was the starting point: 1820, and 1824, and now 1828, having successively renewed the measure, with successive augmentations of duties. The South believed itself impoverished to enrich the North by this system; and certainly a singular and unexpected result had been seen in these two sections. In the colonial state, the Southern were the rich part of the colonies, and expected to do well in a state of independence. They had the exports, and felt secure of their prosperity: not so of the North, whose agricultural resources were few, and who expected privations from the loss of British favor. But in the first half century after Independence this expectation was reversed. The wealth of the North was enormously aggrandized: that of the South had declined. Northern towns had become great cities: Southern cities had decayed, or become stationary; and Charleston, the principal port of the South, was less considerable than before the Revolution. The North became a money-lender to the South, and southern citizens made pilgrimages to northern cities, to raise money upon the hypothecation of their patrimonial estates. And this in the face of a southern export since the Revolution to the value of eight hundred millions of dollars!—a sum equal to the product of the Mexican mines since the days of Cortez! and twice or thrice the amount of their product in the same fifty years. The Southern States attributed this result to the action of the federal government—its double action of levying revenue upon the industry of one section of the Union and expending it in another—and especially to its protective tariffs. To some degree this attribution was just, but not to the degree assumed; which is evident from the fact that the protective system had then only been in force for a short time—since the year 1816; and the reversed condition of the two sections of the Union had commenced before that time. Other causes must have had some effect: but for the present we look to the protective system; and, without admitting it to have done all the mischief of which the South complained, it had yet done enough to cause it to be condemned by every friend to equal justice among the States—by every friend to the harmony and stability of the Union—by all who detested sectional legislation—by every enemy to the mischievous combination of partisan politics with national legislation. And this was the feeling with the mass of the democratic members who voted for the tariff of 1828, and who were determined to act upon that feeling upon the

overthrow of the political party which advocated the protective system; and which overthrow they believed to be certain at the ensuing presidential election.

35. The Public Lands—Their Proper Disposition—Graduated Prices—Pre-Emption Rights—Donations To Settlers

About the year 1785 the celebrated Edmund Burke brought a bill into the British House of Commons for the sale of the crown lands, in which he laid down principles in political economy, in relation to such property, profoundly sagacious in themselves, applicable to all sovereign landed possessions, whether of kings or republics—applicable in all countries—and nowhere more applicable and less known or observed, than in the United States. In the course of the speech in support of his bill he said:

"Lands sell at the current rate, and nothing can sell for more. But be the price what it may; a great object is always answered, whenever any property is transferred from hands which are not fit for that property, to those that are. The buyer and the seller must mutually profit by such a bargain; and, what rarely happens in matters of revenue, the relief of the subject will go hand in hand with the profit of the Exchequer. * * * The revenue to be derived from the sale of the forest lands will not be so considerable as many have imagined; and I conceive it would be unwise to screw it up to the utmost, or even to suffer bidders to enhance, according to their eagerness, the purchase of objects, wherein the expense of that purchase may weaken the capital to be employed in their cultivation. * * * The principal revenue which I propose to draw from these uncultivated wastes, is to spring from the improvement and population of the kingdom; events infinitely more advantageous to the revenues of the crown than the rents of the best landed estate which it can hold. * * * It is thus I would dispose of the unprofitable landed estates of the crown: *throw them into the mass of private property*: by which they will come, through the course of circulation and through the political secretions of the State into well-regulated revenue. * * * Thus would fall an expensive agency, with all the influence which attends it."

I do not know how old, or rather, how young I was, when I first took up the notion that sales of land by a government to its own citizens, and to the highest bidder, was false policy; and that gratuitous grants to actual settlers was the true policy, and their labor the true way of extracting national wealth and strength from the soil. It might have been in childhood, when reading the Bible, and seeing the division of the promised land among the children of Israel: it might have been later, and in learning the operation of the feudal system in giving lands to those who would defend them: it might have been in early life in Tennessee, in seeing the fortunes and respectability of many families derived from the 640 acre head-rights which the State of North Carolina had bestowed upon the first settlers. It was certainly before I had read the speech of Burke from which the extract above is taken; for I did not see that speech until 1826; and seventeen years before that time, when a very young member of the General Assembly of Tennessee, I was fully imbued with the doctrine of donations to settlers, and acted upon the principle that was in me, as far as the case admitted, in advocating the pre-emption claims of the settlers on Big and Little Pigeon, French Broad, and Nolichucky. And when I came to the then Territory of Missouri in 1815, and saw land exposed to sale to the highest bidder, and lead mines and salt springs reserved from sale, and rented out for the profit of the federal treasury, I felt repugnance to the whole system, and determined to make war upon it whenever I should have the power. The time came round with my election to the Senate of the United States in 1820: and the years 1824, '26, and '28, found me doing battle for an ameliorated system of disposing of our public lands; and with some success. The pre-

emption system was established, though at first the pre-emption claimant was stigmatized as a trespasser, and repulsed as a criminal; the reserved lead mines and salt springs, in the State of Missouri, were brought into market, like other lands; iron ore lands, intended to have been withheld from sale, were rescued from that fate, and brought into market. Still the two repulsive features of the federal land system—sales to the highest bidder, and donations to no one—with an arbitrary minimum price which placed the cost of all lands, good and bad, at the same uniform rate (after the auctions were over), at one dollar twenty-five cents per acre. I resolved to move against the whole system, and especially in favor of graduated prices, and donations to actual and destitute settlers. I did so in a bill, renewed annually for a long time; and in speeches which had more effect upon the public mind than upon the federal legislation—counteracted as my plan was by schemes of dividing the public lands, or the money arising from their sale, among the States. It was in support of one of these bills that I produced the authority of Burke in the extract quoted; and no one took its spirit and letter more promptly and entirely than President Jackson. He adopted the principle fully, and in one of his annual messages to Congress recommended that, as soon as the public (revolutionary) debt should be discharged (to the payment of which the lands ceded by the States were pledged), that they should CEASE TO BE A SUBJECT OF REVENUE, AND BE DISPOSED OF CHIEFLY WITH A VIEW TO SETTLEMENT AND CULTIVATION. His terms of service expired soon after the extinction of the debt, so that he had not an opportunity to carry out his wise and beneficent design.

Mr. Burke considered the revenue derived from the sale of crown lands as a trifle, and of no account, compared to the amount of revenue derivable from the same lands through their settlement and cultivation. He was profoundly right! and provably so, both upon reason and experience. The sale of the land is a single operation. Some money is received, and the cultivation is disabled to that extent from its improvement and cultivation. The cultivation is perennial, and the improved condition of the farmer enables him to pay taxes, and consume dutiable goods, and to sell the products which command the imports which pay duties to the government, and this is the “well-regulated revenue” which comes through the course of circulation, and through the “political secretions” of the State, and which Mr. Burke commends above all revenue derived from the sale of lands. Does any one know the comparative amount of revenue derived respectively from the sales and from the cultivation of lands in any one of our new States where the federal government was the proprietor, and the auctioneer, of the lands? and can he tell which mode of raising money has been most productive? Take Alabama, for example. How much has the treasury received for lands sold within her limits? and how much in duties paid on imports purchased with the exports derived from her soil? Perfect exactitude cannot be attained in the answer, but exact enough to know that the latter already exceeds the former several times, ten times over; and is perennial and increasing for ever! while the sale of the land has been a single operation, performed once, and not to be repeated; and disabling the cultivator by the loss of the money it took from him. Taken on a large scale, and applied to the whole United States, and the answer becomes more definite—but still not entirely exact. The whole annual receipts from land sales at this time (1850) are about two millions of dollars: the annual receipts from customs, founded almost entirely upon the direct or indirect productions of the earth, exceed fifty millions of dollars! giving a comparative difference of twenty-five to one for cultivation over sales; and triumphantly sustaining Mr. Burke’s theory. I have looked into the respective amounts of federal revenue, received into the treasury from these two sources, since the establishment of the federal government; and find the customs to have yielded, in that time, a fraction over one thousand millions of dollars net—the lands to have yielded a little less than one hundred and thirty millions gross, not forty millions clear after paying all expenses of surveys, sales and management. This is a difference of twenty-five to one—with the further

difference of endless future production from one, and no future production from the land once sold; that is to say, the same acre of land is paying for ever through cultivation, and pays but once for itself in purchase.

Thus far I have considered Mr. Burke's theory only under one of its aspects—the revenue aspect: he presents another—that of population—and here all measure of comparison ceases. The sale of land brings no people: cultivation produces population: and people are the true wealth and strength of nations. These various views were presented, and often enforced, in the course of the several speeches which I made in support of my graduation and donation bills: and, on the point of population, and of freeholders, against tenants, I gave utterance to these sentiments:

"Tenantry is unfavorable to freedom. It lays the foundation for separate orders in society, annihilates the love of country, and weakens the spirit of independence. The farming tenant has, in fact, no country, no hearth, no domestic altar, no household god. The freeholder, on the contrary, is the natural supporter of a free government; and it should be the policy of republics to multiply their freeholders, as it is the policy of monarchies to multiply tenants. We are a republic, and we wish to continue so: then multiply the class of freeholders; pass the public lands cheaply and easily into the hands of the people; sell, for a reasonable price, to those who are able to pay; and give, without price, to those who are not. I say give, without price, to those who are not able to pay; and that which is given, I consider as sold for the best of prices; for a price above gold and silver; a price which cannot be carried away by delinquent officers, nor lost in failing banks, nor stolen by thieves, nor squandered by an improvident and extravagant administration. It brings a price above rubies—a race of virtuous and independent laborers, the true supporters of their country, and the stock from which its best defenders must be drawn.

"'What constitutes a State?
Not high-rais'd battlements, nor labored mound,
Thick wall, nor moated gate;
Nor cities proud, with spires and turrets crown'd,
Nor starr'd and spangled courts,
Where low-born baseness wafts perfume to pride:
But MEN! high-minded men,
Who their *duties* know, but know their RIGHTS,
And, knowing, *dare* maintain them.'"

In favor of low prices, and donations, I quoted the example and condition of the Atlantic States of this Union—all settled under liberal systems of land distribution which dispensed almost (or altogether in many instances) with sales for money. I said:

"These Atlantic States were donations from the British crown; and the great proprietors distributed out their possessions with a free and generous hand. A few shillings for a hundred acres, a nominal quitrent, and gifts of a hundred, five hundred, and a thousand acres, to actual settlers: such were the terms on which they dealt out the soil which is now covered by a nation of freemen. Provinces, which now form sovereign States, were sold from hand to hand, for a less sum than the federal government now demands for an area of two miles square. I could name instances. I could name the State of Maine—a name, for more reasons than one, familiar and agreeable to Missouri, and whose pristine territory was sold by Sir Ferdinando Gorges to the proprietors of the Massachusetts Bay, for twelve hundred pounds, provincial money. And well it was for Maine that she was so sold; well it was for her that the modern policy of waiting for the rise, and sticking at a *minimum* of $1 25, was not then in vogue, or else Maine would have been a desert now. Instead of a numerous, intelligent, and

virtuous population, we should have had trees and wild beasts. My respectable friend, the senator from that State (Gen. Chandler), would not have been here to watch so steadily the interest of the public, and to oppose the bills which I bring in for the relief of the land claimants. And I mention this to have an opportunity to do justice to the integrity of his heart, and to the soundness of his understanding—qualities in which he is excelled by no senator—and to express my belief that we will come together upon the final passage of this bill: for the cardinal points in our policy are the same—economy in the public expenditures, and the prompt extinction of the public debt. I say, well it was for Maine that she was sold for the federal price of four sections of Alabama pine, Louisiana swamp, or Missouri prairie. Well it was for every State in this Union, that their soil was sold for a song, or given as a gift to whomsoever would take it. Happy for them, and for the liberty of the human race, that the kings of England and the "Lords Proprietors," did not conceive the luminous idea of waiting for the rise, and sticking to a *minimum* of $1 25 per acre. Happy for Kentucky, Tennessee, and Ohio, that they were settled under *States*, and not under the federal government. To this happy exemption they owe their present greatness and prosperity. When they were settled, the State laws prevailed in the acquisition of lands; and donations, pre-emptions, and settlement rights, and sales at two cents the acre, were the order of the day. I include Ohio, and I do it with a knowledge of what I say: for ten millions of her soil,—that which now constitutes her chief wealth and strength,—were settled upon the liberal principles which I mention. The federal system only fell upon fifteen millions of her soil; and, of that quantity, the one half now lies waste and useless, paying no tax to the State, yielding nothing to agriculture, desert spots in the midst of a smiling garden, "waiting for the rise," and exhibiting, in high and bold relief, the miserable folly of prescribing an arbitrary *minimum* upon that article which is the gift of God to man, and which no parental government has ever attempted to convert into a source of revenue and an article of merchandise."

Against the policy of holding up refuse lands until they should rise to the price of good land, and against the reservation of saline and mineral lands, and making money by boiling salt water, and digging lead ore, or holding a body of tenantry to boil and dig, I delivered these sentiments:

"I do trust and believe, Mr. President, that the Executive of this free government will not be second to George the Third in patriotism, nor an American Congress prove itself inferior to a British Parliament in political wisdom. I do trust and believe that this whole system of holding up land for the rise, endeavoring to make revenue out of the soil of the country, leasing and renting lead mines, salt springs, and iron banks, with all its train of penal laws and civil and military agents, will be condemned and abolished. I trust that the President himself will give the subject a place in his next message, and lend the aid of his recommendation to the success of so great an object. The mining operations, especially, should fix the attention of the Congress. They are a reproach to the age in which we live. National mining is condemned by every dictate of prudence, by every maxim of political economy, and by the voice of experience in every age and country. And yet we are engaged in that business. This splendid federal government, created for great *national* purposes, has gone to work among the lead mines of Upper Louisiana, to give us a second edition, no doubt, of the celebrated "*Mississippi Scheme*" of John Law. For that scheme was nothing more nor less than a project of making money out of the same identical mines. Yes, Mr. President, upon the same identical theatre, among the same holes and pits, dug by *John Law's* men in 1720; among the cinders, ashes, broken picks, and mouldering furnaces, of that celebrated projector, is our federal government now at work; and, that no circumstance

should be wanting to complete the folly of such an undertaking, the task of extracting "*revenue*" from these operations, is confided, not to the *Treasury*, but to the War Department.

"Salines and salt springs are subjected to the same system—reserved from sale, and leased for the purpose of raising revenue. But I flatter myself that I see the end of this branch of the system. The debate which took place a few weeks ago on the bill to repeal the existing duty upon salt, is every word of it applicable to the bill which I have introduced for the sale of the reserved salt springs. I claim the benefit of it accordingly, and shall expect the support of all the advocates for the repeal of that tax, whenever the bill for the sale of the salines shall be put to the vote."

Argument and sarcasm had their effect, in relation to the mineral and saline reserves in the State in which I lived—the State of Missouri. An act was passed in 1828 to throw them into the mass of private property—to sell them like other public lands. And thus the federal government, in that State, got rid of a degrading and unprofitable pursuit; and the State got citizen freeholders instead of federal tenants; and profitably were developed in the hands of individuals the pursuits of private industry which languished and stagnated in the hands of federal agents and tenants. But it was continued for some time longer (so far as lead ore was concerned) on the Upper Mississippi, and until an argument arrived which commanded the respect of the legislature: it was the argument of profit and loss—an argument which often touches a nerve which is dead to reason. Mr. Polk, in his message to Congress at the session of 1845-'46 (the first of his administration), stated that the expenses of the system during the preceding four years—those of Mr. Tyler's administration—were twenty-six thousand one hundred and eleven dollars, and eleven cents; and the whole amount of rents received during the same period was six thousand three hundred and fifty-four dollars, and seventy-four cents: and recommended the abolition of the whole system, and the sale of the reserved mines; which was done; and thus was completed for the Upper Mississippi what I had done for Missouri near twenty years before.

The advantage of giving land to those who would settle and cultivate it, was illustrated in one of my speeches, by reciting the case of "Granny White"—well known in her time to all the population of Middle Tennessee, and especially to all who travelled south from Nashville, along the great road which crossed the "divide" between the Cumberland and Harpeth waters, at the evergreen tree which gave name to the gap—the Holly Tree Gap. The aged woman, and her fortunes, were thus introduced into our senatorial debates and lodged on a page of our parliamentary history, to enlighten, by her incidents, the councils of national legislation:

"At the age of sixty, she had been left a widow, in one of the counties in the tide-water region of North Carolina. Her poverty was so extreme, that when she went to the county court to get a couple of little orphan grandchildren bound to her, the Justices refused to let her have them, because she could not give security to keep them off the parish. This compelled her to emigrate; and she set off with the two little boys, upon a journey of eight or nine hundred miles, to what was then called "*the Cumberland Settlement*." Arrived in the neighborhood of Nashville, a generous-hearted Irishman (his name deserves to be remembered—Thomas McCrory) let her have a corner of his land, on her own terms,—a nominal price and indefinite credit. It was fifty acres in extent, and comprised the two faces of a pair of confronting hills, whose precipitous declivities lacked a few degrees, and but a few, of mathematical perpendicularity. Mr. B. said he knew it well, for he had seen the old lady's pumpkins propped and supported with stakes, to prevent their ponderous weight from tearing up the vine, and rolling to the bottom of the hills. There was just room at their base for a road to run between, and not room for a house, to find a level place for its foundation; for which purpose a part of the hill had to be dug away. Yet, from this hopeless beginning, with the advantage of

a little piece of ground that was her own, this aged widow, and two little grandchildren, of eight or nine years old, advanced herself to comparative wealth: money, slaves, horses, cattle; and her fields extended into the valley below, and her orphan grandchildren, raised up to honor and independence: these were the fruits of economy and industry, and a noble illustration of the advantage *of giving land to the poor*. But the federal government would have demanded sixty-two dollars and fifty cents for that land, cash in hand; and old Granny White and her grandchildren might have lived in misery and sunk into vice, before the opponents of this bill would have taken less."

I quoted the example of all nations, ancient and modern, republican and monarchical, in favor of giving lands, in parcels suitable to their wants, to meritorious cultivators; and denied that there was an instance upon earth, except that of our own federal government, which made merchandise of land to its citizens—exacted the highest price it could obtain—and refused to suffer the country to be settled until it was paid for. The "promised land" was divided among the children of Israel—the women getting a share where there was no man at the head of the family—as with the daughters of Manasseh. All the Atlantic States, when British colonies, were settled upon gratuitous donations, or nominal sales. Kentucky and Tennessee were chiefly settled in the same way. The two Floridas, and Upper and Lower Louisiana, were gratuitously distributed by the kings of Spain to settlers, in quantities adapted to their means of cultivation—and with the whole vacant domain to select from according to their pleasure. Land is now given to settlers in Canada; and £30,000 sterling, has been voted at a single session of Parliament, to aid emigrants in their removal to these homes, and commencing life upon them. The republic of Colombia now gives 400 acres to a settler: other South American republics give more or less. Quoting these examples, I added:

"Such, Mr. President, is the conduct of the free republics of the South. I say republics: for it is the same in all of them, and it would be tedious and monotonous to repeat their numerous decrees. In fact, throughout the New World, from Hudson's Bay to Cape Horn (with the single exception of these United States), land, the gift of God to man, is also the gift of the government to its citizens. Nor is this wise policy confined to the New World. It prevails even in Asia; and the present age has seen—we ourselves have seen—published in the capital of the European world, the proclamation of the King of Persia, inviting Christians to go to the ancient kingdom of Cyrus, Cambyses and Darius, and there receive gifts of land—first rate, not refuse—with a total exemption from taxes, and the free enjoyment of their religion. Here is the proclamation: listen to it.

The Proclamation.

"'Mirza Mahomed Saul, Ambassador to England, in the name, and by the authority of Abbas Mirza, King of Persia, offers to those who shall emigrate to Persia, gratuitous grants of land, good for the production of wheat, barley, rice, cotton, and fruits,—free from taxes or contributions of any kind, and with the free enjoyment of their religion; THE KING'S OBJECT BEING TO IMPROVE HIS COUNTRY.

"'London, July 8th, 1823.'"

The injustice of holding all lands at one uniform price, waiting for the cultivation of the good land to give value to the poor, and for the poorest to rise to the value of the richest, was shown in a reference to private sales, of all articles; in the whole of which sales the price was graduated to suit different qualities of the same article. The heartless and miserly policy of waiting for government land to be enhanced in value by the neighboring cultivation of private land, was denounced as unjust as well as unwise. The new States of the West were the sufferers by this federal land policy. They were in a different condition from other States. In

these others, the local legislatures held the primary disposal of the soil,—so much as remained vacant within their limits,—and being of the same community, made equitable alienations among their constituents. In the new States it was different. The federal government held the primary disposition of the soil; and the majority of Congress (being independent of the people of these States), was less heedful of their wants and wishes. They were as a stepmother, instead of a natural mother: and the federal government being sole purchaser from foreign nations, and sole recipient of Indian cessions, it became the monopolizer of vacant lands in the West: and this monopoly, like all monopolies, resulted in hardships to those upon whom it acted. Few, or none of our public men, had raised their voice against this hard policy before I came into the national councils. My own was soon raised there against it: and it is certain that a great amelioration has taken place in our federal land policy during my time: and that the sentiment of Congress, and that of the public generally, has become much more liberal in land alienations; and is approximating towards the beneficent systems of the rest of the world. But the members in Congress from the new States should not intermit their exertions, nor vary their policy; and should fix their eyes steadily upon the period of the speedy extinction of the federal title to all the lands within the limits of their respective States;—to be effected by pre-emption rights, by donations, and by the sale (of so much as shall be sold), at graduated prices,—adapted to the different qualities of the tracts, to be estimated according to the time it has remained in market unsold—and by liberal grants to objects of general improvement, both national and territorial.

36. Cession Of A Part Of The Territory Of Arkansas To The Cherokee Indians

Arkansas was an organized territory, and had been so since the year 1819. Her western boundary was established by act of Congress in May 1824 (chiefly by the exertions of her then delegate, Henry W. Conway),—and was an extension of her existing boundary on that side; and for national and State reasons. It was an outside territory—beyond the Mississippi—a frontier both to Mexico (then brought deep into the Valley of the Mississippi by the Florida treaty which gave away Texas), and to the numerous Indian tribes then being removed from the South Atlantic States to the west of the Mississippi. It was, therefore, a point of national policy to make her strong—to make her a first class State,—both for her own sake and that of the Union,—and equal to all the exigencies of her advanced and frontier position. The extension was on the west—the boundaries on the other three sides being fixed and immovable—and added a fertile belt—a parallelogram of forty miles by three hundred along her whole western border—and which was necessary to compensate for the swamp lands in front on the river, and to give to her certain valuable salt springs there existing, and naturally appurtenant to the territory, and essential to its inhabitants. Even with this extension the territory was still deficient in arable land—not as strong as her frontier position required her to be, nor susceptible (on account of swamps and sterile districts) of the population and cultivation which her superficial contents and large boundaries would imply her to be. Territorially, and in mere extent, the western addition was a fourth part of the territory: agriculturally, and in capacity for population, the addition might be equal to half of the whole territory; and its acquisition was celebrated as a most auspicious event for Arkansas at the time that it occurred.

In the month of May, 1828, by a treaty negotiated at Washington by the Secretary at War, Mr. James Barbour, on one side, and the chiefs of the Cherokee nation on the other, this new western boundary for the territory was abolished—the old line re-established: and what had been an addition to the territory of Arkansas, was ceded to the Cherokees. On the ratification of this treaty several questions arose, all raised by myself—some of principle, some of expediency—as, whether a law of Congress could be abolished by an Indian treaty? and whether it was expedient so to reduce, and thus weaken the territory (and future State) of Arkansas? I was opposed to the treaty, and held the negative of both questions, and argued against them with zeal and perseverance. The supremacy of the treaty-making power I held to be confined to subjects within its sphere, and quoted “Jefferson’s Manual,” to show that that was the sense in which the clause in the constitution was understood. The treaty-making power was supreme; but that supremacy was within its proper orbit, and free from the invasion of the legislative, executive, or judicial department. The proper objects of treaties were international interests, which neither party could regulate by municipal law, and which required a joint consent, and a double execution, to give it effect. Tried by this test, and this Indian treaty lost its supremacy. The subject was one of ordinary legislation, and specially and exclusively confined to Congress. It was to repeal a law which Congress had made in relation to territory; and to reverse the disposition which Congress had made of a part of its territory. To Congress it belonged to dispose of territory; and to her it belonged to repeal her own laws. The treaty avoided the word “repeal,” while doing the thing: it used the word “abolish”—which was the same in effect, and more arrogant and offensive—not appropriate to legislation, and evidently used to avoid the use of a word which would challenge objection. If the word “repeal” had been used, every one would have felt that the ordinary legislation of

Congress was flagrantly invaded; and the avoidance of that word, and the substitution of another of the same meaning, could have no effect in legalizing a transaction which would be condemned under its proper name. And so I held the treaty to be invalid for want of a proper subject to act upon, and because it invaded the legislative department.

The inexpediency of the treaty was in the question of crippling and mutilating Arkansas, reducing her to the class of weak States, and that against all the reasons which had induced Congress, four years before, to add on twelve thousand square miles to her domain; and to almost double the productive and inhabitable capacity of the Territory, and future State, by the character of the country added. I felt this wrong to Arkansas doubly, both as a neighbor to my own State, and because, having a friendship for the delegate, as well as for his territory, I had exerted myself to obtain the addition which had been thus cut off. I argued, as I thought, conclusively; but in vain. The treaty was largely ratified, and by a strong slaveholding vote, notwithstanding it curtailed slave territory, and made soil free which was then slave. Anxious to defeat the treaty for the benefit of Arkansas, I strongly presented this consequence, showing that there was, not only legal, but actually slavery upon the amputated part—that these twelve thousand square miles were inhabited, organized into counties, populous in some parts, and with the due proportion of slaves found in a southern and planting State. Nothing would do. It was a southern measure, negotiated, on the record, by a southern secretary at war, in reality by the clerk McKinney; and voted for by nineteen approving slaveholding senators against four dissenting. The affirmative vote was: Messrs. Barton, Berrien, Bouligny, Branch, Ezekiel Chambers, Cobb, King of Alabama, McKinley, McLane of Delaware, Macon, Ridgely, Smith of Maryland, Smith of South Carolina, John Tyler of Virginia, and Williams of Mississippi. The negative was, Messrs. Benton, Eaton, Rowan, and Tazewell.—Mr. Calhoun was then Vice-President, and did not vote; but he was in favor of the treaty, and assisted its ratification through his friends. The House of Representatives voted the appropriations to carry it into effect; and thus acquiesced in the repeal of an act of Congress by the President, Senate, and Cherokee Indians; and these appropriations were voted with the general concurrence of the southern members of the House. And thus another slice, and a pretty large one (twelve thousand square miles), was taken off of slave territory in the former province of Louisiana; which about completed the excision of what had been left for slave State occupation after the Missouri compromise of 1820, and the cession to Texas of contemporaneous date, and previous cessions to Indian tribes. And all this was the work of southern men, who then saw no objection to the Congressional legislation which acted upon slavery in territories—which further curtailed, and even extinguished slave soil in all the vast expanse of the former Louisiana—save and except the comparative little that was left in the State of Missouri and in the mutilated Territory of Arkansas. The reason of the southern members for promoting this amputation of Arkansas in favor of the Cherokees, was simply to assist in inducing their removal by adding the best part of Arkansas, with its salt springs, to the ample millions of acres west of that territory already granted to them; but it was a gratuitous sacrifice, as the large part of the tribe had already emigrated to the seven millions of acres, and the remainder were waiting for moneyed inducements to follow. And besides, the desire for this removal could have no effect upon the constitutional power of Congress to legislate upon slavery in territories, or upon the policy which curtails the boundaries of a future slave State.

I have said that the amputated part of Arkansas was an organized part of the territory, divided into counties, settled and cultivated. Now, what became of these inhabitants?—their property? and possessions? They were bought out by the federal government! A simultaneous act was passed, making a donation of three hundred and twenty acres of land (within the remaining part of Arkansas), to each head of a family who would retire from the

amputated part; and subjecting all to military removal that did not retire. It was done. They all withdrew. Three hundred and twenty acres of land in front to attract them, and regular troops in the rear to push them, presented a motive power adequate to its object; and twelve thousand square miles of slave territory was evacuated by its inhabitants, with their flocks, and herds, and slaves; and not a word was said about it; and the event has been forgotten. But it is necessary to recall its recollection, as an important act, in itself, in relation to the new State of Arkansas—as being the work of the South—and as being necessary to be known in order to understand subsequent events.

37. Renewal Of The Oregon Joint Occupation Convention

The American settlement at the mouth of the Columbia, or Oregon, was made in 1811. It was an act of private enterprise, done by the eminent merchant, Mr. John Jacob Astor, of New-York; and the young town christened after his own name, Astoria: but it was done with the countenance and stipulated approbation of the government of the United States; and an officer of the United States navy—the brave Lieutenant Thorn, who was with Decatur at Tripoli, and who afterwards blew up his ship in Nootka Sound to avoid her capture by the savages (blowing himself, crew and savages all into the air),—was allowed to command his (Mr. Astor's) leading vessel, in order to impress upon the enterprise the seal of nationality. This town was captured during the war of 1812, by a ship of war detached for that purpose, by Commodore Hillyar, commanding a British squadron in the Pacific Ocean. No attempt was made to recover it during the war; and, at Ghent, after some efforts on the part of the British commissioners, to set up a title to it, its restitution was stipulated under the general clause which provided for the restoration of all places captured by either party. But it was not restored. An empty ceremony was gone through to satisfy the words of the treaty, and to leave the place in the hands of the British. An American agent, Mr. John Baptist Prevost, was sent to Valparaiso, to go in a British sloop of war (the Blossom) to receive the place, to sign a receipt for it, and leave it in the hands of the British. This was in the autumn of the year 1818; and coincident with that nominal restitution was the conclusion of a convention in London between the United States and British government, for the joint occupation of the Columbia for ten years—Mr. Gallatin and Mr. Rush the American negotiators—if those can be called negotiators who are tied down to particular instructions. The joint occupancy was provided for, and in these words: "That any country claimed by either party on the northwest coast of America, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years, to the subjects, citizens, and vessels of the two powers; without prejudice to any claim which either party might have to any part of the country."—I was a practising lawyer at St. Louis, no way engaged in politics, at the time this convention was published; but I no sooner saw it than I saw its delusive nature—its one-sidedness—and the whole disastrous consequences which were to result from it to the United States; and immediately wrote and published articles against it: of which the following is an extract:

"This is a specimen of the skill with which the diplomatic art deposits the seeds of a new contestation in the assumed settlement of an existing one,—and gives unequal privileges in words of equality,—and breeds a serious question, to be ended perhaps by war, where no question at all existed. Every word of the article for this joint occupation is a deception and a blunder—suggesting a belief for which there is no foundation, granting privileges for which there is no equivalent, and presenting ambiguities which require to be solved—peradventure by the sword. It speaks as if there was a mutuality of countries on the northwest coast to which the article was applicable, and a mutuality of benefits to accrue to the citizens of both governments by each occupying the country claimed by the other. Not so the fact. There is but one country in question, and that is our own;—and of this the British are to have equal possession with ourselves, and we no possession of theirs. The Columbia is ours; Frazer's River is a British possession to which no American ever went, or ever will go. The convention gives a joint right of occupying the ports and harbors, and of navigating the rivers of each other. This would imply that each government possessed in that quarter, ports, and

harbors, and navigable rivers; and were about to bring them into hotch-potch for mutual enjoyment. No such thing. There is but one port, and that the mouth of the Columbia—but one river, and that the Columbia itself: and both port and river our own. We give the equal use of these to the British, and receive nothing in return. The convention says that the "claim" of neither party is to be prejudiced by the joint possession. This admits that Great Britain has a claim—a thing never admitted before by us, nor pretended by her. At Ghent she stated no claim, and could state none. Her ministers merely asked for the river as a boundary, as being the most convenient; and for the use of the harbor at its mouth, as being necessary to their ships and trade; but stated no claim. Our commissioners reported that they (the British commissioners) endeavored 'to lay a nest-egg' for a future pretension; which they failed to do at Ghent in 1815, but succeeded in laying in London in 1818; and before the ten years are out, a full grown fighting chicken will be hatched of that egg. There is no mutuality in any thing. We furnish the whole stake—country, river, harbor; and shall not even maintain the joint use of our own. We shall be driven out of it, and the British remain sole possessors. The fur trade is the object. It will fare with our traders on the Columbia under this convention as it fared with them on the Miami of the Lakes (and on the lakes themselves), under the British treaties of '94 and '96, which admitted British traders into our territories. Our traders will be driven out; and that by the fair competition of trade, even if there should be no foul play. The difference between free and dutied goods, would work that result. The British traders pay no duties: ours pay above an average of fifty per centum. No trade can stand against such odds. But the competition will not be fair. The savages will be incited to kill and rob our traders, and they will be expelled by violence, without waiting the slower, but equally certain process, of expulsion by underselling. The result then is, that we admit the British into our country, our river, and our harbor; and we get no admittance into theirs, for they have none—Frazer's River and New Caledonia being out of the question—that they will become sole possessors of our river, our harbor, and our country; and at the end of the ten years will have an admitted 'claim' to our property, and the actual possession of it."

Thus I wrote in the year 1818, when the joint occupation convention of that year was promulgated. I wrote in advance; and long before the ten years were out, it was all far more than verified. Our traders were not only driven from the mouth of the Columbia River, but from all its springs and branches;—not only from all the Valley of the Columbia, but from the whole region of the Rocky Mountains between 49 and 42 degrees;—not only from all this mountain region, but from the upper waters of all our far distant rivers—the Missouri, the Yellow Stone, the Big Horn, the North Platte; and all their mountain tributaries. And, by authentic reports made to our government, not less than five hundred of our citizens had been killed, nor less than five hundred thousand dollars worth of goods and furs robbed from them;—the British remaining the undisturbed possessors of all the Valley of the Columbia, acting as its masters, and building forts from the sea to the mountains. This was the effect of the first joint occupation treaty, and every body in the West saw its approaching termination with pleasure; but the false step which the government had made induced another. They had admitted a "claim" on the part of Great Britain, and given her the sole, under the name of a joint, possession; and now to get her out was the difficulty. It could not be done; and the United States agreed to a further continued "joint" occupation (as it was illusively called in the renewed convention), not for ten years more, but "indefinitely," determinable on one year's notice from either party to the other. The reason for this indefinite, and injurious continuance, was set forth in the preamble to the renewed convention (Mr. Gallatin now the sole United States negotiator); and recited that the two governments "being desirous to prevent, as far as possible, all hazard of misunderstanding, and with a view to give further time for maturing measures which shall have for their object a more definite settlement of the claims of each party to the said territory;" did thereupon agree to renew the joint occupation

article of the convention of 1818, &c. Thus, we had, by our diplomacy in 1818, and by the permitted non-execution of the Ghent treaty in the delivery of the post and country, hatched a question which threatened a “misunderstanding” between the two countries; and for maturing measures for the settlement of which indefinite time was required—and granted—Great Britain remaining, in the mean time, sole occupant of the whole country. This was all that she could ask, and all that we could grant, even if we actually intended to give up the country.

I was a member of the Senate when this renewed convention was sent in for ratification, and opposed it with all the zeal and ability of which I was master: but in vain. The weight of the administration, the indifference of many to a remote object, the desire to put off a difficulty, and the delusive argument that we could terminate it at any time—(a consolation so captivating to gentle temperaments)—were too strong for reason and fact; and I was left in a small minority on the question of ratification. But I did not limit myself to opposition to the treaty. I proposed, as well as opposed; and digested my opinions into three resolves; and had them spread on the executive journal, and made part of our parliamentary history for future reference.

The resolves were: 1. “That it is not expedient for the United States and Great Britain to treat further in relation to their claims on the northwest coast of America, on the basis of a joint occupation by their respective citizens. 2. That it is expedient that the joint-occupation article in the convention of 1818 be allowed to expire upon its own limitation. 3. That it is expedient for the government of the United States to continue to treat with His Britannic Majesty in relation to said claims, on the basis of a separation of interests, and the establishment of a permanent boundary between their dominions westward of the Rocky Mountains, in the shortest possible time.” These resolves were not voted upon; but the negative vote on the ratification of the convention showed what the vote would have been if it had been taken. That negative vote was—Messrs. Benton, Thomas W. Cobb of Georgia, Eaton of Tennessee, Ellis of Mississippi, Johnson of Kentucky, Kane of Illinois, and Rowan of Kentucky—in all 7. Eighteen years afterwards, and when we had got to the cry of “inevitable war,” I had the gratification to see the whole Senate, all Congress, and all the United States, occupy the same ground in relation to this joint occupation on which only seven senators stood at the time the convention for it was ratified.

38. Presidential Election Of 1828, And Further Errors Of Mons. De Tocqueville

General Jackson and Mr. Adams were the candidates;—with the latter, Mr. Clay (his Secretary of State), so intimately associated in the public mind, on account of the circumstances of the previous presidential election in the House of Representatives, that their names and interests were inseparable during the canvass. General Jackson was elected, having received 178 electoral votes to 83 received by Mr. Adams. Mr. Richard Rush, of Pennsylvania, was the vice-presidential candidate on the ticket of Mr. Adams, and received an equal vote with that gentleman: Mr. Calhoun was the vice-presidential candidate on the ticket with General Jackson, and received a slightly less vote—the deficiency being in Georgia, where the friends of Mr. Crawford still resented his believed connection with the "A. B. plot." In the previous election, he had been neutral between General Jackson and Mr. Adams; but was now decided on the part of the General, and received the same vote every where, except in Georgia. In this election there was a circumstance to be known and remembered. Mr. Adams and Mr. Rush were both from the non-slaveholding—General Jackson and Mr. Calhoun from the slaveholding States, and both large slave owners themselves—and both received a large vote (73 each) in the free States—and of which at least forty were indispensable to their election. There was no jealousy, or hostile, or aggressive spirit in the North at that time against the South!

The election of General Jackson was a triumph of democratic principle, and an assertion of the people's right to govern themselves. That principle had been violated in the presidential election in the House of Representatives in the session of 1824-'25; and the sanction, or rebuke, of that violation was a leading question in the whole canvass. It was also a triumph over the high protective policy, and the federal internal improvement policy, and the latitudinous construction of the constitution; and of the democracy over the federalists, then called national republicans; and was the re-establishment of parties on principle, according to the landmarks of the early ages of the government. For although Mr. Adams had received confidence and office from Mr. Madison and Mr. Monroe, and had classed with the democratic party during the fusion of parties in the "era of good feeling," yet he had previously been federal; and in the re-establishment of old party lines which began to take place after the election of Mr. Adams in the House of Representatives, his affinities, and policy, became those of his former party: and as a party, with many individual exceptions, they became his supporters and his strength. General Jackson, on the contrary, had always been democratic, so classing when he was a senator in Congress under the administration of the first Mr. Adams, and when party lines were most straightly drawn, and upon principle: and as such now receiving the support of men and States which took their political position at that time, and had maintained it ever since—Mr. Macon and Mr. Randolph, for example, and the States of Virginia and Pennsylvania. And here it becomes my duty to notice an error, or a congeries of errors, of Mons. de Tocqueville, in relation to the causes of General Jackson's election; and which he finds exclusively in the glare of a military fame resulting from "a very ordinary achievement, only to be remembered where battles are rare." He says:

"General Jackson, whom the Americans have twice elected to the head of their government, is a man of a violent temper and mediocre talents. No one circumstance in the whole course of his career ever proved that he is qualified to govern a free people; and, indeed, the majority of the enlightened classes of the Union has always been opposed to him. But he was raised to the Presidency, and has been maintained in that lofty station, solely by the recollection of a

victory which he gained twenty years ago, under the walls of New Orleans;—a victory which, however, was a very ordinary achievement, and which could only be remembered in a country where battles are rare."—(*Chapter 17.*)

This may pass for American history, in Europe and in a foreign language, and even finds abettors here to make it American history in the United States, with a preface and notes to enforce and commend it: but America will find historians of her own to do justice to the national, and to individual character. In the mean time I have some knowledge of General Jackson, and the American people, and the two presidential elections with which they honored the General; and will oppose it, that is, my knowledge, to the flippant and shallow statements of Mons. de Tocqueville. "*A man of violent temper.*" I ought to know something about that—contemporaries will understand the allusion—and I can say that General Jackson had a good temper, kind and hospitable to every body, and a feeling of protection in it for the whole human race, and especially the weaker and humbler part of it. He had few quarrels on his own account; and probably the very ones of which Mons. de Tocqueville had heard were accidental, against his will, and for the succor of friends. "*Mediocre talent, and no capacity to govern a free people.*" In the first place, free people are not governed by any man, but by laws. But to understand the phrase as perhaps intended, that he had no capacity for civil administration, let the condition of the country at the respective periods when he took up, and when he laid down the administration, answer. He found the country in domestic distress—pecuniary distress—and the national and state legislation invoked by leading politicians to relieve it by empirical remedies;—tariffs, to relieve one part of the community by taxing the other;—internal improvement, to distribute pubic money;—a national bank, to cure the paper money evils of which it was the author;—the public lands the pillage of broken bank paper;—depreciated currency and ruined exchanges;—a million and a half of "unavailable funds" in the treasury;—a large public debt;—the public money the prey of banks;—no gold in the country—only twenty millions of dollars in silver, and that in banks which refused, when they pleased, to pay it down in redemption of their own notes, or even to render back to depositors. Stay laws, stop laws, replevin laws, baseless paper, the resource in half the States to save the debtor from his creditor; and national bankrupt laws from Congress, and local insolvent laws, in the States, the demand of every session. Indian tribes occupying a half, or a quarter of the area of southern States, and unsettled questions of wrong and insult, with half the powers of Europe. Such was the state of the country when General Jackson became President: what was it when he left the Presidency? Protective tariffs, and federal internal improvement discarded; the national bank left to expire upon its own limitation; the public lands redeemed from the pillage of broken bank paper; no more "unavailable funds;" an abundant gold and silver currency; the public debt paid off; the treasury made independent of banks; the Indian tribes removed from the States; indemnities obtained from all foreign powers for all past aggressions, and to new ones committed; several treaties obtained from great powers that never would treat with us before; peace, friendship, and commerce with all the world; and the measures established which, after one great conflict with the expiring Bank of the United States, and all her affiliated banks in 1837, put an end to bank dominion in the United States, and all its train of contractions and expansions, panic and suspension, distress and empirical relief. This is the answer which the respective periods of the beginning and the ending of General Jackson's administration gives to the flippant imputation of no capacity for civil government. I pass on to the next. "*The majority of the enlightened classes always opposed to him.*" A majority of those classes which Mons. de Tocqueville would chiefly see in the cities, and along the highways—bankers, brokers, jobbers, contractors, politicians, and speculators—were certainly against him, and he as certainly against them: but the mass of the intelligence of the country was with him! and sustained him in retrieving the country from the deplorable condition in which the "enlightened classes" had sunk it! and in

advancing it to that state of felicity at home, and respect abroad, which has made it the envy and admiration of the civilized world, and the absorbent of populations of Europe. I pass on. "*Raised to the Presidency and maintained there solely by the recollection of the victory at New Orleans.*" Here recollection, and military glare, reverse the action of their ever previous attributes, and become stronger, instead of weaker, upon the lapse of time. The victory at New Orleans was gained in the first week of the year 1815; and did not bear this presidential fruit until fourteen and eighteen years afterwards, and until three previous good seasons had passed without production. There was a presidential election in 1816, when the victory was fresh, and the country ringing, and imaginations dazzled with it: but it did not make Jackson President, or even bring him forward as a candidate. The same four years afterwards, at the election of 1820—not even a candidate then. Four years still later, at the election of 1824, he became a candidate, and—was not elected;—receiving but 99 electoral votes out of 261. In the year 1828 he was first elected, receiving 178 out of 261 votes; and in 1832 he was a second time elected, receiving 219 out of 288 votes. Surely there must have been something besides an old military recollection to make these two elections so different from the two former; and there was! That something else was principle! and the same that I have stated in the beginning of this chapter as entering into the canvass of 1828, and ruling its issue. I pass on to the last disparagement. "A victory which was a very ordinary achievement, and only to be remembered where battles were rare." Such was not the battle at New Orleans. It was no ordinary achievement. It was a victory if 4,600 citizens just called from their homes, without knowledge of scientific war, under a leader as little schooled as themselves in that particular, without other advantages than a slight field work (a ditch and a bank of earth) hastily thrown up—over double their numbers of British veterans, survivors of the wars of the French Revolution, victors in the Peninsula and at Toulouse, under trained generals of the Wellington school, and with a disparity of loss never before witnessed. On one side 700 killed (including the first, second and third generals); 1400 wounded; 500 taken prisoners. On the other, six privates killed, and seven wounded; and the total repulse of an invading army which instantly fled to its "wooden walls," and never again placed a hostile foot on American soil. Such an achievement is not ordinary, much less "very" ordinary. Does Mons. de Tocqueville judge the importance of victories by the numbers engaged, and the quantity of blood shed, or by their consequences? If the former, the cannonade on the heights of Valmy (which was not a battle, nor even a combat, but a distant cannon firing in which few were hurt), must seem to him a very insignificant affair. Yet it did what the marvellous victories of Champaubert, Montmirail, Château-Thierry, Vauchamps and Montereau could not do—turned back the invader, and saved the soil of France from the iron hoof of the conqueror's horse! and was commemorated twelve years afterwards by the great emperor in a ducal title bestowed upon one of its generals. The victory at New Orleans did what the connonade at Valmy did—drove back the invader! and also what it did not do—destroyed the one fourth part of his force. And, therefore, it is not to be disparaged, and will not be, by any one who judges victories by their consequences, instead of by the numbers engaged. And so the victory at New Orleans will remain in history as one of the great achievements of the world, in spite of the low opinion which the writer on American democracy entertains of it. But Mons. de Tocqueville's disparagement of General Jackson, and his achievement, does not stop at him and his victory. It goes beyond both, and reaches the American people, their republican institutions, and the elective franchise: It represents the people as incapable of self-government—as led off by a little military glare to elect a man twice President who had not one qualification for the place, who was violent and mediocre, and whom the enlightened classes opposed: all most unjustly said, but still to pass for American history in Europe, and with some Americans at home.

Regard for Mons. de Tocqueville is the cause of this correction of his errors: it is a piece of respect which I do not extend to the riffraff of European writers who come here to pick up the gossip of the highways, to sell it in Europe for American history, and to requite with defamation the hospitalities of our houses. He is not of that class: he is above it: he is evidently not intentionally unjust. But he is the victim of the company which he kept while among us; and his book must pay the penalty of the impositions practised upon him. The character of our country, and the cause of republican government, require his errors to be corrected: and, unhappily, I shall have further occasion to perform that duty.

39. Retiring Of Mr. Macon

Philosophic in his temperament and wise in his conduct, governed in all his actions by reason and judgment, and deeply imbued with Bible images, this virtuous and patriotic man (whom Mr. Jefferson called “the last of the Romans)” had long fixed the term of his political existence at the age which the Psalmist assigns for the limit of manly life: “The days of our years are threescore years and ten; and if by reason of strength they be fourscore years, yet is their strength labor and sorrow, for it is soon cut off, and we fly away.” He touched that age in 1828; and, true to all his purposes, he was true to his resolve in this, and executed it with the quietude and indifference of an ordinary transaction. He was in the middle of a third senatorial term, and in the full possession of all his faculties of mind and body; but his time for retirement had come—the time fixed by himself; but fixed upon conviction and for well-considered reasons, and inexorable to him as if fixed by fate. To the friends who urged him to remain to the end of his term, and who insisted that his mind was as good as ever, he would answer, that it was good enough yet to let him know that he ought to quit office before his mind quit him, and that he did not mean to risk the fate of the Archbishop of Grenada. He resigned his senatorial honors as he had worn them—meekly, unostentatiously, in a letter of thanks and gratitude to the General Assembly of his State;—and gave to repose at home that interval of thought and quietude which every wise man would wish to place between the turmoil of life and the stillness of eternity. He had nine years of this tranquil enjoyment, and died without pain or suffering June 29th, 1837,—characteristic in death as in life. It was eight o’clock in the morning when he felt that the supreme hour had come, had himself full-dressed with his habitual neatness, walked in the room and lay upon the bed, by turns conversing kindly with those who were about him, and showing by his conduct that he was ready and waiting, but hurrying nothing. It was the death of Socrates, all but the hemlock, and in that full faith of which the Grecian sage had only a glimmering. He directed his own grave on the point of a sterile ridge (where nobody would wish to plough), and covered with a pile of rough flint-stone, (which nobody would wish to build with), deeming this sterility and the uselessness of this rock the best security for that undisturbed repose of the bones which is still desirable to those who are indifferent to monuments.

In almost all strongly-marked characters there is usually some incident or sign, in early life, which shows that character, and reveals to the close observer the type of the future man. So it was with Mr. Macon. His firmness, his patriotism, his self-denial, his devotion to duty and disregard of office and emolument; his modesty, integrity, self-control, and subjection of conduct to the convictions of reason and the dictates of virtue, all so steadily exemplified in a long life, were all shown from the early age of eighteen, in the miniature representation of individual action, and only confirmed in the subsequent public exhibitions of a long, beautiful, and exalted career.

He was of that age, and a student at Princeton college, at the time of the Declaration of American Independence. A small volunteer corps was then on the Delaware. He quit his books, joined it, served a term, returned to Princeton, and resumed his studies. In the year 1778 the Southern States had become a battle-field, big with their own fate, and possibly involving the issue of the war. British fleets and armies appeared there, strongly supported by the friends of the British cause; and the conquest of the South was fully counted upon. Help was needed in these States; and Mr. Macon, quitting college, returned to his native county in North Carolina, joined a militia company as a private, and marched to South Carolina—then the theatre of the enemy’s operations. He had his share in all the hardships and disasters of

that trying time; was at the fall of Fort Moultrie, surrender of Charleston, defeat at Camden; and in the rapid winter retreat across the upper part of North Carolina. He was in the camp on the left bank of the Yadkin when the sudden flooding of that river, in the brief interval between the crossing of the Americans and the coming up of the British, arrested the pursuit of Cornwallis, and enabled Greene to allow some rest to his wearied and exhausted men. In this camp, destitute of every thing and with gloomy prospects ahead, a summons came to Mr. Macon from the Governor of North Carolina, requiring him to attend a meeting of the General Assembly, of which he had been elected a member, without his knowledge, by the people of his county. He refused to go: and the incident being talked of through the camp, came to the knowledge of the general. Greene was a *man* himself, and able to know a *man*. He felt at once that, if this report was true, this young soldier was no common character; and determined to verify the fact. He sent for the young man, inquired of him, heard the truth, and then asked for the reason of this unexpected conduct—this preference for a suffering camp over a comfortable seat in the General Assembly? Mr. Macon answered him, in his quaint and sententious way, that he had seen the *faces* of the British many times, but had never seen their *backs*, and meant to stay in the army till he did. Greene instantly saw the material the young man was made of, and the handle by which he was to be worked. That material was patriotism; that handle a sense of duty; and laying hold of this handle, he quickly worked the young soldier into a different conclusion from the one that he had arrived at. He told him he could do more good as a member of the General Assembly than as a soldier; that in the army he was but one man, and in the General Assembly he might obtain many, with the supplies they needed, by showing the destitution and suffering which he had seen in the camp; and that it was his duty to go. This view of duty and usefulness was decisive. Mr. Macon obeyed the Governor's summons; and by his representations contributed to obtain the supplies which enabled Greene to turn back and face Cornwallis,—fight him, cripple him, drive him further back than he had advanced (for Wilmington is South of Camden), disable him from remaining in the South (of which, up to the battle of Guilford, he believed himself to be master); and sending him to Yorktown, where he was captured, and the war ended.

The philosophy of history has not yet laid hold of the battle of Guilford, its consequences and effects. That battle made the capture at Yorktown. The events are told in every history; their connection and dependence in none. It broke up the plan of Cornwallis in the South, and changed the plan of Washington in the North. Cornwallis was to subdue the Southern States, and was doing it until Greene turned upon him at Guilford. Washington was occupied with Sir Henry Clinton, then in New-York, with 12,000 British troops. He had formed the heroic design to capture Clinton and his army (the French fleet co-operating) in that city, and thereby putting an end to the war. All his preparations were going on for that grand consummation when he got the news of the battle of Guilford; the retreat of Cornwallis to Wilmington, his inability to keep the field in the South, and his return northward through the lower part of Virginia. He saw his advantage—an easier prey—and the same result, if successful. Cornwallis or Clinton, either of them captured, would put an end to the war. Washington changed his plan, deceived Clinton, moved rapidly upon the weaker general, captured him and his 7000 men; and ended the revolutionary war. The battle of Guilford put that capture into Washington's hands; and thus Guilford and Yorktown became connected; and the philosophy of history shows their dependence, and that the lesser event was father to the greater. The State of North Carolina gave General Greene 25,000 acres of western land for that day's work, now worth a million of dollars; but the day itself has not yet obtained its proper place in American history.

The military life of Mr. Macon finished with his departure from the camp on the Yadkin, and his civil public life commenced on his arrival at the General Assembly, to which he had been

summoned—that civil public life in which he was continued above forty years by free elections—representative in Congress under Washington, Adams, Jefferson, and Madison, and long the Speaker of the House; senator in Congress under Madison, Monroe, and John Quincy Adams; and often elected President of the Senate, and until voluntarily declining; twice refusing to be Postmaster General under Jefferson; never taking any office but that to which he was elected; and resigning his last senatorial term when it was only half run. But a characteristic trait remains to be told of his military life—one that has neither precedent nor imitation (the example of Washington being out of the line of comparison): he refused to receive pay, or to accept promotion, and served three years as a private through mere devotion to his country. And all the long length of his life was conformable to this patriotic and disinterested beginning: and thus the patriotic principles of the future senator were all revealed in early life, and in the obscurity of an unknown situation. Conformably to this beginning, he refused to take any thing under the modern acts of Congress for the benefit of the surviving officers and soldiers of the Revolution, and voted against them all, saying they had suffered alike (citizens and military), and all been rewarded together in the establishment of independence; that the debt to the army had been settled by pay, by pensions to the wounded, by half-pay and land to the officers; that no military claim could be founded on depreciated continental paper money, from which the civil functionaries who performed service, and the farmers who furnished supplies, suffered as much as any. On this principle he voted against the bill for Lafayette, against all the modern revolutionary pensions and land bounty acts, and refused to take any thing under them (for many were applicable to himself).

His political principles were deep-rooted, innate, subject to no change and to no machinery of party. He was democratic in the broad sense of the word, as signifying a capacity in the people for self-government; and in its party sense, as in favor of a plain and economical administration of the federal government, and against latitudinarian constructions of the constitution. He was a party man, not in the hackneyed sense of the word, but only where principle was concerned and was independent of party in all his social relations, and in all the proceedings which he disapproved. Of this he gave a strong instance in the case of General Hamilton, whom he deemed honorable and patriotic; and utterly refused to be concerned in a movement proposed to affect him personally, though politically opposed to him. He venerated Washington, admired the varied abilities and high qualities of Hamilton; and esteemed and respected the eminent federal gentlemen of his time. He had affectionate regard for Madison and Monroe; but Mr. Jefferson was to him the full and perfect exemplification of the republican statesman. His almost fifty years of personal and political friendship and association with Mr. Randolph is historical, and indissolubly connects their names in memories in the recollection of their friends, and in history, if it does them justice. He was the early friend of General Jackson, and intimate with him when he was a senator in Congress under the administration of the elder Mr. Adams; and was able to tell Congress and the world who he was when he began to astonish Europe and America by his victories. He was the kind observer of the conduct of young men, encouraging them by judicious commendation when he saw them making efforts to become useful and respectable, and never noting their faults. He was just in all things, and in that most difficult of all things, judging political opponents,—to whom he would do no wrong, not merely in word or act, but in thought. He spoke frequently in Congress, always to the point, and briefly and wisely; and was one of those speakers which Mr. Jefferson described Dr. Franklin to have been—a speaker of no pretension and great performance,—who spoke more good sense while he was getting up out of his chair, and getting back into it, than many others did in long discourses; and he suffered no reporter to dress up a speech for him.

He was above the pursuit of wealth, but also above dependence and idleness; and, like an old Roman of the elder Cato's time, worked in the fields at the head of his slaves in the intervals of public duty; and did not cease this labor until advancing age rendered him unable to stand the hot sun of summer—the only season of the year when senatorial duties left him at liberty to follow the plough, or handle the hoe. I think it was the summer of 1817,—that was the last time (he told me) he tried it, and found the sun too hot for him—then sixty years of age, a senator, and the refuser of all office. How often I think of him, when I see at Washington robustious men going through a scene of supplication, tribulation, and degradation, to obtain office, which the salvation of the soul does not impose upon the vilest sinner! His fields, his flocks, and his herds yielded an ample supply of domestic productions. A small crop of tobacco—three hogsheads when the season was good, two when bad—purchased the exotics which comfort and necessity required, and which the farm did not produce. He was not rich, but rich enough to dispense hospitality and charity, to receive all guests in his house, from the President to the day laborer—no other title being necessary to enter his house but that of an honest man; rich enough to bring up his family (two daughters) as accomplished ladies, and marry them to accomplished gentlemen—one to William Martin, Esq., the other to William Eaton, Esq., of Roanoke, my early school-fellow and friend for more than half a century; and, above all, he was rich enough to pay as he went, and never to owe a dollar to any man.

He was steadfast in his friendships, and would stake himself for a friend, but would violate no point of public duty to please or oblige him. Of this his relations with Mr. Randolph gave a signal instance. He drew a knife to defend him in the theatre at Philadelphia, when menaced by some naval and military officers for words spoken in debate, and deemed offensive to their professions; yet, when speaker of the House of Representatives, he displaced Mr. Randolph from the head of the committee of ways and means, because the chairman of that committee should be on terms of political friendship with the administration,—which Mr. Randolph had then ceased to be with Mr. Jefferson's. He was above executive office, even the highest the President could give; but not above the lowest the people could give, taking that of justice of the peace in his county, and refusing that of Postmaster-General at Washington. He was opposed to nepotism, and to all quartering of his connections on the government; and in the course of his forty-years' service, with the absolute friendship of many administrations and the perfect respect of all, he never had office or contract for any of his blood. He refused to be a candidate for the vice-presidency, but took the place of elector on the Van Buren ticket in 1836. He was against paper money and the paper system, and was accustomed to present the strong argument against both in the simple phrase, that this was a hard-money government, made by hard-money men, who had seen the evil of paper-money, and meant to save their posterity from it. He was opposed to securityships, and held that no man ought to be entangled in the affairs of another, and that the interested parties alone—those who expected to find their profit in the transaction—should bear the bad consequences, as well as enjoy the good ones, of their own dealings. He never called any one "friend" without being so; and never expressed faith in the honor and integrity of a man without acting up to the declaration when the occasion required it. Thus, in constituting his friend Weldon N. Edwards, Esq., his testamentary and sole executor, with large discretionary powers, he left all to his honor, and forbid him to account to any court or power for the manner in which he should execute that trust. This prohibition so characteristic, and so honorable to both parties, and has been so well justified by the event, that I give it in his own words, as copied from his will, to wit:

"I subjoin the following, in my own handwriting, as a codicil to this my last will and testament, and direct that it be a part thereof—that is to say, having full faith in the honor and

integrity of my executor above named, he shall not be held to account to any court or power whatever for the discharge of the trust confided by me to him in and by the foregoing will."

And the event has proved that his judgment, as always, committed no mistake when it bestowed that confidence. He had his peculiarities—idiosyncracies, if any one pleases—but they were born with him, suited to him, constituting a part of his character, and necessary to its completeness. He never subscribed to charities, but gave, and freely, according to his means—the left hand not knowing what the right hand did. He never subscribed for new books, giving as a reason to the soliciting agent, that nobody purchased his tobacco until it was inspected; and he could buy no book until he had examined it. He would not attend the Congress Presidential Caucus of 1824, although it was sure to nominate his own choice (Mr. Crawford); and, when a reason was wanted, he gave it in the brief answer that he attended one once and they cheated him, and he had said that he would never attend another. He always wore the same dress—that is to say a suit of the same material, cut, and color, superfine navy blue—the whole suit from the same piece, and in the fashion of the time of the Revolution; and always replaced by a new one before it showed age. He was neat in his person, always wore fine linen, a fine cambric stock, a fine fur hat with a brim to it, fair top-boots—the boot outside of the pantaloons, on the principle that leather was stronger than cloth. He would wear no man's honors, and when complimented on the report on the Panama mission, which, as chairman of the committee on foreign relations, he had presented to the Senate, he would answer, "Yes; it is a good report; Tazewell wrote it." Left to himself, he was ready to take the last place, and the lowest seat any where; but in his representative capacity he would suffer no derogation of a constitutional or of a popular right. Thus, when Speaker of the House, and a place behind the President's Secretaries had been assigned him in some ceremony, he disregarded the programme; and, as the elect of the elect of all the people, took his place next after those whom the national vote had elected. And in 1803, on the question to change the form of voting for President and Vice-President, and the vote wanting one of the constitutional number of two thirds, he resisted the rule of the House which restricted the speaker's vote to a tie, or to a vote which would make a tie,—claimed his constitutional right to vote as a member, obtained it, gave the vote, made the two thirds, and carried the amendment. And, what may well be deemed idiosyncratic in these days, he was punctual in the performance of all his minor duties to the Senate, attending its sittings to the moment, attending all the committees to which he was appointed, attending all the funerals of the members and officers of the Houses, always in time at every place where duty required him; and refusing double mileage for one travelling, when elected from the House of Representatives to the Senate, or summoned to an extra session. He was an habitual reader and student of the Bible, a pious and religious man, and of the "*Baptist persuasion*," as he was accustomed to express it.

I have a pleasure in recalling the recollections of this wise, just, and good man, and in writing them down, not without profit, I hope, to rising generations, and at least as extending the knowledge of the kind of men to whom we are indebted for our independence, and for the form of government which they established for us. Mr. Macon was the real Cincinnatus of America, the pride and ornament of my native State, my hereditary friend through four generations, my mentor in the first seven years of my senatorial, and the last seven of his senatorial life; and a feeling of gratitude and of filial affection mingles itself with this discharge of historical duty to his memory.

40. Commencement Of General Jackson's Administration

On the 4th of March, 1829, the new President was inaugurated, with the usual ceremonies, and delivered the address which belongs to the occasion; and which, like all of its class, was a general declaration of the political principles by which the new administration would be guided. The general terms in which such addresses are necessarily conceived preclude the possibility of minute practical views, and leave to time and events the qualification of the general declarations. Such declarations are always in harmony with the grounds upon which the new President's election had been made, and generally agreeable to his supporters, without being repulsive to his opponents; harmony and conciliation being an especial object with every new administration. So of General Jackson's inaugural address on this occasion. It was a general chart of democratic principles; but of which a few paragraphs will bear reproduction in this work, as being either new and strong, or a revival of good old principles, of late neglected. Thus: as a military man his election had been deprecated as possibly leading to a military administration: on the contrary he thus expressed himself on the subject of standing armies, and subordination of the military to the civil authority: "Considering standing armies as dangerous to free government, in time of peace, I shall not seek to enlarge our present establishment; nor disregard that salutary lesson of political experience which teaches that the military should be held subordinate to the civil power." On the cardinal doctrine of economy, and freedom from public debt, he said: "Under every aspect in which it can be considered, it would appear that advantage must result from the observance of a strict and faithful economy. This I shall aim at the more anxiously, both because it will facilitate the extinguishment of the national debt—the unnecessary duration of which is incompatible with real independence;—and because it will counteract that tendency to public and private profligacy which a profuse expenditure of money by the government is but too apt to engender." Reform of abuses and non-interference with elections, were thus enforced: "The recent demonstration of public sentiment inscribes, on the list of executive duties, in characters too legible to be overlooked, the task of reform, which will require, particularly, the correction of those abuses that have brought the patronage of the federal government into conflict with the freedom of elections." The oath of office was administered by the venerable Chief Justice, Marshall, to whom that duty had belonged for about thirty years. The Senate, according to custom, having been convened in extra session for the occasion, the cabinet appointments were immediately sent in and confirmed. They were, Martin Van Buren, of New-York, Secretary of State (Mr. James A. Hamilton, of New-York, son of the late General Hamilton, being charged with the duties of the office until Mr. Van Buren could enter upon them); Samuel D. Ingham, of Pennsylvania, Secretary of the Treasury; John H. Eaton, of Tennessee, Secretary at War; John Branch, of North Carolina, Secretary of the Navy; John M. Berrien, of Georgia, Attorney General; William T. Harry, of Kentucky, Postmaster General; those who constituted the late cabinet, under Mr. Adams, only one of them, (Mr. John McLean, the Postmaster General,) classed politically with General Jackson; and a vacancy having occurred on the bench of the Supreme Court by the death of Mr. Justice Trimble, of Kentucky, Mr. McLean was appointed to fill it; and a further vacancy soon after occurring, the death of Mr. Justice Bushrod Washington (nephew of General Washington), Mr. Henry Baldwin, of Pennsylvania, was appointed in his place. The Twenty-first Congress dated the commencement of its legal existence on the day of the commencement of the new administration, and its members were as follows:

SENATE.

Maine—John Holmes, Peleg Sprague.

New Hampshire—Samuel Bell, Levi Woodbury.

Massachusetts—Nathaniel Silsbee, Daniel Webster.

Connecticut—Samuel A. Foot, Calvin Willey.

Rhode Island—Nehemiah R. Knight, Asher Robbins.

Vermont—Dudley Chase, Horatio Seymour.

New-York—Nathan Sanford, Charles E. Dudley.

New Jersey—Theodore Frelinghuysen, Mahlon Dickerson.

Pennsylvania—William Marks, Isaac D. Barnard.

Delaware—John M. Clayton, (*Vacant.*)

Maryland—Samuel Smith, Ezekiel F. Chambers.

Virginia—L. W. Tazewell, John Tyler.

North Carolina—James Iredell, (*Vacant.*)

South Carolina—William Smith, Robert Y. Hayne.

Georgia—George M. Troup, John Forsyth.

Kentucky—John Rowan, George M. Bibb.

Tennessee—Hugh L. White, Felix Grundy.

Ohio—Benjamin Ruggles, Jacob Burnet.

Louisiana—Josiah S. Johnston, Edward Livingston.

Indiana—William Hendricks, James Noble.

Mississippi—Powhatan Ellis, (*Vacant.*)

Illinois—Elias K. Kane, John McLane.

Alabama—John McKinley, William R. King.

Missouri—David Barton, Thomas H. Benton.

HOUSE OF REPRESENTATIVES.

Maine—John Anderson, Samuel Butman, George Evans, Rufus McIntire, James W. Ripley, Joseph F. Wingate—6. (*One vacant.*)

New Hampshire—John Brodhead, Thomas Chandler, Joseph Hammons, Jonathan Harvey, Henry Hubbard, John W. Weeks—6.

Massachusetts—John Bailey, Issac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, George Grennell, jr., James L. Hodges, Joseph G. Kendall, John Reed, Joseph Richardson, John Varnum—13.

Rhode Island—Tristam Burgess, Dutee J. Pearce—2.

Connecticut—Noyes Barber, Wm. W. Ellsworth, J. W. Huntington, Ralph J. Ingersoll, W. L. Storrs, Eben Young—6.

Vermont—William Cahoon, Horace Everett, Jonathan Hunt, Rollin C. Mallary, Benjamin Swift—5.

New-York—William G. Angel, Benedict Arnold, Thomas Beekman, Abraham Bockee, Peter I. Borst, C. C. Cambreleng, Jacob Crocheron, Timothy Childs, Henry B. Cowles, Hector Craig, Charles G. Dewitt, John D. Dickinson, Jonas Earll, jr., George Fisher, Isaac Finch, Michael Hoffman, Joseph Hawkins, Jehiel H. Halsey, Perkins King, James W. Lent, John Magee, Henry C. Martindale, Robert Monell, Thomas Maxwell, E. Norton, Gershom Powers, Robert S. Rose, Henry R. Storrs, James Strong, Ambrose Spencer, John W. Taylor, Phineas L. Tracy, Gulian. C. Verplanck, Campbell P. White—34.

New Jersey—Lewis Condict, Richard M. Cooper, Thomas H. Hughes, Isaac Pierson, James F. Randolph, Samuel Swan—6.

Pennsylvania—James Buchanan, Richard Coulter, Thomas H. Crawford, Joshua Evans, Chauncey Forward, Joseph Fry, jr., James Ford, Innes Green, John Gilmore, Joseph Hemphill, Peter Ihrie, jr., Thomas Irwin, Adam King, George G. Leiper, H. A. Muhlenburg, Alem Marr, Daniel H. Miller, William McCreery, William Ramsay, John Scott, Philander Stephens, John B. Sterigere, Joel B. Sutherland, Samuel Smith, Thomas H. Sill—25. (*One vacant.*)

Delaware—Kensy Johns, jr.—1.

Maryland—Elias Brown, Clement Dorsey, Benjamin C. Howard, George E. Mitchell, Michael C. Sprigg, Benedict I. Semmes, Richard Spencer, George C. Washington, Ephraim K. Wilson—9.

Virginia—Mark Alexander, Robert Allen, Wm. S. Archer, Wm. Armstrong, jr., John S. Barbour, Philip P. Barbour, J. T. Boulding, Richard Coke, jr., Nathaniel H. Claiborne, Robert B. Craig, Philip Doddridge, Thomas Davenport, William F. Gordon, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John Roane, Alexander Smyth, Andrew Stevenson, John Taliaferro, James Trezvant—22.

North Carolina—Willis Alston, Daniel L. Barringer, Samuel P. Carson, H. W. Conner, Edmund Deberry, Edward B. Dudley, Thomas H. Hall, Robert Potter, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams—12. (*One vacant.*)

South Carolina—Robert W. Barnwell, James Blair, John Campbell, Warren R. Davis, William Drayton, William D. Martin, George McDuffie, William T. Nuckolls, Starling Tucker—9.

Georgia—Thomas F. Forster, Charles E. Haynes, Wilson Lumpkin, Henry G. Lamar, Wiley Thompson, Richard H. Wilde, James M. Wayne—7.

Kentucky—James Clark, N. D. Coleman, Thomas Chilton, Henry Daniel, Nathan Gaither, R. M. Johnson, John Kinkaid, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Charles A. Wickliffe, Joel Yancey—12.

Tennessee—John Blair, John Bell, David Crockett, Robert Desha, Jacob C. Isacks, Cave Johnson, Pryor Lea, James K. Polk, James Standifer—9.

Ohio—Mordecai Bartley, Joseph H. Crane, William Creighton, James Findlay, John M. Goodenow, Wm. W. Irwin, Wm. Kennon, Wm. Russell, William Stanberry, James Shields, John Thomson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey—14.

Louisiana—Henry H. Gurley, W. H. Overton, Edward D. White—3.

Indiana—Ratliff Boon, Jonathan Jennings, John Test—3.

Alabama—R. E. B. Baylor, C. C. Clay, Dixon H. Lewis—3.

Mississippi—Thomas Hinds—1.

Illinois—Joseph Duncan—1.

Missouri—Spencer Pettis—1.

DELEGATES.

Michigan Territory—John Biddle—1.

Arkansas Territory—A. H. Sevier—1.

Florida Territory—Joseph M. White—1.

Andrew Stevenson, of Virginia, was re-elected speaker of the House, receiving 152 votes out of 191; and he classing politically with General Jackson, this large vote in his favor, and the small one against him (and that scattered and thrown away on several different names not candidates), announced a pervading sentiment among the people, in harmony with the presidential election—and showing that political principles, and not military glare, had produced the General's election.

41. The First Annual Message Of General Jackson To The Two Houses Of Congress

The first annual message of a new President, being always a recommendation of practical measures, is looked to with more interest than the inaugural address, confined as this latter must be, to a declaration of general principles. That of General Jackson, delivered the 8th of December, 1829, was therefore anxiously looked for; and did not disappoint the public expectation. It was strongly democratic, and contained many recommendations of a nature to simplify, and purify the working of the government, and to carry it back to the times of Mr. Jefferson—to promote its economy and efficiency, and to maintain the rights of the people, and of the States in its administration. On the subject of electing a President and Vice-President of the United States, he spoke thus:

"I consider it one of the most urgent of my duties to bring to your attention the propriety of amending that part of our Constitution which relates to the election of President and Vice-President. Our system of government was, by its framers, deemed an experiment; and they, therefore, consistently provided a mode of remedying its defects.

"To the people belongs the right of electing their chief magistrate: it was never designed that their choice should, in any case, be defeated, either by the intervention of electoral colleges, or by the agency confided, under certain contingencies, to the House of Representatives. Experience proves, that, in proportion as agents to execute the will of the people are multiplied, there is danger of their wishes being frustrated. Some may be unfaithful: all are liable to err. So far, therefore, as the people can, with convenience, speak, it is safer for them to express their own will.

"In this, as in all other matters of public concern, policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system, as that the office of chief magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

"I would therefore recommend such an amendment of the constitution as may remove all intermediate agency in the election of President and Vice-President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for, by confining the second to a choice between the two highest candidates. In connection with such an amendment, it would seem advisable to limit the service of the chief magistrate to a single term, of either four or six years. If, however, it should not be adopted, it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved, would not be proper."

This recommendation in relation to our election system has not yet been carried into effect, though doubtless in harmony with the principles of our government, necessary to prevent abuses, and now generally demanded by the voice of the people. But the initiation of amendments to the federal constitution is too far removed from the people. It is in the hands of Congress and of the State legislatures; but even there an almost impossible majority—that of two thirds of each House, or two thirds of the State legislatures—is required to commence the amendment; and a still more difficult majority—that of three fourths of the States—to complete it. Hitherto all attempts to procure the desired amendment has failed; but the friends of that reform should not despair. The great British parliamentary reform was only obtained

after forty years of annual motions in parliament; and forty years of organized action upon the public mind through societies, clubs, and speeches; and the incessant action of the daily and periodical press. In the meantime events are becoming more impressive advocates for this amendment than any language could be. The selection of President has gone from the hands of the people—usurped by irresponsible and nearly self-constituted bodies—in which the selection becomes the result of a juggle, conducted by a few adroit managers, who baffle the nomination until they are able to govern it, and to substitute their own will for that of the people. Perhaps another example is not upon earth of a free people voluntarily relinquishing the elective franchise, in a case so great as that of electing their own chief magistrate, and becoming the passive followers of an irresponsible body—juggled, and baffled, and governed by a few dextrous contrivers, always looking to their own interest in the game which they play in putting down and putting up men. Certainly the convention system, now more unfair and irresponsible than the exploded congress caucus system, must eventually share the same fate, and be consigned to oblivion and disgrace. In the meantime the friends of popular election should press the constitutional amendment which would give the Presidential election to the people, and discard the use of an intermediate body which disregards the public will and reduces the people to the condition of political automatons.

Closely allied to this proposed reform was another recommended by the President in relation to members of Congress, and to exclude them generally from executive appointments; and especially from appointments conferred by the President for whom they voted. The evil is the same whether the member votes in the House of Representatives when the election goes to that body, or votes and manages in a Congress caucus, or in a nominating convention. The act in either case opens the door to corrupt practices; and should be prevented by legal, or constitutional enactments, if it cannot be restrained by the feelings of decorum, or repressed by public opinion. On this point the message thus recommended:

“While members of Congress can be constitutionally appointed to offices of trust and profit, it will be the practice, even under the most conscientious adherence to duty, to select them for such stations as they are believed to be better qualified to fill than other citizens; but the purity of our government would doubtless be promoted by their exclusion from all appointments in the gift of the President in whose election they may have been officially concerned. The nature of the judicial office, and the necessity of securing in the cabinet and in diplomatic stations of the highest rank, the best talents and political experience, should, perhaps, except these from the exclusion.”

On the subject of a navy, the message contained sentiments worthy of the democracy in its early day, and when General Jackson was a member of the United States Senate. The republican party had a POLICY then in respect to a navy: it was, a navy for DEFENCE, instead of CONQUEST; and limited to the protection of our coasts and commerce. That policy was impressively set forth in the celebrated instructions to the Virginia senators in the year 1800, in which it was said:

“With respect to the navy, it may be proper to remind you that whatever may be the proposed object of its establishment, or whatever may be the prospect of temporary advantages resulting therefrom, it is demonstrated by the experience of all nations, who have ventured far into naval policy, that such prospect is ultimately delusive; and that a navy has ever in practice been known more as an instrument of power, a source of expense, and an occasion of collisions and wars with other nations, than as an instrument of defence, of economy, or of protection to commerce.”

These were the doctrines of the republican party, in the early stage of our government—in the great days of Jefferson and his compeers. We had a policy then—the result of thought, of

judgment, and of experience: a navy for defence, and not for conquest: and, consequently, confinable to a limited number of ships, adequate to their defensive object—instead of thousands, aiming at the dominion of the seas. That policy was overthrown by the success of our naval combats during the war; and the idea of a great navy became popular, without any definite view of its cost and consequences. Admiration for good fighting did it, without having the same effect on the military policy. Our army fought well also, and excited admiration; but without subverting the policy which interdicted standing armies in time of peace. The army was cut down in peace: the navy was building up in peace. In this condition President Jackson found the two branches of the service—the army reduced by two successive reductions from a large body to a very small one—6000 men—and although illustrated with military glory yet refusing to recommend an army increase: the navy, from a small one during the war, becoming large during the peace—gradual increase the law—ship-building the active process, and rotting down the active effect; and thus we have been going on for near forty years. Correspondent to his army policy was that of President Jackson in relation to the navy; he proposed a pause in the process of ship-building and ship-rotting. He recommended a total cessation of the further building of vessels of the first and second class—ships of the line, and frigates—with a collection of materials for future use—and the limitation of our naval policy to the object of commercial protection. He did not even include coast defence, his experience having shown him that the men on shore could defend the land. In a word, he recommended a naval policy; and that was the same which the republicans of 1798 had adopted, and which Virginia made obligatory upon her senators in 1800; and which, under the blaze of shining victories, had yielded to the blind, and aimless, and endless operation of building and rotting peaceful ships of war. He said:

"In time of peace, we have need of no more ships of war than are requisite to the protection of our commerce. Those not wanted for this object must lay in the harbors, where, without proper covering, they rapidly decay; and, even under the best precautions for their preservation, must soon become useless. Such is already the case with many of our finest vessels; which, though unfinished, will now require immense sums of money to be restored to the condition in which they were, when committed to their proper element. On this subject there can be but little doubt that our best policy would be, to discontinue the building of ships of the first and second class, and look rather to the possession of ample materials, prepared for the emergencies of war, than to the number of vessels which we can float in a season of peace, as the index of our naval power."

This was written twenty years ago, and by a President who saw what he described—many of our finest ships going to decay before they were finished—demanding repairs before they had sailed—and costing millions for which there was no return. We have been going on at the same rate ever since—building, and rotting, and sinking millions; but little to show for forty years of ship-carpentry; and that little nothing to do but to cruise where there is nothing to catch, and to carry out ministers to foreign courts who are not quite equal to the Franklins, Adamses and Jeffersons—the Pinckneys, Rufus Kings, and Marshalls—the Clays, Gallatins and Bayards—that went out in common merchant vessels. Mr. Jefferson told me that this would be the case twenty-five years ago when naval glory overturned national policy, and when a navy board was created to facilitate ship-construction. But this is a subject which will require a chapter of its own, and is only incidentally mentioned now to remark that we have no policy with respect to a navy, and ought to have one—that there is no middle point between defence and conquest—and no sequence to a conquering navy but wars with the world,—and the debt, taxes, pension list, and pauper list of Great Britain.

The inutility of a Bank of the United States as a furnisher of a sound and uniform currency, and of questionable origin under our constitution, was thus stated:

“The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the legislature and the people. Both the constitutionality and the expediency of the law creating this bank, are well questioned by a large portion of our fellow-citizens; and it must be admitted by all, that it has failed in the great end of establishing a uniform and sound currency.”

This is the clause which party spirit, and bank tactics, perverted at the time (and which has gone into history), into an attack upon the bank—a war upon the bank—with a bad motive attributed for a war so wanton. At the same time nothing could be more fair, and just, and more in consonance with the constitution which requires the President to make the legislative recommendations which he believes to be proper. It was notice to all concerned—the bank on one side, and the people on the other—that there would be questions, and of high import—constitutionality and expediency—if the present corporators, at the expiration of their charter, should apply for a renewal of their privileges. It was an intimation against the institution, not against its administrators, to whom a compliment was paid in another part of the same message, in ascribing to the help of their “judicious arrangement” the averting of the mercantile pressure which might otherwise have resulted from the sudden withdrawal of the twelve and a half millions which had just been taken from the bank and applied to the payment of the public debt. But of this hereafter. The receipts and expenditures were stated, respectively, for the preceding year, and estimated for the current year, the former at a fraction over twenty-four and a half millions—the latter a fraction over twenty-six millions—with large balances in the treasury, exhibiting the constant financial paradox, so difficult to be understood, of permanent annual balances with an even, or even deficient revenue. The passage of the message is in these words:

“The balance in the treasury on the 1st of January, 1829, was five millions nine hundred and seventy-two thousand four hundred and thirty-five dollars and eighty-one cents. The receipts of the current year are estimated at twenty-four millions, six hundred and two thousand, two hundred and thirty dollars, and the expenditures for the same time at twenty-six millions one hundred and sixty-four thousand five hundred and ninety-five dollars; leaving a balance in the treasury on the 1st of January next, of four millions four hundred and ten thousand and seventy dollars, eighty-one cents.”

Other recommendations contained the sound democratic doctrines—speedy and entire extinction of the public debt—reduction of custom-house duties—equal and fair incidental protection to the great national interests (agriculture, manufactures and commerce)—the disconnection of politics and tariffs—and the duty of retrenchment by discontinuing and abolishing all useless offices. In a word, it was a message of the old republican school, in which President Jackson had been bred; and from which he had never departed; and which encouraged the young disciples of democracy, and consoled the old surviving fathers of that school.

42. The Recovery Of The Direct Trade With The British West India Islands

The recovery of this trade had been a large object with the American government from the time of its establishment. As British colonies we enjoyed it before the Revolution; as revolted colonies we lost it; and as an independent nation we sought to obtain it again. The position of these islands, so near to our ports and shores—the character of the exports they received from us, being almost entirely the product of our farms and forests, and their large amount, always considerable, and of late some four millions of dollars per annum—the tropical productions which we received in return, and the large employment it gave to our navigation—all combined to give a cherished value to this branch of foreign trade, and to stimulate our government to the greatest exertions to obtain and secure its enjoyment; and with the advantage of being carried on by our own vessels. But these were objects not easily attainable, and never accomplished until the administration of President Jackson. All powers are jealous of alien intercourse with their colonies, and have a natural desire to retain colonial trade in their own hands, both for commercial and political reasons; and have a perfect right to do so if they please. Partial and conditional admission to trade with their colonies, or total exclusion from them, is in the discretion of the mother country; and any participation in their trade by virtue of treaty stipulations or legislative enactment, is the result of concession—generally founded in a sense of self-interest, or at best in a calculation of mutual advantage. No less than six negotiations (besides several attempts at "concerted legislation") had been carried on between the United States and Great Britain on this subject; and all, until the second year of General Jackson's administration, resulting in nothing more than limited concessions for a year, or for short terms; and sometimes coupled with conditions which nullified the privilege. It was a primary object of concern with General Washington's administration; and a knowledge of the action then had upon it elucidates both the value of the trade, the difficulty of getting admission to its participation, and the right of Great Britain to admit or deny its enjoyment to others. General Washington had practical knowledge on the subject. He had seen it enjoyed, and lost—enjoyed as British subjects, lost as revolted colonies and independent states—and knew its value, both from the use and the loss, and was most anxious to recover it. It was almost the first thing, in our foreign relations, to which he put his hand on becoming President; and literally did he put his hand to it. For as early as the 14th of October, 1789—just six months after his inauguration—in a letter of unofficial instructions to Mr. Gouverneur Morris, then in Europe, written with his own hand (requesting him to sound the British government on the subject of a commercial treaty with the United States), a point that he made was to ascertain their views in relation to allowing us the "privilege" of this trade. Privilege was his word, and the instruction ran thus: "Let it be strongly impressed on your mind that the privilege of carrying our productions in our own vessels to their islands, and bringing, in return, the productions of those islands to our ports and markets, is regarded here as of the highest importance," &c.

It was a prominent point in our very first negotiation with Great Britain in 1794; and the instructions to Mr. Jay, in May of that year, shows that admission to the trade was then only asked as a privilege, as in the year '89 and upon terms of limitation and condition. This is so material to the right understanding of this question, and to the future history of the case, and especially of a debate and vote in the Senate, of which President Jackson's instructions through Mr. Van Buren on the same subject was made the occasion, that I think it right to give the instructions of President Washington to Mr. Jay in his own words. They were these:

“If to the actual footing of our commerce and navigation in the British European dominions could be added the privilege of carrying directly from the United States to the British West Indies in our own bottoms generally, or of certain specified burthens, the articles which by the Act of Parliament, 28, Geo. III., chap. 6, may be carried thither in British bottoms, and of bringing them thence directly to the United States in American bottoms, this would afford an acceptable basis of treaty for a term not exceeding fifteen years.”

An article was inserted in the treaty in conformity to these principles—our carrying vessels limited in point of burthen to seventy tons and under; the privilege limited in point of duration to the continuance of the then existing war between Great Britain and the French Republic, and to two years after its termination; and restricted in the return cargo both as to the nature of the articles and the port of their destination. These were hard terms, and precarious, and the article containing them was “suspended” by the Senate in the act of ratification, in the hope to obtain better; and are only quoted here in order to show that this direct trade to the British West Indies was, from the beginning of our federal government, only sought as a privilege, to be obtained under restrictions and limitations, and subordinately to British policy and legislation. This was the end of the first negotiation; five others were had in the ensuing thirty years, besides repeated attempts at “concerted legislation”—all ending either abortively or in temporary and unsatisfactory arrangements.

The most important of these attempts was in the years 1822 and 1823: and as it forms an essential item in the history of this case, and shows, besides, the good policy of letting “well-enough” alone, and the great mischief of inserting an apparently harmless word in a bill of which no one sees the drift but those in the secret, I will here give its particulars, adopting for that purpose the language of senator Samuel Smith, of Maryland,—the best qualified of all our statesmen to speak on the subject, he having the practical knowledge of a merchant in addition to experience as a legislator. His statement is this:

“During the session of 1822, Congress was informed that an act was pending in Parliament for the opening of the colonial ports to the commerce of the United States. In consequence, an act was passed authorizing the President (then Mr. Monroe), in case the act of Parliament was satisfactory to him, to open the ports of the United States to British vessels by his proclamation. The act of Parliament was deemed satisfactory, and a proclamation was accordingly issued, and the trade commenced. Unfortunately for our commerce, and I think contrary to justice, a treasury circular issued, directing the collectors to charge British vessels entering our ports with the alien tonnage and discriminating duties. This order was remonstrated against by the British minister (I think Mr. Vaughan). The trade, however, went on uninterrupted. Congress met and a bill was drafted in 1823 by Mr. Adams, then Secretary of State, and passed both Houses, with little, if any, debate. I voted for it, believing that it met, in a spirit of reciprocity, the British act of Parliament. This bill, however, contained one little word, “elsewhere,” which completely defeated all our expectations. It was noticed by no one. The senator from Massachusetts (Mr. Webster) may have understood its effect. If he did so understand it, he was silent. The effect of that word “elsewhere” was to assume the pretensions alluded to in the instructions to Mr. McLane. (Pretension to a “right” in the trade.) The result was, that the British government shut their colonial ports immediately, and thenceforward. This act of 1822 gave us a monopoly (virtually) of the West India trade. It admitted, free of duty, a variety of articles, such as Indian corn, meal, oats, peas, and beans. The British government thought we entertained a belief that they could not do without our produce, and by their acts of the 27th June and 5th July, 1825, they opened their ports to all the world, on terms far less advantageous to the United States, than those of the act of 1822.”

Such is the important statement of General Smith. Mr. Webster was present at the time, and said nothing. Both these acts were clear rights on the part of Great Britain, and that of 1825 contained a limitation upon the time within which each nation was to accept the privilege it offered, or lose the trade for ever. This legislative privilege was accepted by all nations which had any thing to send to the British West Indies, except the United States. Mr. Adams did not accept the proffered privilege—undertook to negotiate for better terms—failed in the attempt—and lost all. Mr. Clay was Secretary of State, Mr. Gallatin the United States Minister in London, and the instructions to him were, to insist upon it as a "right" that our produce should be admitted on the same terms on which produce from the British possessions were admitted.—This was the "elsewhere," &c. The British government refused to negotiate; and then Mr. Gallatin was instructed to waive temporarily the demand of right, and accept the privilege offered by the act of 1825. But in the mean time the year allowed in the act for its acceptance had expired, and Mr. Gallatin was told that his offer was too late! To that answer the British ministry adhered; and, from the month of July, 1826, the direct trade to the British West Indies was lost to our citizens, leaving them no mode of getting any share in that trade, either in sending out our productions or receiving theirs, but through the expensive, tedious, and troublesome process of a circuitous voyage and the intervention of a foreign vessel. The shock and dissatisfaction in the United States were extreme at this unexpected bereavement; and that dissatisfaction entered largely into the political feelings of the day, and became a point of attack on Mr. Adams's administration, and an element in the presidential canvass which ended in his defeat.

In giving an account of this untoward event to his government, Mr. Gallatin gave an account of his final interview with Mr. Huskisson, from which it appeared that the claim of "right" on the part of the United States, on which Mr. Gallatin had been instructed to "insist" was "temporarily waived;" but without effect. Irritation, on account of old scores, as expressed by Mr Gallatin—or resentment at our pertinacious persistence to secure a "right" where the rest of the world accepted a "privilege," as intimated by Mr. Huskisson—mixed itself with the refusal; and the British government adhered to its absolute right to regulate the foreign trade of its colonies, and to treat us as it did the rest of the world. The following are passages from Mr. Gallatin's dispatch, from London, September 11, 1827:

"Mr. Huskisson said it was the intention of the British government to consider the intercourse of the British colonies as being exclusively under its control, and any relaxation from the colonial system as an indulgence, to be granted on such terms as might suit the policy of Great Britain at the time it was granted. I said every question of *right* had, on this occasion, been waived on the part of the United States, the only object of the present inquiry being to ascertain whether, as a matter of mutual convenience, the intercourse might not be opened in a manner satisfactory to both countries. He (Mr. H.) said that it had appeared as if America had entertained the opinion that the British West Indies could not exist without her supplies; and that she might, therefore, compel Great Britain to open the intercourse on any terms she pleased. I disclaimed any such belief or intention on the part of the United States. But it appeared to me, and I intimated it, indeed, to Mr. Huskisson, that he was acting rather under the influence of irritated feelings, on account of past events, than with a view to the mutual interests of both parties."

This was Mr. Gallatin's last dispatch. An order in council was issued, interdicting the trade to the United States; and he returned home. Mr. James Barbour, Secretary at War, was sent to London to replace him, and to attempt again the repulsed negotiation; but without success. The British government refused to open the question: and thus the direct access to this valuable commerce remained sealed against us. President Adams, at the commencement of the session of Congress, 1827-28, formally communicated this fact to that body, and in terms

which showed at once that an insult had been received, an injury sustained, redress refused, and ill-will established between the two governments. He said:

"At the commencement of the last session of Congress, they were informed of the sudden and unexpected exclusion by the British government, of access, in vessels of the United States, to all their colonial ports, except those immediately bordering upon our own territory.

"In the amicable discussions which have succeeded the adoption of this measure, which, as it affected harshly the interests of the United States, became a subject of expostulation on our part, the principles upon which its justification has been placed have been of a diversified character. It has at once been ascribed to a mere recurrence to the old long-established principle of colonial monopoly, and at the same time to a feeling of resentment, because the offers of an act of Parliament, opening the colonial ports upon certain conditions, had not been grasped at with sufficient eagerness by as instantaneous conformity to them. At a subsequent period it has been intimated that the new exclusion was in resentment, because a prior act of Parliament, of 1822, opening certain colonial ports, under heavy and burdensome restrictions, to vessels of the United States, had not been reciprocated by an admission of British vessels from the colonies, and their cargoes, without any restriction or discrimination whatever. But, be the motive for the interdiction what it may, the British government have manifested no disposition, either by negotiation or by corresponding legislative enactments, to recede from it; and we have been given distinctly to understand that neither of the bills which were under the consideration of Congress at their last session, would have been deemed sufficient in their concessions to have been rewarded by any relaxation from the British interdict. The British government have not only declined negotiation upon the subject, but, by the principle they have assumed with reference to it, have precluded even the means of negotiation. It becomes not the self-respect of the United States, either to solicit gratuitous favours, or to accept, as the grant of a favor, that for which an ample equivalent is exacted."

This was the communication of Mr. Adams to Congress, and certainly nothing could be more vexatious or hopeless than the case which he presented—an injury, an insult, a rebuff, and a refusal to talk with us upon the subject. Negotiation, and the hope of it, having thus terminated, President Adams did what the laws required of him, and issued his proclamation making known to the country the total cessation of all direct commerce between the United States and the British West India Islands.

The loss of this trade was a great injury to the United States (besides the insult), and was attended by circumstances which gave it the air of punishment for something that was past. It was a rebuff in the face of Europe; for while the United States were sternly and unceremoniously cut off from the benefit of the act of 1825, for omission to accept it within the year, yet other powers in the same predicament (France, Spain and Russia) were permitted to accept after the year; and the "irritated feelings" manifested by Mr. Huskisson indicated a resentment which was finding its gratification. We were ill-treated, and felt it. The people felt it. It was an ugly case to manage, or to endure; and in this period of its worst aspect General Jackson was elected President.

His position was delicate and difficult. His election had been deprecated as that of a rash and violent man, who would involve us in quarrels with foreign nations; and here was a dissension with a great nation lying in wait for him—prepared to his hand—the legacy of his predecessor—either to be composed satisfactorily, or to ripen into retaliation and hostility; for it was not to be supposed that things could remain as they were. He had to choose between an attempt at amicable recovery of the trade by new overtures, or retaliation—leading to, it is not known what. He determined upon the first of these alternatives, and Mr. Louis McLane, of Delaware, was selected for the delicate occasion. He was sent minister to

London; and in renewing an application which had been so lately and so categorically rejected, some reason had to be given for a persistance which might seem both importunate and desperate, and even deficient in self-respect; and that reason was found in the simple truth that there had been a change of administration in the United States, and with it a change of opinion on the subject, and on the essential point of a "right" in us to have our productions admitted into her West Indies on the same terms as British productions were received; that we were willing to take the trade as a "privilege," and simply and unconditionally, under the act of Parliament of 1825. Instructions to that effect had been drawn up by Mr. Van Buren, Secretary of State, under the special directions of General Jackson, who took this early occasion to act upon his cardinal maxim in our foreign intercourse: "*Ask nothing but what is right—submit to nothing wrong.*" This frank and candid policy had its effect. The great object was accomplished. The trade was recovered; and what had been lost under one administration, and precariously enjoyed under others, and been the subject of fruitless negotiation for forty years, and under six different Presidents—Washington, John Adams, Jefferson, Madison, Monroe, Quincy Adams—with all their accomplished secretaries and ministers, was now amicably and satisfactorily obtained under the administration of General Jackson; and upon the basis to give it perpetuity—that of mutual interest and actual reciprocity. The act of Parliament gave us the trade on terms nearly as good as those suggested by Washington in 1789; fully as good as those asked for by him in 1794; better than those inserted in the treaty of that year, and suspended by the Senate; and, though nominally on the same terms as given to the rest of the world, yet practically better, on account of our proximity to this British market; and our superabundance of articles (chiefly provisions and lumber) which it wants. And the trade has been enjoyed under this act ever since, with such entire satisfaction, that there is already an oblivion of the forty years' labor which it cost us to obtain it; and a generation has grown up, almost without knowing to whom they are indebted for its present enjoyment. But it made its sensation at the time, and a great one. The friends of the Jackson administration exulted; the people rejoiced; gratification was general—but not universal; and these very instructions, under which such great and lasting advantages had been obtained, were made the occasion in the Senate of the United States of rejecting their ostensible author as a minister to London. But of this hereafter.

The auspicious conclusion of so delicate an affair was doubtless first induced by General Jackson's frank policy in falling back upon Washington's ground of "privilege," in contradistinction to the new pretension of "right,"—helped out a little, it may be, by the possible after-clap suggested in the second part of his maxim. Good sense and good feeling may also have had its influence, the trade in question being as desirable to Great Britain as to the United States, and better for each to carry it on direct in their own vessels, than circuitously in the vessels of others; and the articles on each side being of a kind to solicit mutual exchange—tropical productions on one part, and those of the temperate zone on the other. But there was one thing which certainly contributed to the good result, and that was the act of Congress of May 29th, of which General Samuel Smith, senator from Maryland, was the chief promoter; and by which the President was authorized, on the adoption of certain measures by Great Britain, to open the ports of the United States to her vessels on reciprocal terms. The effect of this act was to strengthen General Jackson's candid overture; and the proclamation opening the trade was issued October the 5th, 1830, in the second year of the first term of the administration of President Jackson. And under that proclamation this long desired trade has been enjoyed ever since, and promises to be enjoyed in after time co-extendingly with the duration of peace between the two countries.

43. Establishment Of The Globe Newspaper

At a presidential levee in the winter of 1830-'31, Mr. Duff Green, editor of the *Telegraph* newspaper, addressed a person then and now a respectable resident of Washington city (Mr. J. M. Duncanson), and invited him to call at his house, as he had something to say to him which would require a confidential interview. The call was made, and the object of the interview disclosed, which was nothing less than to engage his (Mr. Duncanson's) assistance in the execution of a scheme in relation to the next presidential election, in which General Jackson should be prevented from becoming a candidate for re-election, and Mr. Calhoun should be brought forward in his place. He informed Mr. Duncanson that a rupture was impending between General Jackson and Mr. Calhoun; that a correspondence had taken place between them, brought about (as he alleged) by the intrigues of Mr. Van Buren; that the correspondence was then in print, but its publication delayed until certain arrangements could be made; that the democratic papers at the most prominent points in the States were to be first secured; and men well known to the people as democrats, but in the exclusive interest of Mr. Calhoun, placed in charge of them as editors; that as soon as the arrangements were complete, the *Telegraph* would startle the country with the announcement of the difficulty (between General Jackson and Mr. Calhoun), and the motive for it; and that all the secured presses, taking their cue from the *Telegraph*, would take sides with Mr. Calhoun, and cry out at the same time; and the storm would seem to be so universal, and the indignation against Mr. Van Buren would appear to be so great, that even General Jackson's popularity would be unable to save him.

Mr. Duncanson was then invited to take part in the execution of this scheme, and to take charge of the Frankfort (Kentucky) *Argus*; and flattering inducements held out to encourage him to do so. Mr. Duncanson expressed surprise and regret at all that he heard—declared himself the friend of General Jackson, and of his re-election—opposed to all schemes to prevent him from being a candidate again—a disbeliever in their success, if attempted—and made known his determination to reveal the scheme, if it was not abandoned. Mr. Green begged him not to do so—said that the plan was not fully agreed upon; and might not be carried out. This was the end of the first interview. A few days afterwards Mr. Green called on Mr. Duncanson, and informed him that a rupture was now determined upon, and renewed his proposition that he should take charge of some paper, either as proprietor, or as editor on a liberal salary—one that would tell on the farmers and mechanics of the country, and made so cheap as to go into every workshop and cabin. Mr. Duncanson was a practical printer—owned a good job office—was doing a large business, especially for the departments—and only wished to remain as he was. Mr. Green offered, in both interviews, to relieve him from that concern by purchasing it from him, and assured him that he would otherwise lose the printing of the departments, and be sacrificed. Mr. Duncanson again refused to have any thing to do with the scheme, consulted with some friends, and caused the whole to be communicated to General Jackson. The information did not take the General by surprise; it was only a confirmation of what he well suspected, and had been wisely providing against. The history of the movement in Mr. Monroe's cabinet, to bring him before a military court, for his invasion of Spanish territory during the Seminole war, had just come to his knowledge; the doctrine of nullification had just been broached in Congress; his own patriotic toast: "The Federal Union: it must be preserved"—had been delivered; his own intuitive sagacity told him all the rest—the breach with Mr. Calhoun, the defection of the *Telegraph*, and the necessity for a new paper at Washington, faithful, fearless and incorruptible.

The *Telegraph* had been the central metropolitan organ of his friends and of the democratic party, during the long and bitter canvass which ended in the election of General Jackson, in 1828. Its editor had been gratified with the first rich fruits of victory—the public printing of the two Houses of Congress, the executive patronage, and the organship of the administration. The paper was still (in 1830) in its columns, and to the public eye, the advocate and supporter of General Jackson; but he knew what was to happen, and quietly took his measures to meet an inevitable contingency. In the summer of 1830, a gentleman in one of the public offices showed him a paper, the Frankfort (Kentucky) *Argus*, containing a powerful and spirited review of a certain nullification speech in Congress. He inquired for the author, ascertained him to be Mr. Francis P. Blair—not the editor, but an occasional contributor to the *Argus*—and had him written to on the subject of taking charge of a paper in Washington. The application took Mr. Blair by surprise. He was not thinking of changing his residence and pursuits. He was well occupied where he was—clerk of the lucrative office of the State Circuit Court at the capital of the State, salaried president of the Commonwealth Bank (by the election of the legislature), and proprietor of a farm and slaves in that rich State. But he was devoted to General Jackson and his measures, and did not hesitate to relinquish his secure advantages at home to engage in the untried business of editor at Washington. He came—established the *Globe* newspaper—and soon after associated with John C. Rives,—a gentleman worthy of the association and of the confidence of General Jackson and of the democratic party: and under their management the paper became the efficient and faithful organ of the administration during the whole period of his service, and that of his successor, Mr. Van Buren. It was established in time, and just in time, to meet the advancing events at Washington City. All that General Jackson had foreseen in relation to the conduct of the *Telegraph*, and all that had been communicated to him through Mr. Duncanson, came to pass: and he found himself, early in the first term of his administration, engaged in a triple war—with nullification, the Bank of the United States, and the whig party:—and must have been without defence or support from the newspaper press at Washington had it not been for his foresight in establishing the *Globe*.

44. Limitation Of Public Land Sales. Suspension Of Surveys. Abolition Of The Office Of Surveyor General. Origin Of The United States Land System. Authorship Of The Anti-Slavery Ordinance Of 1778. Slavery Controversy. Protective Tariff. Inception Of The Doctrine Of Nullification

At the commencement of the session 1829-'30, Mr. Foot, of Connecticut, submitted in the Senate a resolution of inquiry which excited much feeling among the western members of that body. It was a proposition to inquire into the expediency of limiting the sales of the public lands to those then in market—to suspend the surveys of the public lands—and to abolish the office of Surveyor General. The effect of such a resolution, if sanctioned upon inquiry and carried into legislative effect, would have been to check emigration to the new States in the West—to check the growth and settlement of these States and territories—and to deliver up large portions of them to the dominion of wild beasts. In that sense it was immediately taken up by myself, and other western members, and treated as an injurious proposition—insulting as well as injurious—and not fit to be considered by a committee, much less to be reported upon and adopted. I opened the debate against it in a speech, of which the following is an extract:

"Mr. Benton disclaimed all intention of having anything to do with the motives of the mover of the resolution: he took it according to its effect and operation, and conceiving this to be eminently injurious to the rights and interests of the new States and Territories, he should justify the view which he had taken, and the vote he intended to give, by an exposition of facts and reasons which would show the disastrous nature of the practical effects of this resolution.

"On the first branch of these effects—checking emigration to the West—it is clear, that, if the sales are limited to the lands now in market, emigration will cease to flow; for these lands are not of a character to attract people at a distance. In Missouri they are the refuse of forty years picking under the Spanish Government, and twenty more under the Government of the United States. The character and value of this refuse had been shown, officially, in the reports of the Registers and Receivers, made in obedience to a call from the Senate. Other gentlemen would show what was said of it in their respective States; he would confine himself to his own, to the State of Missouri, and show it to be miserable indeed. The St. Louis District, containing two and a quarter millions of acres, was estimated at an average value of fifteen cents per acre; the Cape Girardeau District, containing four and a half millions of acres, was estimated at twelve and a half cents per acre; the Western District, containing one million and three quarters of acres, was estimated at sixty-two and a half cents; from the other two districts there was no intelligent or pertinent return; but assuming them to be equal to the Western District, and the average value of the lands they contain would be only one half the amount of the present minimum price. This being the state of the lands in Missouri which would be subject to sale under the operation of this resolution, no emigrants would be attracted to them. Persons who remove to new countries want new lands, first choices; and if they cannot get these, they have no sufficient inducement to move.

“The second ill effect to result from this resolution, supposing it to ripen into the measures which it implies to be necessary would be in limiting the settlements in the new States and Territories. This limitation of settlement would be the inevitable effect of confining the sales to the lands now in market. These lands in Missouri, only amount to one third of the State. By consequence, only one third could be settled. Two thirds of the State would remain without inhabitants; the resolution says, for ‘a certain period,’ and the gentlemen, in their speeches, expound this certain period to be seventy-two years. They say seventy-two millions of acres are now in market; that we sell but one million a year; therefore, we have enough to supply the demand for seventy-two years. It does not enter their heads to consider that, if the price was adapted to the value, all this seventy-two millions that is fit for cultivation would be sold immediately. They must go on at a million a year for seventy-two years, the Scripture term of the life of man—a long period in the age of a nation; the exact period of the Babylonish captivity—a long and sorrowful period in the history of the Jews; and not less long nor less sorrowful in the history of the West, if this resolution should take effect.

“The third point of objection is, that it would deliver up large portions of new States and Territories to the dominion of wild beasts. In Missouri, this surrender would be equal to two-thirds of the State, comprising about forty thousand square miles, covering the whole valley of the Osage River, besides many other parts, and approaching within a dozen miles of the centre and capital of the State. All this would be delivered up to wild beasts: for the Indian title is extinguished, and the Indians gone; the white people would be excluded from it; beasts alone would take it; and all this in violation of the Divine command to replenish the earth, to increase and multiply upon it, and to have dominion over the beasts of the forest, the birds of the air, the fish in the waters, and the creeping things of the earth.

“The fourth point of objection is, in the removal of the land records—the natural effect of abolishing all the offices of the Surveyors General. These offices are five in number. It is proposed to abolish them all, and the reason assigned in debate is, that they are sinecures; that is to say, offices which have revenues and no employment. This is the description of a sinecure. We have one of these offices in Missouri, and I know something of it. The Surveyor General, Colonel McRee, in point of fidelity to his trust, belongs to the school of Nathaniel Macon; in point of science and intelligence, he belongs to the first order of men that Europe or America contains. He and his clerks carry labor and drudgery to the ultimate point of human exertion, and still fall short of the task before them; and this is an office which it is proposed to abolish under the notion of a sinecure, as an office with revenues, and without employment. The abolition of these offices would involve the necessity of removing all their records, and thus depriving the country of all the evidences of the foundations of all the land titles. This would be sweeping work; but the gentleman’s plan would be incomplete without including the General Land Office in this city, the principal business of which is to superintend the five Surveyor General’s offices, and for which there could be but little use after they were abolished.

“These are the practical effects of the resolution. Emigration to the new States checked their settlement limited; a large portion of their surface delivered up to the dominion of beasts; the land records removed. Such are the injuries to be inflicted upon the new States, and we, the senators from those States, are called upon to vote in favor of the resolution which proposes to inquire into the expediency of committing all these enormities! I, for one, will not do it. I will vote for no such inquiry. I would as soon vote for inquiries into the expediency of conflagrating cities, of devastating provinces, and of submerging fruitful lands under the waves of the ocean.

“I take my stand upon a great moral principle, that it is never right to inquire into the expediency of doing wrong.

“The proposed inquiry is to do wrong; to inflict unmixed, unmitigated evil upon the new States and Territories. Such inquiries are not to be tolerated. Courts of law will not sustain actions which have immoral foundations; legislative bodies should not sustain inquiries which have iniquitous conclusions. Courts of law make it an object to give public satisfaction in the administration of justice; legislative bodies should consult the public tranquillity in the prosecution of their measures. They should not alarm and agitate the country; yet, this inquiry, if it goes on, will give the greatest dissatisfaction to the new States in the West and South. It will alarm and agitate them, and ought to do it. It will connect itself with other inquiries going on elsewhere—in the other end of this building—in the House of Representatives—to make the new States a source of revenue to the old ones, to deliver them up to a new set of masters, to throw them as grapes into the wine press, to be trod and squeezed as long as one drop of juice could be pressed from their hulls. These measures will go together; and if that resolution passes, and this one passes, the transition will be easy and natural, from dividing the money after the lands are sold, to divide the lands before they are sold, and then to renting the land and drawing an annual income, instead of selling it for a price in hand. The signs are portentous; the crisis is alarming; it is time for the new States to wake up to their danger, and to prepare for a struggle which carries ruin and disgrace to them, if the issue is against them.”

The debate spread, and took an acrimonious turn, and sectional, imputing to the quarter of the Union from which it came an old, and early policy to check the growth of the West at the outset by proposing to limit the sale of the western lands to a “clean riddance” as they went—selling no tract in advance until all in the rear was sold out. It so happened that the first ordinance reported for the sale and survey of western lands in the Congress of the Confederation, (1785,) contained a provision to this effect; and came from a committee strongly Northern—two to one, eight against four: and was struck out in the House on the motion of southern members, supported by the whole power of the South. I gave this account of the circumstance:

“The ordinance reported by the committee, contained the plan of surveying the public lands, which has since been followed. It adopted the scientific principle of ranges of townships, which has been continued ever since, and found so beneficial in a variety of ways to the country. The ranges began on the Pennsylvania line, and proceeded west to the Mississippi; and since the acquisition of Louisiana, they have proceeded west of that river; the townships began upon the Ohio River, and proceeded north to the Lakes. The townships were divided into sections of a mile square, six hundred and forty acres each; and the minimum price was fixed at one dollar per acre, and not less than a section to be sold together. This is the outline of the present plan of sales and surveys; and, with the modifications it has received, and may receive, in graduating the price of the land to the quality, the plan is excellent. But a principle was incorporated in the ordinance of the most fatal character. It was, that each township should be sold out complete before any land could offered in the next one! This was tantamount to a law that the lands should not be sold; that the country should not be settled: for it is certain that every township, or almost every one, would contain land unfit for cultivation, and for which no person would give six hundred and forty dollars for six hundred and forty acres. The effect of such a provision may be judged by the fact that above one hundred thousand acres remain to this day unsold in the first land district; the district of Steubenville, in Ohio, which included the first range and first township. If that provision had remained in the ordinance, the settlements would not yet have got out of sight of the Pennsylvania line. It was an unjust and preposterous provision. It required the people to take

the country clean before them; buy all as they went; mountains, hills, and swamps; rocks, glens, and prairies. They were to make clean work, as the giant Polyphemus did when he ate up the companions of Ulysses:

'No entrails, blood, nor solid bone remains.'

Nothing could be more iniquitous than such a provision. It was like requiring your guest to eat all the bones on his plate before he should have more meat. To say that township No. 1 should be sold out complete before township No. 2 should be offered for sale, was like requiring the bones of the first turkey to be eat up before the breast of the second one should be touched. Yet such was the provision contained in the first ordinance for the sale of the public lands, reported by a committee of twelve, of which eight were from the north and four from the south side of the Potomac. How invincible must have been the determination of some politicians to prevent the settlement of the West, when they would thus counteract the sales of the lands which had just been obtained after years of importunity, for the payment of the public debt!

"When this ordinance was put upon its passage in Congress, two Virginians, whose names, for that act alone, would deserve the lasting gratitude of the West, levelled their blows against the obnoxious provision. Mr. Grayson moved to strike it out, and Mr. Monroe seconded him; and, after an animated and arduous contest, they succeeded. The whole South supported them; not one recreant arm from the South; many scattering members from the North also voted with the South, and in favor of the infant West; proving then, as now, and as it always has been, that the West has true supporters of her rights and interests—unhappily not enough of them—in that quarter of the Union from which the measures have originated that several times threatened to be fatal to her."

Still enlarging its circle, but as yet still confined to the sale and disposition of the public lands, the debate went on to discuss the propriety of selling them to settlers at auction prices, and at an arbitrary minimum for all qualities, and a refusal of donations; and in this hard policy the North was again considered as the exacting part of the Union—the South as the favorer of liberal terms, and the generous dispenser of gratuitous grants to the settlers in the new States and Territories. On this point, Mr. Hayne, of South Carolina, thus expressed himself:

"The payment of 'a penny,' or a 'pepper corn,' was the stipulated price which our fathers along the whole Atlantic coast, now composing the old thirteen States, paid for their lands; and even when conditions, seemingly more substantial, were annexed to the grants; such for instance as 'settlement and cultivation;' these were considered as substantially complied with, by the cutting down a few trees and erecting a log cabin—the work of only a few days. Even these conditions very soon came to be considered as merely nominal, and were never required to be pursued, in order to vest in the grantee the fee simple of the soil. Such was the system under which this country was originally settled, and under which the thirteen colonies flourished and grew up to that early and vigorous manhood, which enabled them in a few years to achieve their independence; and I beg gentlemen to recollect, and note the fact, that, while they paid substantially nothing to the mother country, the whole profits of their industry were suffered to remain in their own hands. Now, what, let us inquire, was the reason which has induced all nations to adopt this system in the settlement of new countries? Can it be any other than this; that it affords the only certain means of building up in a wilderness, great and prosperous communities? Was not that policy founded on the universal belief, that the conquest of a new country, the driving out "the savage beasts and still more savage men," cutting down and subduing the forest, and encountering all the hardships and privations necessarily incident to the conversion of the wilderness into cultivated fields, was

worth the fee simple of the soil? And was it not believed that the mother country found ample remuneration for the value of the land so granted, in the additions to her power and the new sources of commerce and of wealth, furnished by prosperous and populous States? Now, sir, I submit to the candid consideration of gentlemen, whether the policy so diametrically opposite to this, which has been invariably pursued by the United States towards the new States in the West has been quite so just and liberal, as we have been accustomed to believe. Certain it is, that the British colonies to the north of us, and the Spanish and French to the south and west, have been fostered and reared up under a very different system. Lands, which had been for fifty or a hundred years open to every settler, without any charge beyond the expense of the survey, were, the moment they fell into the hands of the United States, held up for sale at the highest price that a public auction, at the most favorable seasons, and not unfrequently a spirit of the wildest competition, could produce; with a limitation that they should never be sold below a certain minimum price; thus making it, as it would seem, the cardinal point of our policy, not to settle the country, and facilitate the formation of new States, but to fill our coffers by coining our lands into gold."

The debate was taking a turn which was foreign to the expectations of the mover of the resolution, and which, in leading to sectional criminations, would only inflame feelings without leading to any practical result. Mr. Webster saw this; and to get rid of the whole subject, moved its indefinite postponement; but in arguing his motion he delivered a speech which introduced new topics, and greatly enlarged the scope, and extended the length of the debate which he proposed to terminate. One of these new topics referred to the authorship, and the merit of passing the famous ordinance of 1787, for the government of the Northwestern Territory, and especially in relation to the antislavery clause which that ordinance contained. Mr. Webster claimed the merit of this authorship for Mr. Nathan Dane—an eminent jurist of Massachusetts, and avowed that "*it was carried by the North, and by the North alone*." I replied, claiming the authorship for Mr. Jefferson, and showing from the Journals that he (Mr. Jefferson) brought the measure into Congress in the year 1784 (the 19th of April of that year), as chairman of a committee, with the antislavery clause in it, which Mr. Speight, of North Carolina, moved to strike out; and it was struck out—the three Southern States present voting for the striking out, because the clause did not then contain the provision in favor of the recovery of fugitive slaves, which was afterwards ingrafted upon it. Mr. Webster says it was struck out because "nine States" did not vote for its retention. That is an error arising from confounding the powers of the confederation. Nine States were only required to concur in measures of the highest import, as declaring war, making peace, negotiating treaties, &c.,—and in all ordinary legislation the concurrence of a bare majority (seven) was sufficient; and in this case there were only six States voting for the retention, New Jersey being erroneously counted by Mr. Webster to make seven. If she had voted the number would have been seven, and the clause would have stood. He was led into the error by seeing the name of Mr. Dick appearing in the call for New Jersey; but New Jersey was not present as a State, being represented by only one member, and it requiring two to constitute the presence of a State. Mr. Dick was indulged with putting his name on the Journal, but his vote was not counted. Mr. Webster says the ordinance reported by Mr. Jefferson in 1784 did not pass into a law. This is a mistake again. It did pass; and that within five days after the antislavery clause was struck out—and that without any attempt to renew that clause, although the competent number (seven) of non-slaveholding States were present—the colleague of Mr. Dick having joined him, and constituted the presence of New Jersey. Two years afterwards, in July 1787, the ordinance was passed over again, as it now stands, and was pre-eminently the work of the South. The ordinance, as it now stands, was reported by a committee of five members, of whom three were from slaveholding States, and two (and one of them the chairman) were from Virginia alone. It received its first reading the day it was

reported—its second reading the next day, when one other State had appeared—the third reading on the day ensuing; going through all the forms of legislation, and becoming a law in three days—receiving the votes of the eight States present, and the vote of every member of each State, except one; and that one from a free State north of the Potomac. These details I verified by producing the Journals, and showed under the dates of July 11th, 1787, and July 12th and 13th, the votes actually given for the ordinance. The same vote repealed the ordinance (Mr. Jefferson's) of 1784. I read in the Senate the passages from the Journal of the Congress of the confederation, the passages which showed these votes, and incorporated into the speech which I published, the extract from the Journal which I produced; and now incorporate the same in this work, that the authorship of that ordinance of 1787, and its passage through the old Congress, may be known in all time to come as the indisputable work, both in its conception and consummation, of the South. This is the extract:

THE JOURNAL.

Wednesday, July 11th, 1787.

"Congress assembled: Present, the seven States above mentioned." (Massachusetts, New York, New Jersey, Virginia, North Carolina, South Carolina, and Georgia—7.)

"The Committee, consisting of Mr. Carrington (of Virginia), Mr. Dane (of Massachusetts), Mr. R. H. Lee (of Virginia), Mr. Kean (of South Carolina), and Mr. Smith (of New York), to whom was referred the report of a committee touching the temporary government of the Western Territory, reported an ordinance for the government of the Territory of the United States northwest of the river Ohio; which was read a first time.

"Ordered, That to-morrow be assigned for the second reading."

"*Thursday, July 12th, 1787.*

"Congress assembled: Present, Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia—(8.)

"According to order, the ordinance for the government of the Territory of the United States northwest of the river Ohio, was read a second time.

"Ordered, That to-morrow be assigned for the third reading of said ordinance."

"*Friday, July 13th, 1787.*

"Congress assembled: Present, as yesterday.

"According to order, the ordinance for the government of the Territory of the United States northwest of the river Ohio, was read a third time, and passed as follows."

[Here follows the whole ordinance, in the very words in which it now appears among the laws of the United States, with the non-slavery clause, the provisions in favor of schools and education, against impairing the obligation of contracts, laying the foundation and security of all these stipulations in compact, in favor of restoring fugitives from service, and repealing the ordinance of 23d of April, 1784—the one reported by Mr. Jefferson.]

"On passing the above ordinance, the yeas and nays being required by Mr. Yates:

Massachusetts—Mr. Holten, aye; Mr. Dane, aye.

New York—Mr. Smith, aye; Mr. Yates, no; Mr. Harring, aye.

New Jersey—Mr. Clarke, aye; Mr. Scheurman, aye.

Delaware—Mr. Kearney, aye; Mr. Mitchell, aye.

Virginia—Mr. Grayson, aye; Mr. R. H. Lee, aye; Mr. Carrington, aye.

North Carolina—Mr. Blount, aye; Mr. Hawkins, aye.

South Carolina—Mr. Kean, aye; Mr. Huger, aye.

Georgia—Mr. Few, aye; Mr. Pierce, aye.

So it was resolved in the affirmative." (Page 754, volume 4.)

The bare reading of these passages from the Journals of the Congress of the old confederation, shows how erroneous Mr. Webster was in these portions of his speech:

"At the foundation of the constitution of these new northwestern States, we are accustomed, sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character, than the ordinance of '87. That instrument, was drawn by Nathan Dane, then, and now, a citizen of Massachusetts. It was adopted, as I think I have understood, without the slightest alteration; and certainly it has happened to few men to be the authors of a political measure of more large and enduring consequence. It fixed, for ever, the character of the population in the vast regions northwest of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to bear up any other than free men. It laid the interdict against personal servitude, in original compact, not only deeper than all local law, but deeper, also, than all local constitutions. Under the circumstances then existing, I look upon this original and seasonable provision, as a real good attained. We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow. It was a great and salutary measure of prevention. Sir, I should fear the rebuke of no intelligent gentleman of Kentucky, were I to ask whether if such an ordinance could have been applied to his own State, while it yet was a wilderness, and before Boon had passed the gap of the Alleghany, he does not suppose it would have contributed to the ultimate greatness of that commonwealth? It is, at any rate, not to be doubted, that where it did apply it has produced an effect not easily to be described, or measured in the growth of the States, and the extent and increase of their population. Now, sir, this great measure again was carried by the north, and by the north alone. There were, indeed, individuals elsewhere favorable to it; but it was supported as a measure, entirely by the votes of the northern States. If New England had been governed by the narrow and selfish views now ascribed to her, this very measure was, of all others, the best calculated to thwart her purposes. It was, of all things, the very means of rendering certain a vast emigration from her own population to the west. She looked to that consequence only to disregard it. She deemed the regulation a most useful one to the States that would spring up on the territory, and advantageous to the country at large. She adhered to the principle of it perseveringly, year after year, until it was finally accomplished.

"An attempt has been made to transfer, from the North to the South, the honor of this exclusion of slavery from the northwestern territory. The journal, without argument or comment, refutes such attempt. The cession by Virginia was made, March, 1784. On the 19th of April following, a committee, consisting of Messrs. Jefferson, Chase, and Howell, reported a plan for a temporary government of the territory, in which was this article: 'that, after the year 1800, there shall be neither slavery, nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been convicted.' Mr. Speight, of North Carolina, moved to strike out this paragraph. The question was put, according to the form then practised: 'Shall these words stand, as part of the plan,' &c.? New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania—seven States, voted in the affirmative. Maryland, Virginia, and South

Carolina, in the negative. North Carolina was divided. As the consent of nine States was necessary, the words could not stand, and were struck out accordingly. Mr. Jefferson voted for the clause, but was overruled by his colleagues.

"In March, the next year [1785], Mr. King of Massachusetts, seconded by Mr. Ellery of Rhode Island, proposed the formerly rejected article, with this addition: '*And that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the resolve*,' &c. On this clause, which provided the adequate and thorough security, the eight northern States at that time voted affirmatively, and the four southern States negatively. The votes of nine States were not yet obtained, and thus, the provision was again rejected by the southern States. The perseverance of the north held out, and two years afterwards the object was attained."

This is shown to be all erroneous in relation to this ordinance. It was not first drawn by Mr. Dane, but by Mr. Jefferson, and that nearly two years before Mr. Dane came into Congress. It was not passed by the North alone, but equally by the South—there being but eight States present at the passing, and they equally of the North and the South—and the South voting unanimously for it, both as States and as individual members, while the North had one member against it. It was not baffled two years for the want of nine States; if so, and nine States had been necessary, it would not have been passed when it was, and never by free State votes alone. There were but eight States (both Northern and Southern) present at the passing; and there were not nine free States in the confederacy at that time. There were but thirteen in all: and the half of these, as nearly as thirteen can be divided, were slave States. The fact is, that the South only delayed its vote for the antislavery clause in the ordinance for want of the provision in favor of recovering fugitives from service. As soon as that was added, she took the lead again for the ordinance—a fact which gives great emphasis to the corresponding provision in the constitution.

Mr. Webster was present when I read these extracts, and said nothing. He neither reaffirmed his previous statement, that Mr. Dane was the author of the ordinance, and that "*this great measure was carried by the North, and by the North alone*." He said nothing; nor did he afterwards correct the errors of his speech: and they now remain in it; and have given occasion to a very authentic newspaper contradiction of his statement, copied, like my statement to the Senate, from the Journals of the old Congress. It was by Edward Coles, Esq., formerly of Virginia, and private secretary to President Madison, afterwards governor of the State of Illinois, and now a citizen of Pennsylvania, resident of Philadelphia. He made his correction through the National Intelligencer, of Washington City; and being drawn from the same sources it agrees entirely with my own. And thus the South is entitled to the credit of originating and passing this great measure—a circumstance to be remembered and quoted, as showing the South at that time in taking the lead in curtailing and restricting the existence of slavery. The cause of Mr. Webster's mistakes may be found in the fact that the ordinance was three times before the old Congress, and once (the third time) in the hands of a committee of which Mr. Dane was a member. It was first reported by a committee of three (April, 1784) of which two were from slave states, (Mr. Jefferson of Virginia and Mr. Chase of Maryland,) Mr. Howard, of Rhode Island; and this, as stated, was nearly two years before Mr. Dane became a member. The antislavery clause was then dropped, there being but six States for it. The next year, the antislavery clause, with some modification, was moved by Mr. Rufus King, and sent as a proposition to a committee: but did not ripen into a law. Afterwards the whole ordinance was passed as it now stands, upon the report of a committee of six, of whom Mr. Dane was one; but not the chairman.

Closely connected with this question of authorship to which Mr. Webster's remarks give rise, was another which excited some warm discussion—the topic of slavery—and the effect of its existence or non-existence in different States. Kentucky and Ohio were taken for examples, and the superior improvement and population of Ohio were attributed to its exemption from the evils of slavery. This was an excitable subject, and the more so because the wounds of the Missouri controversy, in which the North was the undisputed aggressor, were still tender, and hardly scarred over. Mr. Hayne answered with warmth and resented as a reflection upon the slave States this disadvantageous comparison. I replied to the same topic myself, and said:

"I was on the subject of slavery, as connected with the Missouri question, when last on the floor. The senator from South Carolina [Mr. Hayne] could see nothing in the question before the Senate, nor in any previous part of the debate, to justify the introduction of that topic. Neither could I. He thought he saw the ghost of the Missouri question brought in among us. So did I. He was astonished at the apparition. I was not: for a close observance of the signs in the West had prepared me for this development from the East. I was well prepared for that invective against slavery, and for that amplification of the blessings of exemption from slavery, exemplified in the condition of Ohio, which the senator from Massachusetts indulged in, and which the object in view required to be derived from the Northeast. I cut the root of that derivation by reading a passage from the Journals of the old Congress; but this will not prevent the invective and encomium from going forth to do their office; nor obliterate the line which was drawn between the free State of Ohio and the slave State of Kentucky. If the only results of this invective and encomium were to exalt still higher the oratorical fame of the speaker, I should spend not a moment in remarking upon them. But it is not to be forgotten that the terrible Missouri agitation took its rise from the "substance of two speeches" delivered on this floor; and since that time, antislavery speeches, coming from the same political and geographical quarter, are not to be disregarded here. What was said upon that topic was certainly intended for the north side of the Potomac and Ohio; to the people, then, of that division of the Union, I wish to address myself, and to disabuse them of some erroneous impressions. To them I can truly say, that slavery, in the abstract, has but few advocates or defenders in the slave-holding States, and that slavery as it is, an hereditary institution descended upon us from our ancestors, would have fewer advocates among us than it has, if those who have nothing to do with the subject would only let us alone. The sentiment in favor of slavery was much weaker before those intermeddlers began their operations than it is at present. The views of leading men in the North and the South were indisputably the same in the earlier periods of our government. Of this our legislative history contains the highest proof. The foreign-slave trade was prohibited in Virginia, as soon as the Revolution began. It was one of her first acts of sovereignty. In the convention of that State which adopted the federal constitution, it was an objection to that instrument that it tolerated the African slave-trade for twenty years. Nothing that has appeared since has surpassed the indignant denunciations of this traffic by Patrick Henry, George Mason, and others, in that convention.

"Sir, I regard with admiration, that is to say, with wonder, the sublime morality of those who cannot bear the abstract contemplation of slavery, at the distance of five hundred or a thousand miles off. It is entirely above, that is to say, it affects a vast superiority over the morality of the primitive Christians, the apostles of Christ, and Christ himself. Christ and the apostles appeared in a province of the Roman empire, when that empire was called the Roman world, and that world was filled with slaves. Forty millions was the estimated number, being one-fourth of the whole population. Single individuals held twenty thousand slaves. A freed man, one who had himself been a slave, died the possessor of four thousand—such were the numbers. The rights of the owners over this multitude of human beings was

that of life and death, without protection from law or mitigation from public sentiment. The scourge, the cross, the fish-pond, the den of the wild beast, and the arena of the gladiator, was the lot of the slave, upon the slightest expression of the master's will. A law of incredible atrocity made all slaves responsible with their own lives for the life of their master; it was the law that condemned the whole household of slaves to death, in case of the assassination of the master—a law under which as many as four hundred have been executed at a time. And these slaves were the white people of Europe and of Asia Minor, the Greeks and other nations, from whom the present inhabitants of the world derive the most valuable productions of the human mind. Christ saw all this—the number of the slaves—their hapless condition—and their white color, which was the same with his own; yet he said nothing against slavery; he preached no doctrines which led to insurrection and massacre; none which, in their application to the state of things in our country, would authorize an inferior race of blacks to exterminate that superior race of whites, in whose ranks he himself appeared upon earth. He preached no such doctrines, but those of a contrary tenor, which inculcated the duty of fidelity and obedience on the part of the slave—humanity and kindness on the part of the master. His apostles did the same. St. Paul sent back a runaway slave. Onesimus, to his owner, with a letter of apology and supplication. He was not the man to harbor a runaway, much less to entice him from his master; and, least of all, to excite an insurrection."

This allusion to the Missouri controversy, and invective against the free States for their part in it, brought a reply from Mr. Webster, showing what their conduct had been at the first introduction of the slavery topic in the Congress of the United States, and that they totally refused to interfere between master and slave in any way whatever. This is what he said:

"When the present constitution was submitted for the ratification of the people, there were those who imagined that the powers of the government which it proposed to establish might, perhaps, in some possible mode, be exerted in measures tending to the abolition of slavery. This suggestion would, of course, attract much attention in the southern conventions. In that of Virginia, Governor Randolph said:

"'I hope there is none here who, considering the subject in the calm light of philosophy, will make an objection dishonorable to Virginia—that, at the moment they are securing the rights of their citizens, an objection is started, that there is a spark of hope that those unfortunate men now held in bondage may, by the operation of the general government, be made free.'

"At the very first Congress, petitions on the subject were presented, if I mistake not, from different States. The Pennsylvania society for promoting the abolition of slavery, took a lead, and laid before Congress a memorial, praying Congress to promote the abolition by such powers as it possessed. This memorial was referred, in the House of Representatives, to a select committee consisting of Mr. Foster of New Hampshire; Mr. Gerry of Massachusetts, Mr. Huntington of Connecticut; Mr. Lawrence of New-York; Mr. Sinnickson of New Jersey; Mr. Hartley of Pennsylvania, and Mr. Parker of Virginia; all of them, sir, as you will observe, northern men, but the last. This committee made a report, which was committed to a committee of the whole house, and there considered and discussed on several days; and being amended, although in no material respect, it was made to express three distinct propositions on the subject of slavery and the slave-trade. First, in the words of the constitution, that Congress could not, prior to the year 1808, prohibit the migration or importation of such persons as any of the States, then existing, should think proper to admit. Second, that Congress had authority to restrain the citizens of the United States from carrying on the African slave-trade, for the purpose of supplying foreign countries. On this proposition, our laws against those who engage in that traffic, are founded. The third proposition, and that which bears on the present question, was expressed in the following terms:

"'*Resolved*, That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them in any of the States; it remaining with the several States alone to provide rules and regulations therein, which humanity and true policy may require.'

"This resolution received the sanction of the House of Representatives so early as March, 1790. And now, sir, the honorable member will allow me to remind him, that not only were the select committee who reported the resolution, with a single exception, all northern men, but also that of the members then composing the House of Representatives, a large majority, I believe nearly two thirds, were northern men also.

"The house agreed to insert these resolutions in its journal, and, from that day to this, it has never been maintained or contended that Congress had any authority to regulate, or interfere with, the condition of slaves in the several States. No northern gentleman, to my knowledge, has moved any such question in either house of Congress.

"The fears of the South, whatever fears they might have entertained, were allayed and quieted by this early decision; and so remained, till they were excited afresh, without cause, but for collateral and indirect purposes. When it became necessary, or was thought so, by some political persons, to find an unvarying ground for the exclusion of northern men from confidence and from lead in the affairs of the republic, then, and not till then, the cry was raised, and the feeling industriously excited, that the influence of northern men in the public councils would endanger the relation of master and slave. For myself I claim no other merit than that this gross and enormous injustice towards the whole North, has not wrought upon me to change my opinions, or my political conduct. I hope I am above violating my principles, even under the smart of injury and false imputations. Unjust suspicions and undeserved reproach, whatever pain I may experience from them, will not induce me, I trust, nevertheless, to overstep the limits of constitutional duty, or to encroach on the rights of others. The domestic slavery of the South I leave where I find it—in the hands of their own governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population has had in the distribution of power under this federal government. We know, sir, that the representation of the states in the other house is not equal. We know that great advantage, in that respect, is enjoyed by the slaveholding States; and we know, too, that the intended equivalent for that advantage, that is to say, the imposition of direct taxes in the same ratio, has become merely nominal; the habit of the government being almost invariably to collect its revenues from other sources, and in other modes. Nevertheless, I do not complain: nor would I countenance any movement to alter this arrangement of representation. It is the original bargain, the compact—let it stand: let the advantage of it be fully enjoyed. The Union itself is too full of benefit to be hazarded in propositions for changing its original basis. I go for the constitution as it is, and for the Union as it is. But I am resolved not to submit, in silence, to accusations, either against myself individually, or against the North, wholly unfounded and unjust; accusations which impute to us a disposition to evade the constitutional compact, and to extend the power of the government over the internal laws and domestic condition of the States. All such accusations, wherever and whenever made, all insinuations of the existence of any such purposes, I know, and feel to be groundless and injurious. And we must confide in southern gentlemen themselves; we must trust to those whose integrity of heart and magnanimity of feeling will lead them to a desire to maintain and disseminate truth, and who possess the means of its diffusion with the southern public; we must leave it to them to disabuse that public of its prejudices. But, in the mean time, for my own part, I shall continue to act justly, whether those towards whom justice is exercised, receive it with candor or with contumely."

This is what Mr. Webster said on the subject of slavery; and although it was in reply to an invective of my own, excited by the recent agitation of the Missouri question, I made no answer impugning its correctness; and must add that I never saw any thing in Mr. Webster inconsistent with what he then said; and believe that the same resolves could have been passed in the same way at any time during the thirty years that I was in Congress.

But the topic which became the leading feature of the whole debate; and gave it an interest which cannot die, was that of nullification—the assumed right of a state to annul an act of Congress—then first broached in our national legislature—and in the discussion of which Mr. Webster and Mr. Hayne were the champion speakers on opposite sides—the latter understood to be speaking the sentiments of the Vice-President, Mr. Calhoun. This new turn in the debate was thus brought about: Mr. Hayne, in the sectional nature of the discussion which had grown up, made allusions to the conduct of New England during the war of 1812; and especially to the assemblage known as the Hartford Convention, and to which designs unfriendly to the Union had been attributed. This gave Mr. Webster the rights both of defence and of retaliation; and he found material for the first in the character of the assemblage, and for the second in the public meetings which had taken place in South Carolina on the subject of the tariff—and at which resolves were passed, and propositions adopted significant of resistance to the act; and, consequently, of disloyalty to the Union. He, in his turn, made allusions to these resolves and propositions, until he drew out Mr. Hayne into their defence, and into an avowal of what has since obtained the current name of "*Nullification*;" although at the time (during the debate) it did not at all strike me as going the length which it afterwards avowed; nor have I ever believed that Mr. Hayne contemplated disunion, in any contingency, as one of its results. In entering upon the argument, Mr. Webster first summed up the doctrine, as he conceived it to be avowed, thus:

"I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State legislature to interfere, whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

"I understand him to maintain this right, as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

"I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

"I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

"I understand him to insist that, if the exigency of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the general government, which it deems plainly and palpably unconstitutional."

Mr. Hayne, evidently unprepared to admit, or fully deny, the propositions as broadly laid down, had recourse to a statement of his own; and, adopted for that purpose, the third resolve of the Virginia resolutions of the year 1798—reaffirmed in 1799. He rose immediately and said that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution; and read it—

"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government as resulting from the compact, to which the States are parties, as limited

by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them."

Thus were the propositions stated, and argued—each speaker taking his own proposition for his text; which in the end, (and as the Virginia resolutions turned out to be understood in the South Carolina sense) came to be identical. Mr. Webster, at one point, giving to his argument a practical form, and showing what the South Carolina doctrine would have accomplished in New England if it had been acted upon by the Hartford Convention, said:

"Let me here say, sir, that, if the gentleman's doctrine had been received and acted upon in New England, in the times of the embargo and non-intercourse, we should probably not now have been here. The government would, very likely, have gone to pieces, and crumbled into dust. No stronger case can ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy of opinion, as I must call it which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare, whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system, under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If that which is thought palpably unconstitutional in South Carolina, justifies that State in arresting the progress of the law, tell me, whether that which was thought palpably unconstitutional also in Massachusetts, would have justified her in doing the same thing? Sir, I deny the whole doctrine. It has not a foot of ground in the constitution to stand on. No public man of reputation ever advanced it in Massachusetts, in the warmest times, or could maintain himself upon it there at any time."

He argued that the doctrine had no foundation either in the constitution, or in the Virginia resolutions—that the constitution makes the federal government act upon citizens within the States, and not upon the States themselves, as in the old confederation: that within their constitutional limits the laws of Congress were supreme—and that it was treasonable to resist them with force: and that the question of their constitutionality was to be decided by the Supreme Court. On this point, he said:

"The people, then, sir, erected this government. They gave it a constitution; and in that constitution they have enumerated the powers which they bestow on it. They have made it a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or to the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid possibility of doubt; no limitation so precise as to exclude all uncertainty. Who then shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole constitution was framed and adopted was, to establish a government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of government under the confederacy. Under that system, the legal action, the application of law to individuals, belonged exclusively to the

States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion, and State construction? Sir, if we are, then vain will be our attempt to maintain the constitution under which we sit. But, sir, the people have wisely provided, in the constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are, in the constitution, grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The constitution has, itself, pointed out, ordained, and established, that authority. How has it accomplished this great and essential end? By declaring, sir, that 'the constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding.'

"This, sir, was the first great step. By this, the supremacy of the constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the constitution or any law of the United States. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the constitution itself decides also, by declaring 'that the judicial power shall extend to all cases arising under the constitution and laws of the United States.' These two provisions, sir, cover the whole ground. They are, in truth, the key-stone of the arch. With these, it is a constitution; without them it is a confederacy. In pursuance of these clear and express provisions, Congress established, at its very first session, in the Judicial Act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a government. It then had the means of self-protection; and, but for this, it would, in all probability, have been now among things which are past. Having constituted the government, and declared its powers, the people have farther said, that, since somebody must decide on the extent of these powers, the government shall itself decide; subject, always, like other popular governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State legislature acquires any power to interfere? Who or what gives them the right to say to the people, 'we, who are your agents and servants for one purpose, will undertake to decide that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them?' The reply would be, I think, not impertinent: who made you judge over another's servants? To their own masters they stand or fall."

With respect to the Virginia resolutions, on which Mr. Hayne relied, Mr. Webster disputed the interpretation put upon them—claimed for them an innocent and justifiable meaning—and exempted Mr. Madison from the suspicion of having penned a resolution asserting the right of a State legislature to annul an act of Congress, and thereby putting it in the power of one State to destroy a form of government which he had just labored so hard to establish. To this effect he said:

"I wish now, sir, to make a remark upon the Virginia resolutions of 1798. I cannot undertake to say how these resolutions were understood by those who passed them. Their language is not a little indefinite. In the case of the exercise, by Congress, of a dangerous power, not granted to them, the resolutions assert the right, on the part of the State, to interfere, and arrest the progress of the evil. This is susceptible of more than one interpretation. It may mean no more than that the States may interfere by complaint and remonstrance; or by proposing to the people an alteration of the federal constitution. This would all be quite unobjectionable; or, it may be, that no more is meant than to assert the general right of revolution, as against all governments, in cases of intolerable oppression. This no one doubts;

and this, in my opinion, is all that he who framed the resolutions could have meant by it: for I shall not readily believe that he (Mr. Madison) was ever of opinion that a State, under the constitution, and in conformity with it, could, upon the ground of her own opinion of its unconstitutionality, however clear and palpable she might think the case, annul a law of Congress, so far as it should operate on herself, by her own legislative power."

Mr. Hayne, on his part, disclaimed all imitation of the Hartford Convention; and gave (as the practical part of his doctrine) the pledge of forcible resistance to any attempt to enforce unconstitutional laws. He said:

"Sir, unkind as my allusion to the Hartford Convention has been considered by its supporters, I apprehend that this disclaimer of the gentleman will be regarded as 'the unkindest cut of all.' When the gentleman spoke of the Carolina conventions of Colleton and Abbeville, let me tell him that he spoke of that which never had existence, except in his own imagination. There have, indeed, been meetings of the people in those districts, composed, sir, of as high-minded and patriotic men as any country can boast; but we have had no 'convention' as yet; and when South Carolina shall resort to such a measure for the redress of her grievances, let me tell the gentleman that, of all the assemblies that have ever been convened in this country, the Hartford Convention is the very last we shall consent to take as an example; nor will it find more favor in our eyes, from being recommended to us by the senator from Massachusetts. Sir, we would scorn to take advantage of difficulties created by a foreign war, to wring from the federal government a redress even of our grievances. We are standing up for our constitutional rights, in a time of profound peace; but if the country should, unhappily, be involved in a war to-morrow, we should be found flying to the standard of our country—first driving back the common enemy, and then insisting upon the restoration of our rights.

"The gentleman has called upon us to carry out our scheme practically. Now, sir, if I am correct in my view of this matter, then it follows, of course, that the right of a State being established, the federal government is bound to acquiesce in a solemn decision of a State, acting in its sovereign capacity, at least so far as to make an appeal to the people for an amendment to the constitution. This solemn decision of a State (made either through its legislature, or a convention, as may be supposed to be the proper organ of its sovereign will—a point I do not propose now to discuss) binds the federal government, under the highest constitutional obligation, not to resort to any means of coercion against the citizens of the dissenting State. How, then, can any collision ensue between the federal and State governments, unless, indeed, the former should determine to enforce the law by unconstitutional means? What could the federal government do, in such a case? Resort, says the gentleman, to the courts of justice. Now, can any man believe that, in the face of a solemn decision of a State, that an act of Congress is 'a gross, palpable, and deliberate violation of the constitution,' and the interposition of its sovereign authority to protect its citizens from the usurpation, that juries could be found ready merely to register the decrees of the Congress, wholly regardless of the unconstitutional character of their acts? Will the gentleman contend that juries are to be coerced to find verdicts at the point of the bayonet? And if not, how are the United States to enforce an act solemnly pronounced to be unconstitutional? But, if the attempt should be made to carry such a law into effect, by force, in what would the case differ from an attempt to carry into effect an act nullified by the courts, or to do any other unlawful and unwarrantable act? Suppose Congress should pass an agrarian law, or a law emancipating our slaves, or should commit any other gross violation of our constitutional rights, will any gentleman contend that the decision of every branch of the federal government, in favor of such laws, could prevent the States from declaring them null and void, and protecting their citizens from their operation?

“Sir, if Congress should ever attempt to enforce any such laws, they would put themselves so clearly in the wrong, that no one could doubt the right of the State to exert its protecting power.

“Sir, the gentleman has alluded to that portion of the militia of South Carolina with which I have the honor to be connected, and asked how they would act in the event of the nullification of the tariff law by the State of South Carolina? The tone of the gentleman, on this subject, did not seem to me as respectful as I could have desired. I hope, sir, no imputation was intended.”

[Mr. Webster: “Not at all; just the reverse.”]

“Well, sir, the gentleman asks what their leaders would be able to read to them out of Coke upon Littleton, or any other law book, to justify their enterprise? Sir, let me assure the gentleman that, whenever any attempt shall be made from any quarter, to enforce unconstitutional laws, clearly violating our essential rights, our leaders (whoever they may be) will not be found reading black letter from the musty pages of old law books. They will look to the constitution, and when called upon, by the sovereign authority of the State, to preserve and protect the rights secured to them by the charter of their liberties, they will succeed in defending them, or ‘perish in the last ditch.’”

I do not pretend to give the arguments of the gentlemen, or even their substance, but merely to state their propositions and their conclusions. For myself, I did not believe in any thing serious in the new interpretation given to the Virginia resolutions—did not believe in any thing practical from nullification—did not believe in forcible resistance to the tariff laws from South Carolina—did not believe in any scheme of disunion—believed, and still believe, in the patriotism of Mr. Hayne: and as he came into the argument on my side in the article of the public lands, so my wishes were with him, and I helped him where I could. Of this desire to help, and disbelief in disunion, I gave proof, in ridiculing, as well as I could, Mr. Webster’s fine peroration to liberty and union, and really thought it out of place—a fine piece of rhetoric misplaced, for want of circumstances to justify it. He had concluded thus:

“When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance, rather, behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as, What is all this worth? Nor those other words of delusion and folly, Liberty first, and Union afterwards; but every where, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty *and* Union, now and for ever, one and inseparable!”

These were noble sentiments, oratorically expressed, but too elaborately and too artistically composed for real grief in presence of a great calamity—of which calamity I saw no sign; and therefore deemed it a fit subject for gentle castigation: and essayed it thus:

“I proceed to a different theme. Among the novelties of this debate, is that part of the speech of the senator from Massachusetts which dwells with such elaboration of declamation and ornament, upon the love and blessings of union—the hatred and horror of disunion. It was a part of the senator’s speech which brought into full play the favorite Ciceronian figure of amplification. It was up to the rule in that particular. But, it seemed to me, that there was

another rule, and a higher, and a precedent one, which it violated. It was the rule of propriety; that rule which requires the fitness of things to be considered; which requires the time, the place, the subject, and the audience, to be considered; and condemns the delivery of the argument, and all its flowers, if it fails in congruence to these particulars. I thought the essay upon union and disunion had so failed. It came to us when we were not prepared for it; when there was nothing in the Senate, nor in the country to grace its introduction; nothing to give, or to receive, effect to, or from, the impassioned scene that we witnessed. It may be, it was the prophetic cry of the distracted daughter of Priam, breaking into the council, and alarming its tranquil members with vaticinations of the fall of Troy; but to me, it all sounded like the sudden proclamation for an earthquake, when the sun, the earth, the air, announced no such prodigy; when all the elements of nature were at rest, and sweet repose pervading the world. There was a time, and you, and I, and all of us, did see it, sir, when such a speech would have found, in its delivery, every attribute of a just and rigorous propriety! It was at a time, when the five-striped banner was waving over the land of the North! when the Hartford Convention was in session! when the language in the capitol was, "Peaceably, if we can; forcibly, if we must!" when the cry, out of doors, was, "the Potomac the boundary; the negro States by themselves! The Alleghanies the boundary; the Western savages by themselves! The Mississippi the boundary, let Missouri be governed by a prefect, or given up as a haunt for wild beasts!" That time was the fit occasion for this speech; and if it had been delivered then, either in the hall of the House of Representatives, or in the den of the Hartford Convention, or in the highway among the bearers and followers of the five-striped banner, what effects must it not have produced! What terror and consternation among the plotters of disunion! But, here, in this loyal and quiet assemblage, in this season of general tranquillity and universal allegiance, the whole performance has lost its effect for want of affinity, connection, or relation, to any subject depending, or sentiment expressed, in the Senate; for want of any application, or reference, to any event impending in the country."

I do not quote this passage for any thing that I now see out of place in that peroration; but for a quite different purpose—for the purpose of showing that I was slow to believe in any design to subvert this Union—that at the time of this great debate (February and March, 1830) I positively discredited it, and publicly proclaimed my incredulity. I did not want to believe it. I repulsed the belief. I pushed aside every circumstance that Mr. Webster relied on, and softened every expression that Mr. Hayne used, and considered him as limiting (practically) his threatened resistance to the tariff act, to the kind of resistance which Virginia made to the alien and sedition laws—which was an appeal to the reason, judgment and feelings of the other States—and which had its effect in the speedy repeal of those laws. Mr. Calhoun had not then uncovered his position in relation to nullification. I knew that Mr. Webster was speaking at him in all that he said to Mr. Hayne: but I would believe nothing against him except upon his own showing, or undoubted evidence. Although not a favorite statesman with me, I felt admiration for his high intellectual endowments, and respect for the integrity and purity of his private life. Mr. Hayne I cordially loved; and believed, and still believe, in the loyalty of his intentions to the Union. They were both from the South—that sister Carolina, of which the other was my native State, and in both of which I have relatives and hereditary friends—and for which I still have the affections which none but the wicked ever lose for the land of their birth: and I felt as they did in all that relates to the tariff—except their remedy. But enough for the present. The occasion will come, when we arrive at the practical application of the modern nullification doctrine, to vindicate the constitution from the political solecism of containing within itself a suicidal principle, and to vindicate the Virginia resolutions, and their authors (and, in their own language), from the "*anarchical and preposterous*" interpretation which has been put upon their words.

45. Repeal Of The Salt Tax

A tax on Salt is an odious measure, hated by all people and in all time, and justly, because being an article of prime necessity, indispensable to man and to beast, and bountifully furnished them by the Giver of all good, the cost should not be burthened, nor the use be stinted by government regulation; and the principles of fair taxation would require it to be spared, because it is an agent, and a great one, in the development of many branches of agricultural and mechanical industry which add to the wealth of the country and produce revenue from the exports and consumption to which they give rise. People hate the salt tax, because they are obliged to have the salt, and cannot evade the tax: governments love the tax for the same reason—because people are obliged to pay it. This would seem to apply to governments despotic or monarchial, and not to those which are representative and popular. But representative governments sometimes have calamities—war for example—when subjects of taxation diminish as need for revenue increases: and then representative governments, like others, must resort to the objects which will supply its necessities. This has twice been the case with the article of salt in the United States. The duty on that article was carried up to a high tax in the *quasi* war with France (1798), having been small before; and then only imposed as a war measure—to cease as soon as the war was over. But all governments work alike on the imposition and release of taxes—easy to get them on in a time of necessity—hard to get them off when the necessity has passed. So of this first war tax on salt. The "speck of war" with France, visible above the horizon in '98, soon sunk below it; and the sunshine of peace prevailed. In the year 1800—two years after the duty was raised to its maximum—the countries were on the most friendly terms; but it was not until 1807, and under the whole power of Mr. Jefferson's administration, that this temporary tax was abolished; and with it the whole system of fishing bounties and allowances founded upon it.

In the war of 1812, at the commencement of the war with Great Britain, it was renewed, with its concomitant of fishing bounties and allowances; but still as a temporary measure, limited to the termination of the war which induced it, and one year thereafter. The war terminated in 1815, and the additional year expired in 1816; but before the year was out, the tax was continued, not for a definite period, but without time—on the specious argument that, if a time was fixed, it would be difficult to get it off before the time was out: but if unfixed, it would be easy to get it off at any time: and all agreed that that was to be soon—that a temporary continuance of all the taxes was necessary until the revenue, deranged by the war, should become regular and adequate. It was continued on this specious argument—and remained in full until General Jackson's administration—and, in part, until this day (1850)—the fishing bounties and allowances in full: and that is the working of all governments in the levy and repeal of taxes. I found the salt tax in full force when I came to the Senate in 1820, strengthened by time, sustained by a manufacturing interest, and by the fishing interest (which made the tax a source of profit in the supposed return of the duty in the shape of bounties and allowances): and by the whole American system; which took the tax into its keeping, as a protection to a branch of home industry. I found efforts being made in each House to suppress this burthen upon a prime necessary of life; and, in the session 1829-'30, delivered a speech in support of the laudable endeavor, of which these are some parts:

"Mr. Benton commenced his speech, by saying that he was no advocate for unprofitable debate, and had no ambition to add his name to the catalogue of barren orators; but that there were cases in which speaking did good; cases in which moderate abilities produced great results, and he believed the question of repealing the salt tax to be one of those cases. It had

certainly been so in England. There the salt tax had been overthrown by the labors of plain men, under circumstances much more unfavorable to their undertaking than exist here. The English salt tax had continued one hundred and fifty years. It was cherished by the ministry, to whom it yielded a million and a half sterling of revenue; it was defended by the domestic salt makers, to whom it gave a monopoly of the home market; it was consecrated by time, having subsisted for five generations; it was fortified by the habits of the people, who were born, and had grown gray under it; and it was sanctioned by the necessities of the State, which required every resource of rigorous taxation. Yet it was overthrown; and the overthrow was effected by two debates, conducted, not by the orators whose renown has filled the world—not by Sheridan, Burke, Pitt, and Fox—but by plain, business men—Mr. Calcraft, Mr. Curwen, and Mr. Egerton. These patriotic members of the British Parliament commenced the war upon the British salt tax in 1817, and finished it in 1822. They commenced with the omens and auspices all against them, and ended with complete success. They abolished the salt tax *in toto*. They swept it all off, bravely rejecting all compromises when they had got their adversaries half vanquished, and carrying their appeals home to the people, until they had roused a spirit before which the ministry quailed, the monopolizers trembled, the Parliament gave way, and the tax fell. This example is encouraging; it is full of consolation and of hope; it shows what zeal and perseverance can do in a good cause: it shows that the cause of truth and justice is triumphant when its advocates are bold and faithful. It leads to the conviction that the American salt tax will fall as the British tax did, as soon as the people shall see that its continuance is a burthen to them, without adequate advantage to the government, and that its repeal is in their own hands.

“The enormous amount of the tax was the first point to which Mr. B. would direct his attention. He said it was near three hundred per cent. upon Liverpool blown, and four hundred per cent. upon alum salt; but as the Liverpool was a very inferior salt, and not much used in the West, he would confine his observations to the salt of Portugal and the West Indies, called by the general name of alum. The import price of this salt was from eight to nine cents a bushel of fifty-six pounds each, and the duty upon that bushel was twenty cents. Here was a tax of upwards of two hundred per cent. Then the merchant had his profit upon the duty as well as the cost of the article: and when it went through the hands of several merchants before it got to the consumer, each had his profit upon it; and whenever this profit amounted to fifty per cent. upon the duty, it was upwards of one hundred per cent. upon the salt. Then, the tariff laws have deprived the consumer of thirty-four pounds in the bushel, by substituting weight for measure, and that weight a false one. The true weight of a measured bushel of alum salt is eighty-four pounds; but the British tariff laws, for the sake of multiplying the bushels, and increasing the product of the tax, substituted weight for measure; and our tariff laws copied after them, and adopted their standard of fifty-six pounds to the bushel.

“Mr. B. entered into statistical details, to show the aggregate amount of this tax, which he stated to be enormous, and contrary to every principle of taxation, even if taxes were so necessary as to justify the taxing of salt. He stated the importation of foreign salt, in 1829, at six millions of bushels, round numbers; the value seven hundred and fifteen thousand dollars, and the tax at twenty cents a bushel, one million two hundred thousand dollars, the merchant’s profit upon that duty at fifty per cent. is six hundred thousand dollars; and the secret or hidden tax, in the shape of false weight for true measure, at the rate of thirty pounds in the bushel, was four hundred and fifty thousand dollars. Here, then, is taxation to the amount of about two millions and a quarter of dollars, upon an article costing seven hundred and fifty thousand dollars, and that article one of prime necessity and universal use, ranking next after bread, in the catalogue of articles for human subsistence.

“The distribution of this enormous tax upon the different sections of the Union, was the next object of Mr. B.’s inquiry; and, for this purpose, he viewed the Union under three great divisions—the Northeast, the South, and the West. To the northeast, and especially to some parts of it, he considered the salt tax to be no burthen, but rather a benefit and a money-making business. The fishing allowances and bounties produced this effect. In consideration of the salt duty, the curers and exporters of fish are allowed money out of the treasury, to the amount, as it was intended, of the salt duty paid by them; but it has been proved to be twice as much. The annual allowance is about two hundred and fifty thousand dollars, and the aggregate drawn from the treasury since the first imposition of the salt duty in 1789, is shown by the treasury returns to be five millions of dollars. Much of this is drawn by undue means, as is shown by the report of the Secretary of the Treasury, at the commencement of the present session, page eight of the annual report on the finances. The Northeast makes much salt at home, and chiefly by solar evaporation, which fits it for curing fish and provisions. Much of it is proved, by the returns of the salt makers, to be used in the fisheries, while the fisheries are drawing money from the treasury under the laws which intended to indemnify them for the duty paid on foreign salt. To this section of the Union, then, the salt tax is not felt as a burthen.

“Let us proceed to the South. In this section there are but few salt works, and no bounties or allowances, as there are no fisheries. The consumers are thrown almost entirely upon the foreign supply, and chiefly use the Liverpool blown. The import price of this is about fifteen cents a bushel; the weight and strength is less than that of alum salt; and the tax falls heavily and directly upon the people, to the whole amount of their consumption. It is a heavy burthen upon the South.

“The West is the last section to be viewed, and it will be found to be the true seat of the most oppressive operations of the salt tax. The domestic supply is high in price, deficient in quantity, and altogether unfit for one of the greatest purposes for which salt is there wanted—curing provisions for exportation. A foreign supply is indispensable, and alum salt is the kind used. The import price of this kind, from the West Indies, is nine cents a bushel; from Portugal, eight cents a bushel. At these prices, the West could be supplied with this salt at New Orleans, if the duty was abolished; but, in consequence of the duty, it costs thirty-seven and a half cents per bushel there, being four times the import price of the article, and seventy-five cents per bushel at Louisville and other central parts of the valley of the Mississippi. This enormous price, resolved into its component parts, is thus made up: 1. Eight or nine cents a bushel for the salt. 2. Twenty cents for duty. 3. Eight or ten cents for merchant’s profit at New Orleans. 4. Sixteen or seventeen cents for freight to Louisville. 5. Fifteen or twenty cents for the second merchant’s profit, who counts his per centum on his whole outlay. In all, about seventy-five cents for a bushel of fifty pounds, which, if there was no duty, and the tariff regulations of weight for measure abolished, would be bought in New Orleans, by the measured bushel of eighty pounds weight, for eight or nine cents, and would be brought up the river, by steamboats, at the rate of thirty-three and a third cents per hundred weight. It thus appears that the salt tax falls heaviest upon the West. It is an error to suppose that the South is the greatest sufferer. The West wants it for every purpose the South does, and two great purposes besides—curing provision for export, and salting stock. The West uses alum salt, and on this the duty is heaviest, because the price is lower, and the weight greater. Twenty cents on salt which costs eight or nine cents a bushel is a much heavier duty than on that which costs fifteen cents; and then the deception in the substitution of weight for measure is much greater in alum salt, which weighs so much more than the Liverpool blown. Like the South, the West receives no bounties or allowances on account of the salt duties. This may be fair in the South, where the imported salt is not re-exported upon fish or

provisions; but it is unfair in the West, where the exportation of beef, pork, bacon, cheese, and butter, is prodigious, and the foreign salt re-exported upon the whole of it.

“Mr. B. then argued, with great warmth, that the provision curers and exporters were entitled to the same bounties and allowances with the exporters of fish. The claims of each rested upon the same principle, and upon the principle of all drawbacks—that of a reimbursement of the duty which was paid on the imported salt when re-exported on fish and provisions. The same principle covers the beef and pork of the farmer, which covers the fish of the fisherman; and such was the law in the beginning. The first act of Congress, in the year 1789, which imposed a duty upon salt, allowed a bounty, in lieu of a drawback, on beef and pork exported, as well as fish. The bounty was the same in each case; it was five cents a quintal on dried fish, five cents a barrel on pickled fish, and five on beef and pork. As the duty on salt was increased, the bounties and allowances were increased also. Fish and salted beef and pork fared alike for the first twenty years.

“They fared alike till the revival of the salt tax at the commencement of the late war. Then they parted company; bounties and allowances were continued to the fisheries, and dropped on beef and pork; and this has been the case ever since. The exporters of fish are now drawing at the rate of two hundred and fifty thousand dollars per annum, as a reimbursement for their salt tax; while exporters of provisions draw nothing. The aggregate of the fishing bounties and allowances, actually drawn from the treasury, exceeds five millions of dollars; while the exporters of provisions, who get nothing, would have been entitled to draw a greater sum; for the export in salted provisions exceeds the value of exported fish.

“Mr. B. could not quit this part of his subject, without endeavoring to fix the attention of the Senate upon the provision trade of the West. He took this trade in its largest sense, as including the export trade of beef, pork, bacon, cheese, and butter, to foreign countries, especially the West Indies; the domestic trade to the Lower Mississippi and the Southern States; the neighborhood trade, as supplying the towns in the upper States, the miners in Missouri and the Upper Mississippi, the army and the navy; and the various professions, which, being otherwise employed, did not raise their own provisions. The amount of this trade, in this comprehensive view, was prodigious, and annually increasing, and involving in its current almost the entire population of the West, either as the growers and makers of the provisions, the curers, exporters, or consumers. The amount could scarcely be ascertained. What was exported from New Orleans was shown to be great; but it was only a fraction of the whole trade. He declared it to be entitled to the favorable consideration of Congress, and that the repeal of the salt duty was the greatest favor, if an act of justice ought to come under the name of favor, which could be rendered it, as the salt was necessary in growing the hogs and cattle, as well as in preparing the beef and pork for market. A reduction in the price of salt, next to a reduction in the price of land, was the greatest blessing which the federal government could now confer upon the West. Mr. B. referred to the example of England, who favored her provision curers, and permitted them to import alum salt free of duty, for the encouragement of the provision trade, even when her own salt manufacturers were producing an abundant and superfluous supply of common salt. He showed that she did more; that she extended the same relief and encouragement to the Irish; and he read from the British statute book an act of the British Parliament, passed in 1807, entitled ‘An act to encourage the export of salted beef and pork from Ireland,’ which allowed a bounty of ten pence sterling on every hundred weight of beef and pork so exported, in consideration of the duty paid on the salt which was used in the curing of it. He stated, that, at a later period, the duty had been entirely repealed, and the Irish, in common with other British subjects, allowed a free trade with all the world, in salt; and then demanded, in the most emphatic manner, if the people of the West could not obtain from the American Congress the justice which the oppressed Irish had

procured from a British Parliament, composed of hereditary nobles, and filled with representatives of rotten boroughs, and slavish retainers of the king's ministers.

"The 'American system' has taken the salt tax under its shelter and protection. The principles of that system, as I understand them, and practise upon them, are to tax, through the custom-house, the foreign rivals of our own essential productions, when, by that taxation, an adequate supply of the same article, as good and as cheap, can be made at home. These were the principles of the system (Mr. B. said) when he was initiated, and, if they had changed since, he had not changed with them; and he apprehended a promulgation of the change would produce a schism amongst its followers. Taking these to be the principles of the system, let the salt tax be brought to its test. In the first place, the domestic manufacture had enjoyed all possible protection. The duty was near three hundred per cent. on Liverpool salt, and four hundred upon alum salt; and to this must be added, so far as relates to all the interior manufactories, the protection arising from transportation, frequently equal to two or three hundred per cent. more. This great and excessive protection has been enjoyed, without interruption, for the last eighteen years, and partially for twenty years longer. This surely is time enough for the trial of a manufacture which requires but little skill or experience to carry it on. Now for the results. Have the domestic manufactories produced an adequate supply for the country? They have not; nor half enough. The production of the last year (1829) as shown in the returns to the Secretary of the Treasury, is about five millions of bushels; the importation of foreign salt, for the same period, as shown by the custom-house returns, is five million nine hundred and forty-five thousand five hundred and forty-seven bushels. This shows the consumption to be eleven millions of bushels, of which five are domestic. Here the failure in the essential particular of an adequate supply is more than one half. In the next place, how is it in point of price? Is the domestic article furnished as cheap as the foreign? Far from it, as already shown, and still further, as can be shown. The price of the domestic, along the coast of the Atlantic States, varies, at the works, from thirty-seven and a half to fifty cents; in the interior, the usual prices, at the works, are from thirty-three and a third cents to one dollar for the bushel of fifty pounds, which can nearly be put into a half bushel measure. The prices of the foreign salt, at the import cities, as shown in the custom-house returns for 1829, are, for the Liverpool blown, about fifteen cents for the bushel of fifty-six pounds; for Turk's Island and other West India salt, about nine cents; for St. Ubes and other Portugal salt, about eight cents; for Spanish salt, Bay of Biscay and Gibraltar, about seven cents; from the Island of Malta, six cents. Leaving out the Liverpool salt, which is made by boiling, and, therefore, contains slack and bittern, a septic ingredient, which promotes putrefaction, and renders that salt unfit for curing provisions, and which is not used in the West, and the average price of the strong, pure, alum salt, made by solar evaporation, in hot climates, is about eight cents to the bushel. Here, then, is another lamentable failure. Instead of being sold as cheap as the foreign, the domestic salt is from four to twelve times the price of alum salt. The last inquiry is as to the quality of the domestic article. Is it as good as the foreign? This is the most essential application of the test: and here again the failure is decisive. The domestic salt will not cure provisions for exportation (the little excepted which is made, in the Northeast, by solar evaporation), nor for consumption in the South, nor for long keeping at the army posts, nor for voyages with the navy. For all these purposes it is worthless, and useless, and the provisions which are put up in it are lost, or have to be repacked, at a great expense, in alum salt. This fact is well known throughout the West, where too many citizens have paid the penalty of trusting to domestic salt, to be duped or injured by it any longer.

"And here he submitted to the Senate, that the American system, without a gross departure from its original principles, could not cover this duty any longer. It has had the full benefit of that system in high duties, imposed for a long time, on foreign salt; it had not produced an

adequate supply for the country, nor half a supply; nor at as cheap a rate, by three hundred or one thousand per cent.; and what it did supply so far from being equal in quantity, could not even be used as a substitute for the great and important business of the provision trade. The amount of so much of that trade as went to foreign countries, Mr. B. showed to be sixty-six thousand barrels of beef, fifty-four thousand barrels of pork, two millions of pounds of bacon, two millions of pounds of butter, and one million of pounds of cheese; and he considered the supply for the army and navy, and for consumption in the South, to exceed the quantity exported.

"It cannot be necessary here to dilate upon the uses of salt. But, in repealing that duty in England, it was thought worthy of notice that salt was necessary to the health, growth, and fattening of hogs, cattle, sheep, and horses; that it was a preservative of hay and clover, and restored moulded and flooded hay to its good and wholesome state, and made even straw and chaff available as food for cattle. The domestic salt makers need not speak of protection against alum salt. No quantity of duty will keep it out. The people must have it for the provision trade; and the duty upon that kind of salt is a grievous burthen upon them, without being of the least advantage to the salt makers.

"Mr. B. said, there was no argument which could be used here, in favor of continuing this duty, which was not used, and used in vain, in England; and many were used there, of much real force, which cannot be used here. The American system, by name, was not impressed into the service of the tax there, but its doctrines were; and he read a part of the report of the committee on salt duties, in 1817, to prove it. It was the statement of the agent of the British salt manufacturers, Mr. William Horne, who was sworn and examined as a witness. He said: 'I will commence by referring to the evidence I gave upon the subject of rock salt, in order to establish the presumption of the national importance of the salt trade, arising from the large extent of British capital employed in the trade, and the considerable number of persons dependant upon it for support. I, at the same time, stated that the salt trade was in a very depressed state, and that it continued to fall off. I think it cannot be doubted that the salt trade, in common with all staple British manufactures, is entitled to the protection of government; and the British manufacturers of salt consider that, in common with other manufacturers of this country, they are entitled to such protection, in particular from a competition at home with foreign manufacturers; and, in consequence, they hope to see a prohibitory duty on foreign salt.'

"Such was the petition of the British manufacturers. They urged the amount of their capital, the depressed state of their business, the number of persons dependent upon it for support, the duty of the government to protect it, the necessity for a prohibitory duty on foreign salt, and the fact that they were making more than the country could consume. The ministry backed them with a call for the continuance of the revenue, one million five hundred thousand pounds sterling, derived from the salt tax; and with a threat to lay that amount upon something else, if it was taken off of salt. All would not do. Mr. Calcraft, and his friends, appealed to the rights and interests of the people, as overruling considerations in questions of taxation. They denounced the tax itself as little less than impiety, and an attack upon the goodness and wisdom of God, who had filled the bowels of the earth, and the waves of the sea, with salt for the use and blessing of man, and to whom it was denied, its use clogged and fettered, by odious and abominable taxes. They demanded the whole repeal; and when the ministry and the manufacturers, overpowered by the voice of the people, offered to give up three fourths of the tax, they bravely resisted the proposition, stood out for total repeal, and carried it.

“Mr. B. could not doubt a like result here, and he looked forward, with infinite satisfaction, to the era of a free trade in salt. The first effect of such a trade would be, to reduce the price of alum salt, at the import cities, to eight or nine cents a bushel. The second effect would be, a return to the measured bushel, by getting rid of the tariff regulation, which substituted weight for measure, and reduced eighty-four pounds to fifty. The third effect would be, to establish a great trade, carried on by barter, between the inhabitants of the United States and the people of the countries which produce alum salt, to the infinite advantage and comfort of both parties. He examined the operation of this barter at New Orleans. He said, this pure and superior salt, made entirely by solar evaporation, came from countries which were deficient in the articles of food, in which the West abounded. It came from the West Indies, from the coasts of Spain and Portugal, and from places in the Mediterranean; all of which are at this time consumers of American provisions, and take from us beef, pork, bacon, rice, corn, corn meal, flour, potatoes, &c. Their salt costs them almost nothing. It is made on the sea beach by the power of the sun, with little care and aid from man. It is brought to the United States as ballast, costing nothing for the transportation across the sea. The duty alone prevents it from coming to the United States in the most unbounded quantity. Remove the duty, and the trade would be prodigious. A bushel of corn is worth more than a sack of salt to the half-starved people to whom the sea and the sun give as much of this salt as they will rake up and pack away. The levee at New Orleans would be covered—the warehouses would be crammed with salt; the barter trade would become extensive and universal, a bushel of corn, or of potatoes, a few pounds of butter, or a few pounds of beef or pork, would purchase a sack of salt; the steamboats would bring it up for a trifle; and all the upper States of the Great Valley, where salt is so scarce, so dear, and so indispensable for rearing stock and curing provisions, in addition to all its obvious uses, would be cheaply and abundantly supplied with that article. Mr. B. concluded with saying, that, next to the reduction of the price of public lands, and the free use of the earth for labor and cultivation, he considered the abolition of the salt tax, and a free trade in foreign salt, as the greatest blessing which the federal government could now bestow upon the people of the West.”

46. Birthday Of Mr. Jefferson, And The Doctrine Of Nullification

The anniversary of the birthday of Mr. Jefferson (April 13th) was celebrated this year by a numerous company at Washington City. Among the invited guests present were the President and Vice-President of the United States, three of the Secretaries of departments—Messrs. Van Buren, Eaton and Branch—and the Postmaster-General, Mr. Barry—and numerously attended by members of both Houses of Congress, and by citizens. It was a subscription dinner; and as the paper imported, to do honor to the memory of Mr. Jefferson as the founder of the political school to which the subscribers belonged. In that sense I was a subscriber to the dinner and attended it; and have no doubt that the mass of the subscribers acted under the same feeling. There was a full assemblage when I arrived, and I observed gentlemen standing about in clusters in the ante-rooms, and talking with animation on something apparently serious, and which seemed to engross their thoughts. I soon discovered what it was—that it came from the promulgation of the twenty-four regular toasts, which savored of the new doctrine of nullification; and which, acting on some previous misgivings, began to spread the feeling, that the dinner was got up to inaugurate that doctrine, and to make Mr. Jefferson its father. Many persons broke off, and refused to attend further; but the company was still numerous, and ardent, as was proved by the number of volunteer votes given—above eighty—in addition to the twenty-four regulars; and the numerous and animated speeches delivered—the report of the whole proceedings filling eleven newspaper columns. When the regular toasts were over, the President was called upon for a volunteer, and gave it—the one which electrified the country, and has become historical: “Our Federal Union: It must be preserved.” This brief and simple sentiment, receiving emphasis and interpretation from all the attendant circumstances, and from the feeling which had been spreading since the time of Mr. Webster’s speech, was received by the public as a proclamation from the President, to announce a plot against the Union, and to summon the people to its defence. Mr. Calhoun gave the next toast; and it did not at all allay the suspicions which were crowding every bosom. It was this: “The Union: next to our Liberty the most dear: may we all remember that it can only be preserved by respecting the rights of the States, and distributing equally the benefit and burthen of the Union.” This toast touched all the tender parts of the new question—liberty *before* union—*only* to be preserved—*State rights*—inequality of *burthens* and *benefits*. These phrases, connecting themselves with Mr. Hayne’s speech, and with proceedings and publications in South Carolina, unveiled NULLIFICATION, as a new and distinct doctrine in the United States, with Mr. Calhoun for its apostle, and a new party in the field of which he was the leader. The proceedings of the day put an end to all doubt about the justice of Mr. Webster’s grand peroration, and revealed to the public mind the fact of an actual design tending to dissolve the Union.

Mr. Jefferson was dead at that time, and could not defend himself from the use which the new party made of his name—endeavoring to make him its founder;—and putting words in his mouth for that purpose which he never spoke. He happened to have written in his lifetime, and without the least suspicion of its future great materiality, the facts in relation to his concern in the famous resolutions of Virginia and Kentucky, and which absolve him from the accusation brought against him since his death. He counselled the resolutions of the Virginia General Assembly; and the word nullify, or nullification, is not in them, or any equivalent word: he drew the Kentucky resolutions of 1798: and they are equally destitute of the same phrases. He had nothing to do with the Kentucky resolutions of 1799, in which the word

"*nullification*," and as the "rightful remedy," is found; and upon which the South Carolina school relied as their main argument—and from which their doctrine took its name. Well, he had nothing to do with it! and so wrote (as a mere matter of information, and without foreseeing its future use), in a letter to William C. Cabell shortly before his death. This letter is in Volume III., page 429, of his published correspondence. Thus, he left enough to vindicate himself, without knowing that a vindication would be necessary, and without recurring to the argumentative demonstration of the peaceful and constitutional remedies which the resolutions which he did write, alone contemplated. But he left a friend to stand up for him when he was laid low in his grave—one qualified by his long and intimate association to be his compurgator, and entitled from his character to the absolute credence of all mankind. I speak of Mr. Madison, who, in various letters published in a quarto volume by Mr. J. C. McGuire, of Washington City, has given the proofs which I have already used, and added others equally conclusive. He fully overthrows and justly resents the attempt "*of the nullifiers to make the name of Mr. Jefferson the pedestal of their colossal heresy*." (Page 286: letter to Mr. N. P. Trist.) And he left behind him a State also to come to the rescue of his assailed integrity—his own native State of Virginia—whose legislature almost unanimously, immediately after the attempt to make Mr. Jefferson "*the pedestal of this colossal heresy*," passed resolves repulsing the imputation, and declaring that there was nothing in the Virginia resolutions '98 '99, to support South Carolina in her doctrine of nullification. These testimonies absolve Mr. Jefferson: but the nullifiers killed his birthday celebrations! Instead of being renewed annually, in all time, as his sincere disciples then intended, they have never been heard of since! and the memory of a great man—benefactor of his species—has lost an honor which grateful posterity intended to pay it, and which the preservation and dissemination of his principles require to be paid.

47. Regulation Of Commerce

The constitution of the United States gives to Congress the power to regulate commerce with foreign nations. That power has not yet been executed, in the sense intended by the constitution: for the commercial treaties made by the President and the Senate are not the legislative regulation intended in that grant of power; nor are the tariff laws, whether for revenue or protection, any the more so. They all miss the object, and the mode of operating, intended by the constitution in that grant—the true nature of which was explained early in the life of the new federal government by those most competent to do it—Mr. Jefferson, Mr. Madison, and Mr. Wm. Smith of South Carolina,—and in the form most considerate and responsible. Mr. Jefferson, as Secretary of State, in his memorable report "On the restrictions and privileges of the commerce of the United States in foreign countries;" Mr. Madison in his resolutions as a member of the House of Representatives in the year 1793, "For the regulation of our foreign commerce;" and in his speeches in support of his resolutions; and the speeches in reply, chiefly by Mr. William Smith, of South Carolina, speaking (as it was held), the sense of General Hamilton; so that in the speeches and writing of these three early members of our government (not to speak of many other able men then in the House of Representatives), we have the authentic exposition of the meaning of the clause in question, and of its intended mode of operation: for they all agreed in that view of the subject, though differing about the adoption of a system which would then have borne most heavily upon Great Britain. The plan was defeated at that time, and only by a very small majority (52 to 47),—the defeat effected by the mercantile influence, which favored the British trade, and was averse to any discrimination to her disadvantage, though only intended to coerce her into a commercial treaty—of which we then had none with her. Afterwards the system of treaties was followed up, and protection to our own industry extended incidentally through the clause in the constitution authorizing Congress to "Lay and collect taxes, duties, imports and excises," &c. So that the power granted in the clause, "To regulate commerce with foreign nations," has never yet been exercised by Congress:—a neglect or omission, the more remarkable as, besides the plain and obvious fairness and benefit of the regulation intended, the power conferred by that clause was the potential moving cause of forming the present constitution, and creating the present Union.

The principle of the regulation was to be that of reciprocity—that is, that trade was not to be free on one side, and fettered on the other—that goods were not to be taken from a foreign country, free of duty, or at a low rate, unless that country should take something from us, also free, or at a low rate. And the mode of acting was by discriminating in the imposition of duties between those which had, and had not, commercial treaties with us—the object to be accomplished by an act of Congress to that effect; which foreign nations might meet either by legislation in their imposition of duties; or, and which is preferable, by treaties of specified and limited duration. My early study of the theory, and the working of our government—so often different, and sometimes opposite—led me to understand the regulation clause in the constitution, and to admire and approve it: and as in the beginning of General Jackson's administration, I foresaw the speedy extinction of the public debt, and the consequent release of great part of our foreign imports from duty, I wished to be ready to derive all the benefit from the event which would result from the double process of receiving many articles free which were then taxed, and of sending abroad many articles free which were now met by heavy taxation. With this view, I brought a bill into the Senate in the session 1829-'30, to revive the policy of Mr. Madison's resolutions of 1793—without effect then, but without despair of eventual success. And still wishing to see that policy revived, and seeing near at

hand a favorable opportunity for it in the approaching extinction of our present public debt—(and I wish I could add, a return to economy in the administration of the government)—and consequent large room for the reduction and abolition of duties, I here produce some passages from the speech I delivered on my bill of 1830, preceded by some passages from Mr. Madison's speech of 1793, in support of his resolutions, and showing his view of their policy and operation—not of their constitutionality, for of that there was no question: and his complaint was that the identical clause in the constitution which caused the constitution to be framed, had then remained four years without execution. He said:

"Mr. Madison, after some general observations on the report, entered into a more particular consideration of the subject. He remarked that the commerce of the United States is not, at this day, on that respectable footing to which, from its nature and importance, it is entitled. He recurred to its situation previous to the adoption of the constitution, when conflicting systems prevailed in the different States. The then existing state of things gave rise to that convention of delegates from the different parts of the Union, who met to deliberate on some general principles for the regulation of commerce, which might be conducive, in their operation, to the general welfare, and that such measures should be adopted as would conciliate the friendship and good faith of those countries who were disposed to enter into the nearest commercial connections with us. But what has been the result of the system which has been pursued ever since? What is the present situation of our commerce? From the situation in which we find ourselves after four years' experiment, he observed, that it appeared incumbent on the United States to see whether they could not now take measures promotive of those objects, for which the government was in a great degree instituted. Measures of moderation, firmness and decision, he was persuaded, were now necessary to be adopted, in order to narrow the sphere of our commerce with those nations who see proper not to meet us on terms of reciprocity.

"Mr. M. took a general view of the probable effects which the adoption of something like the resolutions he had proposed, would produce. They would produce, respecting many articles imported, a competition which would enable countries who did not now supply us with those articles, to do it, and would increase the encouragement on such as we can produce within ourselves. We should also obtain an equitable share in carrying our own produce; we should enter into the field of competition on equal terms, and enjoy the actual benefit of advantages which nature and the spirit of our people entitle us to.

"He adverted to the advantageous situation this country is entitled to stand in, considering the nature of our exports and returns. Our exports are bulky, and therefore must employ much shipping, which might be nearly all our own: our exports are chiefly necessaries of life, or raw materials, the food for the manufacturers of other nations. On the contrary, the chief of what we receive from other countries, we can either do without, or produce substitutes.

"It is in the power of the United States, he conceived, by exerting her natural rights, without violating the rights, or even the equitable pretensions of other nations—by doing no more than most nations do for the protection of their interests, and much less than some, to make her interests respected; for, what we receive from other nations are but luxuries to us, which, if we choose to throw aside, we could deprive part of the manufacturers of those luxuries, of even bread, if we are forced to the contest of self-denial. This being the case, our country may make her enemies feel the extent of her power. We stand, with respect to the nation exporting those luxuries, in the relation of an opulent individual to the laborer, in producing the superfluities for his accommodation; the former can do without those luxuries, the consumption of which gives bread to the latter.

“He did not propose, or wish that the United States should, at present, go so far in the line which his resolutions point to, as they might go. The extent to which the principles involved in those resolutions should be carried, will depend upon filling up the blanks. To go the very extent of the principle immediately, might be inconvenient. He wished, only, that the Legislature should mark out the ground on which we think we can stand; perhaps it may produce the effect wished for, without unnecessary irritation; we need not at first, go every length.

“Another consideration would induce him, he said, to be moderate in filling up the blanks—not to wound public credit. He did not wish to risk any sensible diminution of the public revenue. He believed that if the blanks were filled with judgment, the diminution of the revenue, from a diminution in the quantity of imports, would be counterbalanced by the increase in the duties.

“The last resolution he had proposed, he said, is, in a manner, distinct from the rest. The nation is bound by the most sacred obligation, he conceived, to protect the rights of its citizens against a violation of them from any quarter; or, if they cannot protect, they are bound to repay the damage.

“It is a fact authenticated to this House by communications from the Executive, that there are regulations established by some European nations, contrary to the law of nations, by which our property is seized and disposed of in such a way that damages have accrued. We are bound either to obtain reparation for the injustice, or compensate the damage. It is only in the first instance, no doubt, that the burden is to be thrown upon the United States. The proper department of government will, no doubt, take proper steps to obtain redress. The justice of foreign nations will certainly not permit them to deny reparation when the breach of the law of nations evidently appears; at any rate, it is just that the individual should not suffer. He believed the amount of the damages that would come within the meaning of this resolution, would not be very considerable.”

Reproducing these views of Mr. Madison, and with a desire to fortify myself with his authority, the better to produce a future practical effect, I now give the extract from my own speech of 1830:

“Mr. Benton said he rose to ask the leave for which he gave notice on Friday last; and in doing so, he meant to avail himself of the parliamentary rule, seldom followed here, but familiar in the place from whence we drew our rules—the British Parliament—and strictly right and proper, when any thing new or unusual is to be proposed, to state the clauses, and make an exposition of the principles of his bill, before he submitted the formal motion for leave to bring it in.

“The tenor of it is, not to abolish, but to provide for the abolition of duties. This phraseology announces, that something in addition to the statute—some power in addition to that of the legislature, is to be concerned in accomplishing the abolition. Then the duties for abolition are described as unnecessary ones; and under this idea is included the twofold conception, that they are useless, either for the protection of domestic industry, or for supplying the treasury with revenue. The relief of the people from sixteen millions of taxes is based upon the idea of an abolition of twelve millions of duties; the additional four millions being the merchant’s profit upon the duty he advances; which profit the people pay as a part of the tax, though the government never receives it. It is the merchant’s compensation for advancing the duty, and is the same as his profit upon the goods. The improved condition of the four great branches of national industry is presented as the third object of the bill; and their relative importance, in my estimation, classes itself according to the order of my arrangement.

Agriculture, as furnishing the means of subsistence to man, and as the foundation of every thing else, is put foremost; manufactures, as preparing and fitting things for our use, stands second, commerce, as exchanging the superfluities of different countries, comes next; and navigation, as furnishing the chief means of carrying on commerce, closes the list of the four great branches of national industry. Though classed according to their respective importance, neither branch is disparaged. They are all great interests—all connected—all dependent upon each other—friends in their nature—for a long time friends in fact, under the operations of our government: and only made enemies to each other, as they now are by a course of legislation, which the approaching extinguishment of the public debt presents a fit opportunity for reforming and ameliorating. The title of my bill declares the intention of the bill to improve the condition of each of them. The abolition of sixteen millions of taxes would itself operate a great improvement in the condition of each; but the intention of the bill is not limited to that incidental and consequential improvement, great as it may be; it proposes a positive, direct, visible, tangible, and countable benefit to each; and this I shall prove and demonstrate, not in this brief illustration of the title of my bill, but at the proper places, in the course of the examination into its provisions and exposition of its principles.

"I will now proceed with the bill, reading each section in its order, and making the remarks upon it which are necessary to explain its object and to illustrate its operation."

The First Section.

"That, for the term of ten years, from and after the first day of January, in the year 1832, or, as soon thereafter as may be agreed upon between the United States and any foreign power, the duties now payable on the importation of the following articles, or such of them as may be agreed upon, shall cease and determine, or be reduced, in favor of such countries as shall, by treaty, grant equivalent advantages to the agriculture, manufactures, commerce, and navigation, of the United States.

"This section contains the principle of abolishing duties by the joint act of the legislative and executive departments. The idea of equivalents, which the section also presents, is not new, but has for its sanction high and venerated authority, of which I shall not fail to avail myself. That we ought to have equivalents for abolishing ten or twelve millions of duties on foreign merchandise is most clear. Such an abolition will be an advantage to foreign powers, for which they ought to compensate us, by reducing duties to an equal amount upon our productions. This is what no law, or separate act of our own, can command. Amicable arrangements alone, with foreign powers, can effect it; and to free such arrangements from serious, perhaps insuperable difficulties, it would be necessary first to lay a foundation for them in an act of Congress. This is what my bill proposes to do. It proposes that Congress shall select the articles for abolition of duty, and then leave it to the Executive to extend the provisions of the act to such powers as will grant us equivalent advantages. The articles enumerated for abolition of duty are of kinds not made in the United States, so that my bill presents no ground of alarm or uneasiness to any branch of domestic industry.

"The acquisition of equivalents is a striking feature in the plan which I propose, and for that I have the authority of him whose opinions will never be invoked in vain, while republican principles have root in our soil. I speak of Mr. Jefferson, and of his report on the commerce and navigation of the United States, in the year '93, an extract from which I will read."

The Extract.

"Such being the restrictions on the commerce and navigation of the United States, the question is, in what way they may best be removed, modified, or counteracted?

“As to commerce, two methods occur: 1. By friendly arrangements with the several nations with whom these restrictions exist: or, 2. By the separate act of our own legislatures, for countervailing their effects.

“There can be no doubt, but that, of these two, friendly arrangements is the most eligible. Instead of embarrassing commerce under piles of regulating laws, duties, and prohibitions, could it be relieved from all its shackles, in all parts of the world—could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others mutual surplusses, for mutual wants, the greatest mass possible would then be produced, of those things which contribute to human life and human happiness, the numbers of mankind would be increased, and their condition bettered.

“Would even a single nation begin with the United States this system of free commerce, it would be advisable to begin it with that nation; since it is one by one only that it can be extended to all. Where the circumstances of either party render it expedient to levy a revenue, by way of impost on commerce, its freedom might be modified in that particular, by mutual and equivalent measures, preserving it entire in all others.

“Some nations, not yet ripe for free commerce, in all its extent, might be willing to mollify its restrictions and regulations, for us, in proportion to the advantages which an intercourse with us might offer. Particularly they may concur with us in reciprocating the duties to be levied on each side, or in compensating any excess of duty, by equivalent advantages of another nature. Our commerce is certainly of a character to entitle it to favor in most countries. The commodities we offer are either necessaries of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market—customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

“But, should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens, their commerce and navigation, by counter prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them.”

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“The plan which I now propose adopts the idea of equivalents and retaliation to the whole extent recommended by Mr. Jefferson. It differs from his plan in two features: first, in the mode of proceeding, by founding the treaties abroad upon a legislative act at home; secondly, in combining protection with revenue, in selecting articles of exception to the system of free trade. This degree of protection he admitted himself, at a later period of his life. It corresponds with the recommendation of President Washington to Congress, in the year ‘90, and with that of our present Chief Magistrate, to ourselves, at the commencement of the present session of Congress.

“I will not now stop to dilate upon the benefit which will result to every family from an abolition of duties which will enable them to get all the articles enumerated in my bill for about one third, or one half less, than is now paid for them. Let any one read over the list of articles, and then look to the sum total which he now pays out annually for them, and from that sum deduct near fifty per cent., which is about the average of the duties and merchant’s profit included, with which they now come charged to him. This deduction will be his saving

under one branch of my plan—the abolition clause. To this must be added the gain under the clause to secure equivalents in foreign markets, and the two being added together, the saving in purchases at home being added to the gain in sales abroad, will give the true measure of the advantages which my plan presents.

"Let us now see whether the agriculture and manufactures of the United States do not require better markets abroad than they possess at this time. What is the state of these markets? Let facts reply. England imposes a duty of three shillings sterling a pound upon our tobacco, which is ten times its value. She imposes duties equivalent to prohibition on our grain and provisions; and either totally excludes, or enormously taxes, every article, except cotton, that we send to her ports. In France, our tobacco is subject to a royal monopoly, which makes the king the sole purchaser, and subjects the seller to the necessity of taking the price which his agents will give. In Germany, our tobacco, and other articles, are heavily dutied, and liable to a transit duty, in addition, when they have to ascend the Rhine, or other rivers, to penetrate the interior. In the West Indies, which is our great provision market, our beef, pork, and flour, usually pay from eight to ten dollars a barrel: our bacon, from ten to twenty-five cents a pound; live hogs, eight dollars each; corn, cornmeal, lumber, whiskey, fruit, vegetables, and every thing else, in proportion; the duties in the different islands, on an average, equalling or exceeding the value of the articles in the United States. We export about forty-five millions of domestic productions, exclusive of manufactures, annually; and it may be safely assumed that we have to pay near that sum in the shape of duties, for the privilege of selling these exports in foreign markets. So much for agriculture. Our manufactures are in the same condition. In many branches they have met the home demand, and are going abroad in search of foreign markets. They meet with vexatious restrictions, peremptory exclusions, or oppressive duties, wherever they go. The quantity already exported entitles them to national consideration, in the list of exports. Their aggregate value for 1828 was about five millions of dollars, comprising domestic cottons, to the amount of a million of dollars; soap and candles, to the value of nine hundred thousand dollars; boots, shoes, and saddlery, five hundred thousand dollars; hats, three hundred thousand dollars; cabinet, coach, and other wooden work, six hundred thousand dollars; glass and iron, three hundred thousand dollars; and numerous smaller items. This large amount of manufactures pays their value, in some instances more, for the privilege of being sold abroad; and, what is worse, they are totally excluded from several countries from which we buy largely. Such restrictions and impositions are highly injurious to our manufactures; and it is incontestably true, the amount of exports prove it, that what most of them now need is not more protection at home, but a better market abroad; and it is one of the objects of this bill to obtain such a market for them.

"It appears to me [said Mr. B.] to be a fair and practicable plan, combining the advantages of legislation and negotiation, and avoiding the objections to each. It consults the sense of the people, in leaving it to their Representatives to say on what articles duties shall be abolished for their relief; on what they shall be retained for protection and revenue; it then secures the advantage of obtaining equivalents, by referring it to the Executive to extend the benefit of the abolition to such nations as shall reciprocate the favor. To such as will not reciprocate, it leaves every thing as it now stands. The success of this plan can hardly be doubted. It addresses itself to the two most powerful passions of the human heart—interest and fear; it applies itself to the strongest principles of human action—profit and loss. For, there is no nation with whom we trade but will be benefited by the increased trade of her staple productions, which will result from a free trade in such productions; none that would not be crippled by the loss of such a trade, which loss would be the immediate effect of rejecting our system. Our position enables us to command the commercial system of the globe; to mould it to our own plan, for the benefit of the world and ourselves. The approaching extinction of the

public debt puts it into our power to abolish twelve millions of duties, and to set free more than one-half of our entire commerce. We should not forego, nor lose the advantages of such a position. It occurs but seldom in the life of a nation, and once missed, is irretrievably gone, to the generation, at least, that saw and neglected the golden opportunity. We have complained, and justly, of the burthens upon our exports in foreign countries; a part of our tariff system rests upon the principle of retaliation for the injury thus done us. Retaliation, heretofore, has been our only resource: but reciprocity of injuries is not the way to enrich nations any more than individuals. It is an 'unprofitable contest,' under every aspect. But the present conjuncture, payment of the public debt, in itself a rare and almost unprecedented occurrence in the history of nations, enables us to enlarge our system; to present a choice of alternatives: one fraught with relief, the other presenting a burthen to foreign nations. The participation, or exclusion, from forty millions of free trade, annually increasing, would not admit of a second thought, in the head of any nation with which we trade. To say nothing of her gains in the participation in such a commerce, what would be her loss in the exclusion from it? How would England, France, or Germany, bear the loss of their linen, silk, or wine trade, with the United States? How could Cuba, St. Domingo, or Brazil, bear the loss of their coffee trade with us? They could not bear it at all. Deep and essential injury, ruin of industry seditions, and bloodshed, and the overthrow of administrations, would be the consequence of such loss. Yet such loss would be inevitable (and not to the few nations, or in the articles only which I have mentioned, for I have put a few instances only by way of example), but to every nation with whom we trade, that would not fall into our system, and throughout the whole list of essential articles to which our abolition extends. Our present heavy duties would continue in force against such nations; they would be abolished in favor of their rivals. We would say to them, in the language of Mr. Jefferson, free trade and navigation is not to be given in exchange for restrictions and vexations! But I feel entire confidence that it would not be necessary to use the language of menace or coercion. Amicable representations, addressed to their sense of self-interest, would be more agreeable, and not less effectual. The plan cannot fail! It is scarcely within the limits of possibility that it should fail! And if it did, what then? We have lost nothing. We remain as we were. Our present duties are still in force, and Congress can act upon them one or two years hence, in any way they please.

"Here, then, is the peculiar recommendation to my plan, that, while it secures a chance, little short of absolute certainty, of procuring an abolition of twelve millions of duties upon our exports in foreign countries, in return for an abolition of twelve millions of duties upon imports from them, it exposes nothing to risk, the abolition of duty upon the foreign article here being contingent upon the acquisition of the equivalent advantage abroad.

"I close this exposition of the principles of my bill with the single remark, that these treaties for the mutual abolition of duties should be for limited terms, say for seven or ten years, to give room for the modifications which time, and the varying pursuits of industry, may show to be necessary. Upon this idea, the bill is framed, and the period of ten years inserted by way of suggestion and exemplification of the plan. Another feature is too obvious to need a remark, that the time for the commencement of the abolition of duties is left to the Executive, who can accommodate it to the state of the revenue and the extinction of the public debt."

The plan which I proposed in this speech adopted the principle of Mr. Madison's resolutions but reversed their action. The discrimination which he proposed was a levy of five or ten per cent. *more* on the imports from countries which did not enter into our propositions for reciprocity: my plan, as being the same thing in substance, and less invidious in form, was a levy of five or ten per cent. less on the commerce of the reciprocating nations—thereby holding out an inducement and a benefit, instead of a threat and a penalty.

48. Alum Salt. The Abolition Of The Duty Upon It, And Repeal Of The Fishing Bounty And Allowances Founded On It

I look upon a salt tax as a curse—as something worse than a political blunder, great as that is—as an impiety, in stinting the use, and enhancing the cost by taxation, of an article which God has made necessary to the health and comfort, and almost to the life, of every animated being—the poor dumb animal which can only manifest its wants in mute signs and frantic actions, as well as the rational and speaking man who can thank the Creator for his goodness, and curse the legislator that mars its enjoyment. There is a mystery in salt. It was used in holy sacrifice from the earliest day; and to this time, in the Oriental countries, the stranger lodging in the house, cannot kill or rob while in it, after he has tasted the master's salt. The disciples of Christ were called by their master the salt of the earth. Sacred and profane history abound in instances of people refusing to fight against the kings who had given them salt: and this mysterious deference for an article so essential to man and beast takes it out of the class of ordinary productions, and carries it up close to those vital elements—bread, water, fire, air—which Providence has made essential to life, and spread every where, that craving nature may find its supply without stint, and without tax. The venerable Mr. Macon considered a salt tax in a sacrilegious point of view—as breaking a sacred law—and fought against ours as long as his public life lasted; and I, his disciple, not disesteemed by him, commenced fighting by his side against the odious imposition; and have continued it since his death, and shall continue it until the tax ceases, or my political life terminates. Many are my speeches, and reports, against it in my senatorial life of thirty years; and among other speeches, one limited to a particular kind of salt not made in the United States, and indispensable to dried or pickled provisions. This is the alum salt, made by solar evaporation out of sea water; and being a kind not produced at home, indispensable and incapable of substitute, it had a legitimate claim to exemption from the canons of the American system. That system protected homemade fire-boiled common salt, because it had a foreign rival: we had no sun-made crystallized salt at home; and therefore had nothing to protect in taxing the foreign article. I had failed—we had all failed—in our attempts to abolish the salt tax generally: I determined to attempt the abolition of the alum salt duty separately; and with it, the fishing bounties and allowances founded upon it: and brought a bill into the Senate to accomplish that object. The fishing bounties and allowances being claimed by some, as a bounty to navigation (in which point of view they would be as unconstitutional as unjust), I was under the necessity of tracing their origin, as being founded on the idea of a drawback of the duty paid on the salt put upon the exported dried or pickled fish—commencing with the salt tax, and adjusted to the amount of the tax—rising with its increase and falling with its fall—and that, in the beginning allowed to the exportation of pickled beef and pork, to the same degree, and upon the same principle that the bounties and allowances were extended to the fisheries. In the bill introduced for this purpose, I spoke as follows:

"To spare any senator the supposed necessity of rehearsing me a lecture upon the importance of the fisheries, I will premise that I have some acquaintance with the subject—that I know the fisheries to be valuable, for the food they produce, the commerce they create, the mariners they perfect, the employment they give to artisans in the building of vessels; and the consumption they make of wood, hemp and iron. I also know that the fishermen applied for the bounties, at the commencement of our present form of government, which the British give

to their fisheries, for the encouragement of navigation; and that they were denied them upon the report of the then Secretary of State (Mr. Jefferson). I also know that our fishing bounties and allowances go, in no part, to that branch of fishing to which the British give most bounty—whaling—because it is the best school for mariners; and the interests of navigation are their principal object in promoting fishing. No part of our bounties and allowances go to our whale ships, because they do not consume foreign salt on which they have paid duty, and reclaim it as drawback. I have also read the six dozen acts of Congress, general and particular, passed in the last forty years—from 1789 to 1829 inclusively—giving the bounties and allowances which it is my present purpose to abolish, with the alum salt duty on which all this superstructure of legislative enactment is built up. I say the salt tax, and especially the tax on alum salt (which is the kind required for the fisheries), is the foundation of all these bounties and allowances; and that, as they grew up together, it is fair and regular that they should sink and fall together. I recite a dozen of the acts: thus:

"1. Act of Congress, 1789, grants five cents a barrel on pickled fish and salted provisions, and five cents a quintal on dried fish, exported from the United States, in lieu of a drawback of the duties imposed on the importation of the salt used in curing such fish and provisions.

"N.B. Duty on salt, at that time, six cents a bushel.

"2. Act of 1790 increases the bounty in lieu of drawback to ten cents a barrel on pickled fish and salted provisions, and ten cents a quintal on dried fish. The duty on salt being then raised to twelve cents a bushel.

"3. Act of 1792 repeals the bounty in lieu of drawback on dried fish, and in lieu of that, and as a commutation and equivalent therefor, authorizes an allowance to be paid to vessels in the cod fishery (dried fish) at the rate of one dollar and fifty cents a ton on vessels of twenty to thirty tons; with a limitation of one hundred and seventy dollars for the highest allowance to any vessel.

"4. A supplementary act, of the same year, adds twenty per cent. to each head of these allowances.

"5. Act of 1797 increases the bounty on salted provisions to eighteen cents a barrel; on pickled fish to twenty-two cents a barrel; and adds thirty-three and a third per cent. to the allowance in favor of the cod-fishing vessels. Duty on salt, at the same time, being raised to twenty cents a bushel.

"6. Act of 1799 increases the bounty on pickled fish to thirty cents a barrel, on salted provisions to twenty-five.

"7. Act of 1800 continues all previous acts (for bounties and allowances) for ten years, and makes this proviso: That these allowances shall not be understood to be continued for a longer time than the correspondent duties on salt, respectively, for which the said additional allowances were granted, shall be payable.

"8. Act of 1807 repeals all laws laying a duty on imported salt, and for paying bounties on the exportation of pickled fish and salted provisions, and making allowances to fishing vessels—Mr. Jefferson being then President.

"9. Act of 1813 gives a bounty of twenty cents a barrel on pickled fish exported, and allows to the cod-fishing vessels at the rate of two dollars and forty cents the ton for vessels between twenty and thirty tons, four dollars a ton for vessels above thirty, with a limitation of two hundred and seventy-two dollars for the highest allowance; and a proviso, that no bounty or allowance should be paid unless it was proved to the satisfaction of the collector that the fish was wholly cured with foreign salt, and the duty on it secured or paid. The salt duty, at the

rate of twenty cents a bushel, was revived as a war tax at the same time. Bounties on salted provisions were omitted.

“10. Act of 1816 continued the act of 1813 in force, which, being for the war only, would otherwise have expired.

“11. Act of 1819 increases the allowance to vessels in the cod fishery to three dollars and fifty cents a ton on vessels from five to thirty; to four dollars a ton on vessels above thirty tons; with a limitation of three hundred and sixty dollars for the maximum allowance.

“12. Act of 1828 authorizes the mackerel fishing vessels to take out licenses like the cod-fishing vessels, under which it is reported by the vigilant Secretary of the Treasury that money is illegally drawn by the mackerel vessels—the newspapers say to the amount of thirty to fifty thousand dollars per annum.

“These recitals of legislative enactments are sufficient to prove that the fishing bounties and allowances are bottomed upon the salt duty, and must stand or fall with that duty. I will now give my reasons for proposing to abolish the duty on alum salt, and will do it in the simplest form of narrative statement; the reasons themselves being of a nature too weighty and obvious to need, or even to admit, of coloring or exaggeration from arts of speech.

“1. Because it is an article of indispensable necessity in the provision trade of the United States. No beef or pork for the army or navy, or for consumption in the South, or for exportation abroad, can be put up except in this kind of salt. If put up in common salt it is rejected absolutely by the commissaries of the army and navy, and if taken to the South must be repacked in alum salt, at an expense of one dollar and twelve and a half cents a barrel, before it is exported, or sold for domestic consumption. The quantity of provisions which require this salt, and must have it, is prodigious, and annually increasing. The exports of 1828 were, of beef sixty-six thousand barrels, of pork fifty-four thousand barrels, of bacon one million nine hundred thousand pounds weight, butter and cheese two million pounds weight. The value of these articles was two millions and a quarter of dollars. To this amount must be added the supply for the army and navy, and all that was sent to the South for home consumption, every pound of which had to be cured in this kind of salt, for common salt will not cure it. The Western country is the great producer of provisions; and there is scarcely a farmer in the whole extent of that vast region whose interest does not require a prompt repeal of the duty on this description of salt.

“2. Because no salt of this kind is made in the United States, nor any rival to it, or substitute for it. It is a foreign importation, brought from various islands in the West Indies, belonging to England, France, Spain, and Denmark; and from Lisbon, St. Ubes, Gibraltar, the Bay of Biscay, and Liverpool. The principles of the protecting system do not extend to it: for no quantity of protection can produce a home supply. The present duty, which is far beyond the rational limit of protection, has been in force near thirty years, and has not produced a pound. We are still thrown exclusively upon the foreign supply. The principles of the protecting system can only apply to common salt, the product of which is considerable in the United States; and upon that kind, the present duty is proposed to be left in full force.

“3. Because the duty is enormous, and quadruples the price of the salt to the farmer. The original value of salt is about fifteen cents the measured bushel of eighty-four pounds. But the tariff substitutes weight for measure, and fixes that weight at fifty-six pounds, instead of eighty-four. Upon that fifty-six pounds, a duty of twenty cents is laid. Upon this duty, the retail merchant has his profit of eight or ten cents, and then reduces his bushel from fifty-six to fifty pounds. The consequence of all these operations is, that the farmer pays about three

times as much for a weighed bushel of fifty pounds, as he would have paid for a measured bushel of eighty-four pounds, if this duty had never been imposed.

“4. Because the duty is unequal in its operation, and falls heavily on some parts of the community, and produces profit to others. It is a heavy tax on the farmers of the West, who export provisions; and no tax at all, but rather a source of profit, to that branch of the fisheries to which the allowances of the vessels apply. Exporters of provisions have the same claim to these allowances that exporters of fish have. Both claims rest upon the same principle, and upon the principle of all drawbacks, that of refunding the duty paid on the imported salt, which is re-exported on salted fish and provisions. The same principle covers the beef and pork of the farmer which covers the fish of the fisherman; and such was the law, as I have shown, for the first eighteen years that these bounties and allowances were authorized. Fish and provisions fared alike from 1789 to 1807. Bounties and allowances began upon them together, and fell together, on the repeal of the salt tax, in the second term of Mr. Jefferson’s administration. At the renewal of the salt tax, in 1813, at the commencement of the late war, they parted company, and the law, to the exact sense of the proverb, has made fish of one and flesh of the other ever since. The fishing interest is now drawing about two hundred and fifty thousand dollars annually from the treasury; the provision raisers draw not a cent, while they export more than double as much, and ought, upon the same principle, to draw more than double as much money from the treasury.

“5. Because it is the means of drawing an undue amount of money from the public treasury, under the idea of an equivalent for the drawback of duty on the salt used in the curing of fish. The amount of money actually drawn in that way is about four millions seven hundred and fifty thousand dollars, and is now going on at the rate of two hundred and fifty thousand dollars per annum, and constantly augmenting. That this amount is more than the legal idea recognizes, or contemplates, is proved in various ways. 1. By comparing the quantity of salt supposed to have been used, with the quantity of fish known to have been exported, within a given year. This test, for the year 1828, would exhibit about seventy millions of pounds weight of salt on about forty millions of pounds weight of fish. This would suppose about a pound and three quarters of salt upon each pound of fish. 2. By comparing the value of the salt supposed to have been used, with the value of the fish known to have been exported. This test would give two hundred and forty-eight thousand dollars for the salt duty on about one million of dollars’ worth of fish; making the duty one fourth of its value. On this basis, the amount of the duty on the salt used on exported provisions would be near six hundred thousand dollars. 3. By comparing the increasing allowances for salt with the decreasing exportation of fish. This test, for two given periods, the rate of allowance being the same, would produce this result: In the year 1820, three hundred and twenty-one thousand four hundred and nineteen quintals of dried fish exported, and one hundred and ninety-eight thousand seven hundred and twenty-four dollars paid for the commutation of the salt drawback: in 1828, two hundred and sixty-five thousand two hundred and seventeen quintals of dried fish exported, and two hundred and thirty-nine thousand one hundred and forty-five dollars paid for the commutation. These comparisons establish the fact that money is unlawfully drawn from the treasury by means of these fishing allowances, bottomed on the salt duty, and that fact is expressly stated by the Secretary of the Treasury (Mr. Ingham), in his report upon the finances, at the commencement of the present session of Congress. [See page eight of the report.]

“6. Because it has become a practical violation of one of the most equitable clauses in the constitution of the United States—the clause which declares that duties, taxes, and excises, shall be uniform throughout the Union. There is no uniformity in the operation of this tax. Far from it. It empties the pockets of some, and fills the pockets of others. It returns to some five

times as much as they pay, and to others it returns not a cent. It gives to the fishing interest two hundred and fifty thousand dollars per annum, and not a cent to the farming interest, which, upon the same principle, would be entitled to six hundred thousand dollars per annum.

“7. Because this duty now rests upon a false basis—a basis which makes it the interest of one part of the Union to keep it up, while it is the interest of other parts to get rid of it. It is the interest of the West to abolish this duty: it is the interest of the Northeast to perpetuate it. The former loses money by it; the latter makes money by it; and a tax that becomes a money-making business is a solecism of the highest order of absurdity. Yet such is the fact. The treasury records prove it, and it will afford the Northeast a brilliant opportunity to manifest their disinterested affection to the West, by giving up their own profit in this tax, to relieve the West from the burthen it imposes upon her.

“8. Because the repeal of the duty will not materially diminish the revenue, nor delay the extinguishment of the public debt. It is a tax carrying money out of the treasury, as well as bringing it in. The issue is two hundred and fifty thousand dollars, perhaps the full amount which accrues on the kind of salt to which the abolition extends. The duty, and the fishing allowances bottomed upon it, falling together as they did when Mr. Jefferson was President, would probably leave the amount of revenue unaffected.

“9. Because it belongs to an unhappy period in the history of our government, and came to us, in its present magnitude, in company with an odious and repudiated set of measures. The maximum of twenty cents a bushel on salt was fixed in the year ‘98, and was the fruit of the same system which produced the alien and sedition laws, the eight per cent. loans, the stamp act, the black cockade, and the standing army in time of peace. It was one of the contrivances of that disastrous period for extorting money from the people, for the support of that strong and splendid government which was then the cherished vision of so many exalted heads. The reforming hand of Jefferson overthrew it, and all the superstructure of fishing allowances which was erected upon it. The exigencies of the late war caused it to be revived for the term of the war, and the interest of some, and the neglect of others, have permitted it to continue ever since. It is now our duty to sink it a second time. We profess to be disciples of the Jeffersonian school; let us act up to our profession, and complete the task which our master set us.”

49. Bank Of The United States

It has been already shown that General Jackson in his first annual message to Congress, called in question both the constitutionality and expediency of the national bank, in a way to show him averse to the institution, and disposed to see the federal government carried on without the aid of such an assistant. In the same message he submitted the question to Congress, that, *if* such an institution is deemed essential to the fiscal operations of the government, whether a national one, founded upon the credit of the government, and its revenues, might not be devised, which would avoid all constitutional difficulties, and at the same time secure all the advantages to the government and country that were expected to result from the present bank. I was not in Washington when this message was prepared, and had had no conversation with the President in relation to a substitute for the national bank, or for the currency which it furnished, and which having a general circulation was better entitled to the character of "national" than the issues of the local or State banks. We knew each other's opinions on the question of a bank itself: but had gone no further. I had never mentioned to him the idea of reviving the gold currency—then, and for twenty years—extinct in the United States: nor had I mentioned to him the idea of an independent or sub-treasury—that is to say, a government treasury unconnected with any bank—and which was to have the receiving and disbursing of the public moneys. When these ideas were mentioned to him, he took them at once; but it was not until the Bank of the United States should be disposed of that any thing could be done on these two subjects; and on the latter a process had to be gone through in the use of local banks as depositories of the public moneys which required several years to show its issue and inculcate its lesson. Though strong in the confidence of the people, the President was not deemed strong enough to encounter all the banks of all the States at once. Temporizing was indispensable—and even the conciliation of a part of them. Hence the deposit system—or some years' use of local banks as fiscal agents of the government—which gave to the institutions so selected, the invidious appellation of "*pet banks*;" meaning that they were government favorites.

In the mean time the question which the President had submitted to Congress in relation to a government fiscal agent, was seized upon as an admitted design to establish a government bank—stigmatized at once as a "thousand times more dangerous" than an incorporated national bank—and held up to alarm the country. Committees in each House of Congress, and all the public press in the interest of the existing Bank of the United States, took it up in that sense, and vehemently inveighed against it. Under an instruction to the Finance Committee of the Senate, to report upon a plan for a uniform currency, and under a reference to the Committee of Ways and Means of the House, of that part of the President's message which related to the bank and its currency, most ample, elaborate and argumentative reports were made—wholly repudiating all the suggestions of the President, and sustaining the actual Bank of the United States under every aspect of constitutionality and of expediency: and strongly presenting it for a renewal of its charter. These reports were multiplied without regard to expense, or numbers, in all the varieties of newspaper and pamphlet publication and lauded to the skies for their power and excellence, and triumphant refutation of all the President's opinions. Thus was the "war of the bank" commenced at once, in both Houses of Congress, and in the public press; and openly at the instance of the bank itself, which, forgetting its position as an institution of the government, for the convenience of the government, set itself up for a power, and struggled for a continued existence—in the shape of a new charter—as a question of its own, and almost as a right. It allied itself at the same time to the political party opposed to the President, joined in all their schemes of protective

tariff, and national internal improvement: and became the head of the American system. With its moneyed and political power, and numerous interested affiliations, and its control over other banks, brokers and money dealers, it was truly a power, and a great one: and, in answer to a question put by General Smith, of Maryland, chairman of the Finance Committee of the Senate already mentioned (and appended with other questions and answers to that report), Mr. Biddle, the president, showed a power in the national bank to save, relieve or destroy the local banks, which exhibited it as their absolute master; and, of course able to control them at will. The question was put in a spirit of friendship to the bank, and with a view to enable its president to exhibit the institution as great, just and beneficent. The question was: "*Has the bank at any time oppressed any of the State banks?*" and the answer: "*Never.*" And, as if that was not enough, Mr. Biddle went on to say: "*There are very few banks which might not have been destroyed by an exertion of the power of the bank. None have been injured. Many have been saved. And more have been, and are constantly relieved, when it is found that they are solvent but are suffering under temporary difficulty.*" This was proving entirely too much. A power to injure and destroy—to relieve and to save the thousand banks of all the States and Territories was a power over the business and fortunes of nearly all the people of those States and Territories: and might be used for evil as well as for good; and was a power entirely too large to be trusted to any man, with a heart in his bosom—or to any government, responsible to the people; much less to a corporation without a soul, and irresponsible to heaven or earth. This was a view of the case which the parties to the question had not foreseen; but which was noted at the time; and which, in the progress of the government struggle with the bank, received exemplifications which will be remembered by the generation of that day while memory lasts; and afterwards known as long as history has power to transmit to posterity the knowledge of national calamities.

50. Removals From Office

I am led to give a particular examination of this head, from the great error into which Tocqueville has fallen in relation to it, and which he has propagated throughout Europe to the prejudice of republican government; and also, because the power itself is not generally understood among ourselves as laid down by Mr. Jefferson; and has been sometimes abused, and by each party, but never to the degree supposed by Mons. de Tocqueville. He says, in his chapter 8 on American democracy: "Mr. Quincy Adams, on his entry into office, discharged the majority of the individuals who had been appointed by his predecessor; and I am not aware that General Jackson allowed a single removable functionary employed in the public service to retain his place beyond the first year which succeeded his election." Of course, all these imputed sweeping removals were intended to be understood to have been made on account of party politics—for difference of political opinion—and not for misconduct, or unfitness for office. To these classes of removal (unfitness and misconduct), there could be no objection: on the contrary, it would have been misconduct in the President not to have removed in such cases. Of political removals, for difference of opinion, then, it only remains to speak; and of those officials appointed by his predecessor, it is probable that Mr. Adams did not remove one for political cause; and that M. de Tocqueville, with respect to him, is wrong to the whole amount of his assertion.

I was a close observer of Mr. Adams's administration, and belonged to the opposition, which was then keen and powerful, and permitted nothing to escape which could be rightfully (sometimes wrongfully) employed against him; yet I never heard of this accusation, and have no knowledge or recollection at this time of a single instance on which it could be founded. Mr. Adams's administration was not a case, in fact, in which such removals—for difference of political opinion—could occur. They only take place when the presidential election is a revolution of parties; and that was not the case when Mr. Adams succeeded Mr. Monroe. He belonged to the Monroe administration, had occupied the first place in the cabinet during its whole double term of eight years; and of course, stood in concurrence with, and not in opposition to, Mr. Monroe's appointments. Besides, party lines were confused, and nearly obliterated at that time. It was called "the era of good feeling." Mr. Adams was himself an illustration of that feeling. He had been of the federal party—brought early into public life as such—a minister abroad and a senator at home as such; but having divided from his party in giving support to several prominent measures of Mr. Jefferson's administration, he was afterwards several times nominated by Mr. Madison as minister abroad; and on the election of Mr. Monroe he was invited from London to be made his Secretary of State—where he remained till his own election to the Presidency. There was, then, no case presented to him for political removals; and in fact none such were made by him; so that the accusation of M. de Tocqueville, so far as it applied to Mr. Adams, is wholly erroneous, and inexcusably careless.

With respect to General Jackson, it is about equally so in the main assertion—the assertion that he did not allow a single removable functionary to remain in office beyond the first year after his election. On the contrary, there were entire classes—all those whose functions partook of the judicial—which he never touched. Boards of commissioners for adjudicating land titles; commissioners for adjudicating claims under indemnity treaties; judges of the territorial courts; justices of the District of Columbia; none of these were touched, either in the first or in any subsequent year of his administration, except a solitary judge in one of the territories; and he not for political cause, but on specific complaint, and after taking the

written and responsible opinion of the then Attorney General, Mr. Grundy. Of the seventeen diplomatic functionaries abroad, only four (three ministers and one chargé des affaires) were recalled in the first year of his administration. In the departments at Washington, a majority of the incumbents remained opposed to him during his administration. Of the near eight thousand deputy postmasters in the United States, precisely four hundred and ninety-one were removed in the time mentioned by Mons. de Tocqueville, and they for all causes—for every variety of causes. Of the whole number of removable officials, amounting to many thousands, the totality of removals was about six hundred and ninety and they for all causes. Thus the government archives contradict Mons. de Tocqueville, and vindicate General Jackson's administration from the reproach cast upon it. Yet he came into office under circumstances well calculated to excite him to make removals. In the first place, none of his political friends, though constituting a great majority of the people of the United States, had been appointed to office during the preceding administration; and such an exclusion could not be justified on any consideration. His election was, in some degree, a revolution of parties, or rather a re-establishment of parties on the old line of federal and democratic. It was a change of administration, in which a change of government functionaries, to some extent, became a right and a duty; but still the removals actually made, when political, were not merely for opinions, but for conduct under these opinions; and, unhappily, there was conduct enough in too many officials to justify their removal. A large proportion of them, including all the new appointments, were inimical to General Jackson, and divided against him on the re-establishment of the old party lines; and many of them actively. Mr. Clay, holding the first place in Mr. Adams's cabinet, took the field against him, travelled into different States, declaimed against him at public meetings; and deprecated his election as the greatest of calamities. The subordinates of the government, to a great degree, followed his example, if not in public speeches, at least in public talk and newspaper articles; and it was notorious that these subordinates were active in the presidental election. It was a great error in them. It changed their position. By their position all administrations were the same to them. Their duties were ministerial, and the same under all Presidents. They were noncombatants. By engaging in the election they became combatant, and subjected themselves to the law of victory and defeat—reward and promotion in one case, loss of place in the other. General Jackson, then, on his accession to the Presidency, was in a new situation with respect to parties, different from that of any President since the time of Mr. Jefferson, whom he took for his model, and whose rule he followed. He made many removals, and for cause, but not so many as not to leave a majority in office against him—even in the executive departments in Washington City.

Mr. Jefferson had early and anxiously studied the question of removals. He was the first President that had occasion to make them, and with him the occasion was urgent. His election was a complete revolution of parties, and when elected, he found himself to be almost the only man of his party in office. The democracy had been totally excluded from federal appointment during the administration of his predecessor; almost all offices were in the hands of his political foes. I recollect to have heard an officer of the army say that there was but one field officer in the service favorable to him. This was the type of the civil service. Justice to himself and his party required this state of things to be altered; required his friends to have a share proportionate to their numbers in the distribution of office; and required him to have the assistance of his friends in the administration of the government. The four years' limitation law—the law which now vacates within the cycle of every Presidential term the great mass of the offices—was not then in force. Resignations then, as now, were few. Removals were indispensable, and the only question was the principle upon which they should be made. This question, Mr. Jefferson studied anxiously, and under all its aspects of principle and policy, of national and of party duty; and upon consultation with his friends, settled it to his and their

satisfaction. The fundamental principle was, that each party was to have a share in the ministerial offices, the control of each branch of the service being in the hands of the administration; that removals were only to be made for cause; and, of course, that there should be inquiry into the truth of imputed delinquencies. "Official misconduct," "personal misconduct," "negligence," "incapacity," "inherent vice in the appointment," "partisan electioneering beyond the fair exercise of the elective franchise;" and where "the heads of some branches of the service were politically opposed to his administration"—these, with Mr. Jefferson, constituted the law of removals, and was so written down by him immediately after his inauguration. Thus, March 7th, 1801—only four days after his induction into office—he wrote to Mr. Monroe:

"Some removals, I know, must be made. They must be as few as possible, done gradually, and bottomed on some malversation, or inherent disqualification. Where we should draw the line between retaining all and none, is not yet settled, and will not be until we get our administration together; and, perhaps, even then we shall proceed *à tatons*, balancing our measures according to the impression we perceive them to make."

On the 23d of March, 1801, being still in the first month of his administration, Mr. Jefferson wrote thus to Gov. Giles, of Virginia:

"Good men, to whom there is no objection but a difference of political opinion, practised on only so far as the right of a private citizen will justify, are not proper subjects of removal, except in the case of attorneys and marshals. The courts being so decidedly federal and irremovable, it is believed that republican attorneys and marshals, being the doors of entrance into the courts, are indispensably necessary as a shield to the republican part of our fellow-citizens; which, I believe, is the main body of the people."

Six days after, he wrote to Elbridge Gerry, afterwards Vice-President, thus:

"Mr. Adams's last appointments, when he knew he was appointing counsellors and aids for me, not for himself, I set aside as fast as depends on me. Officers who have been guilty of gross abuse of office, such as marshals packing juries, &c., I shall now remove, as my predecessors ought in justice to have done. The instances will be few, and governed by strict rule, and not party passion. The right of opinion shall suffer no invasion from me. Those who have acted well have nothing to fear, however they may have differed from me in opinion: those who have done ill, however, have nothing to hope; nor shall I fail to do justice, lest it should be ascribed to that difference of opinion."

To Mr. Lincoln, his Attorney-General, still writing in the first year of his administration, he says:

"I still think our original idea as to office is best; that is, to depend, for obtaining a just participation, on deaths, resignations and delinquencies. This will least affect the tranquillity of the people, and prevent their giving into the suggestion of our enemies—that ours has been a contest for office, not for principle. This is rather a slow operation, but it is sure, if we pursue it steadily, which, however, has not been done with the undeviating resolution I could have wished. To these means of obtaining a just share in the transaction of the public business, shall be added one more, to wit, removal for electioneering activity, or open and industrious opposition to the principles of the present government, legislative and executive. Every officer of the government may vote at elections according to his conscience; but we should betray the cause committed to our care, were we to permit the influence of official patronage to be used to overthrow that cause. Your present situation will enable you to judge of prominent offenders in your State in the case of the present election. I pray you to seek them, to mark them, to be quite sure of your ground, that we may commit no errors or

wrongs; and leave the rest to me. I have been urged to remove Mr. Whittemore, the surveyor of Gloucester, on grounds of neglect of duty and industrious opposition; yet no facts are so distinctly charged as to make the step sure which we should take in this. Will you take the trouble to satisfy yourself on the point?"

This was the law of removals as laid down by Mr. Jefferson, and practised upon by him, but not to the extent that his principle required, or that public outcry indicated. He told me himself, not long before his death (Christmas, 1824), that he had never done justice to his own party—had never given them the share of office to which their numbers entitled them—had failed to remove many who deserved it, but who were spared through the intercession of friends and concern for their distressed families. General Jackson acted upon the rule of Mr. Jefferson, but no doubt was often misled into departures from the rule; but never to the extent of giving to the party more than their due proportion of office, according to their numbers. Great clamor was raised against him, and the number of so-called "removals" was swelled by an abuse of the term, every case being proclaimed a "removal," where he refused to reappoint an ex-incumbent whose term had expired under the four years' limitation act. Far from universal removals for opinion's sake, General Jackson, as I have already said, left the majority of his opponents in office, and re-appointed many such whose terms had expired, and who had approved themselves faithful officers.

Having vindicated General Jackson and Mr. Adams from the reproach of Mons. de Tocqueville, and having shown that it was neither a principle nor a practice of the Jefferson school to remove officers for political opinions, I now feel bound to make the declaration, that the doctrine of that school has been too much departed from of late, and by both parties, and to the great detriment of the right and proper working of the government.

The practice of removals for opinion's sake is becoming too common, and is reducing our presidential elections to what Mr. Jefferson deprecated, "a contest of office instead of principle," and converting the victories of each party, so far as office is concerned, into the political extermination of the other; as it was in Great Britain between the whigs and tories in the bitter contests of one hundred years ago, and when the victor made a "clean sweep" of the vanquished, leaving not a wreck behind. Mr. Macaulay thus describes one of those "sweepings:"

"A persecution, such as had never been known before, and has never been known since, raged in every public department. Great numbers of humble and laborious clerks were deprived of their bread, not because they had neglected their duties, not because they had taken an active part against the ministry, but merely because they had owed their situations to some (whig) nobleman who was against the peace. The proscription extended to tidewaiters, to doorkeepers. One poor man, to whom a pension had been given for his gallantry in a fight with smugglers, was deprived of it because he had been befriended by the (whig) Duke of Grafton. An aged widow, who, on account of her husband's services in the navy, had, many years before, been made housekeeper in a public office, was dismissed from her situation because she was distantly connected by marriage with the (whig) Cavendish family."

This, to be sure, was a tory proscription of whigs, and therefore the less recommendable as an example to either party in the United States, but too much followed by both—to the injury of individuals, the damage of the public service, the corruption of elections, and the degradation of government. De Tocqueville quotes removals as a reproach to our government, and although untrue to the extent he represented, the evil has become worse since, and is true to a sufficient extent to demand reform. The remedy is found in Mr. Jefferson's rule, and in the four years' limitation act which has since been passed; and under which, with removals for

cause, and some deaths, and a few resignations, an ample field would be found for new appointments, without the harshness of general and sweeping removals.

I consider "sweeping" removals, as now practised by both parties, a great political evil in our country, injurious to individuals, to the public service, to the purity of elections, and to the harmony and union of the people. Certainly, no individual has a right to an office: no one has an estate or property in a public employment; but when a mere ministerial worker in a subordinate station has learned its duties by experience, and approved his fidelity by his conduct, it is an injury to the public service to exchange him for a novice, whose only title to the place may be a political badge or a partisan service. It is exchanging experience for inexperience, tried ability for untried, and destroying incentive to good conduct by destroying its reward. To the party displaced it is an injury, having become a proficient in that business, expecting to remain in it during good behavior, and finding it difficult, at an advanced age, and with fixed habits, to begin a new career in some new walk of life. It converts elections into scrambles, for office, and degrades the government into an office for rewards and punishments; and divides the people of the Union into two adverse parties—each in its turn, and as it becomes dominant, to strip and proscribe the other.

Our government is a Union. We want a united *people*, as well as united *States*—united for benefits as well as for burdens, and in feeling as well as in compact; and this cannot be while one half (each in its turn) excludes the other from all share in the administration of the government. Mr. Jefferson's principle is perfect, and reconciled public and private interest with party rights and duties. The party in power is responsible for the well-working of the government, and has a right, and is bound by duty to itself, to place its friends at the head of the different branches of the public service. After that, and in the subordinate places, the opposite party should have its share of employment; and this Mr. Jefferson's principle gives to it. But as there are offices too subordinate for party proscription, so there are others too elevated and national for it. This is now acknowledged in the army and navy, and formerly was acknowledged in the diplomatic department; and should be again. To foreign nations we should, at least, be one people—an undivided people, and that in peace as well as in war. Mr. Jefferson's principle reached this case, and he acted upon it. His election was not a signal gun, fired for the recall of all the ministers abroad, to be succeeded incontinently by partisans of its own. Mr. Rufus King, the most eminent of the federal ministers abroad, and at the most eminent court of Europe, that of St. James, remained at his post for two years after the revolution of parties in 1800; and until he requested his own recall, treated all the while with respect and confidence, and intrusted with a negotiation which he conducted to its conclusion. Our early diplomatic policy, eschewing all foreign entanglement, rejected the office of "minister resident." That early republican policy would have no permanent representation at foreign courts. The "envoy extraordinary and minister plenipotentiary," called out on an emergent occasion, and to return home as soon as the emergency was over, was the only minister known to our early history; and then the mission was usually a mixed one, composed of both parties. And so it should be again. The present permanent supply and perpetual succession of "envoys extraordinary and ministers plenipotentiary" is a fraud upon the name, and a breach of the old policy of the government, and a hitching on American diplomacy to the tail of the diplomacy of Europe. It is the actual keeping up of "ministers resident" under a false name, and contrary to a wise and venerable policy; and requires the reform hand of the House of Representatives. But this point will require a chapter of its own, and its elucidation must be adjourned to another and a separate place.

Mons. de Tocqueville was right in the principle of his reproach, wrong in the extent of his application, but would have been less wrong if he had written of events a dozen years later. I deprecate the effect of such sweeping removals at each revolution of parties, and believe it is

having a deplorable effect both upon the purity of elections and the distribution of office, and taking both out of the hands of the people, and throwing the management of one and the enjoyment of the other into most unfit hands. I consider it as working a deleterious change in the government, making it what Mr. Jefferson feared: and being a disciple of his school, and believing in the soundness and nationality of the rule which he laid down, I deem it good to recall it solemnly to public recollection—for the profit, and hope, of present and of future times.

51. Indian Sovereignties Within The States

A political movement on the part of some of the southern tribes of Indians, brought up a new question between the States and those Indians, which called for the interposition of the federal government. Though still called Indians, their primitive and equal government had lost its form, and had become an oligarchy, governed chiefly by a few white men, called half-breeds, because there was a tincture of Indian blood in their veins. These, in some instances, set up governments within the States, and claimed sovereignty and dominion within their limits. The States resisted this claim and extended their laws and jurisdiction over them. The federal government was appealed to; and at the commencement of the session of 1829-'30, in his first annual message, President Jackson brought the subject before the two Houses of Congress, thus:

"The condition and ulterior destiny of the Indian tribes within the limits of some of our States, have become objects of much interest and importance. It has long been the policy of government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another, wholly incompatible with its success. Professing a desire to civilize and settle them, we have, at the same time, lost no opportunity to purchase their lands and thrust them further into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust, and indifferent to their fate. Thus, though lavish in its expenditures upon the subject, government has constantly defeated its own policy, and the Indians, in general, receding further and further to the West, have retained their savage habits. A portion, however, of the southern tribes, having mingled much with the whites, and made some progress in the arts of civilized life, have lately attempted to erect an independent government within the limits of Georgia and Alabama. These States, claiming to be the only sovereigns within their territories, extended their laws over the Indians; which induced the latter to call upon the United States for protection.

"Under these circumstances, the question presented was, whether the general government had a right to sustain those people in their pretensions? The constitution declares, that "no new States shall be formed or erected within the jurisdiction of any other State," without the consent of its legislature. If the general government is not permitted to tolerate the erection of a confederate State within the territory of one of the members of this Union, against her consent, much less could it allow a foreign and independent government to establish itself there. Georgia became a member of the confederacy which eventuated in our federal union, as a sovereign State, always asserting her claim to certain limits; which, having been originally defined in her colonial charter, and subsequently recognized in the treaty of peace, she has ever since continued to enjoy, except as they have been circumscribed by her own voluntary transfer of a portion of her territory to the United States, in the articles of cession of 1802. Alabama was admitted into the Union on the same footing with the original States, with boundaries which were prescribed by Congress. There is no constitutional, conventional, or legal provision, which allows them less power over the Indians within their borders, than is possessed by Maine or New-York. Would the people of Maine permit the Penobscot tribe to erect an independent government within their State? and, unless they did, would it not be the duty of the general government to support them in resisting such a measure? Would the people of New-York permit each remnant of the Six Nations within her borders, to declare itself an independent people, under the protection of the United States? Could the Indians establish a separate republic on each of their reservations in Ohio? And if they were so

disposed, would it be the duty of this government to protect them in the attempt? If the principle involved in the obvious answer to these questions be abandoned, it will follow that the objects of this government are reversed; and that it has become a part of its duty to aid in destroying the States which it was established to protect.

"Actuated by this view of the subject, I informed the Indians inhabiting parts of Georgia and Alabama, that their attempt to establish an independent government would not be countenanced by the Executive of the United States; and advised them to emigrate beyond the Mississippi, or submit to the laws of those States."

Having thus refused to sustain these southern tribes in their attempt to set up independent governments within the States of Alabama and Georgia, and foreseeing an unequal and disagreeable contest between the Indians and the States, the President recommended the passage of an act to enable him to provide for their removal to the west of the Mississippi. It was an old policy, but party spirit now took hold of it, and strenuously resisted the passage of the act. It was one of the closest, and most earnestly contested questions of the session; and finally carried by an inconsiderable majority. The sum of $500,000 was appropriated to defray the expenses of treating with them for an exchange, or sale of territory; and under this act, and with the ample means which it placed at the disposal of the President, the removals were eventually effected; but with great difficulty, chiefly on account of a foreign, or outside influence from politicians and intrusive philanthropists. Georgia was the State where this question took its most serious form. The legislature of the State laid off the Cherokee country into counties, and prepared to exercise her laws within them. The Indians, besides resisting through their political friends in Congress, took counsel and legal advice, with a view to get the question into the Supreme Court of the United States. Mr. Wirt, the late Attorney General of the United States, was retained in their cause, and addressed a communication to the Governor of the State, apprising him of the fact; and proposing that an "agreed case" should be made up for the decision of the court. Gov. Gilmer declined this proposal, and in his answer gave as the reason why the State had taken the decided step of extending her jurisdiction, that the Cherokee tribe had become merged in its management in the "half breeds," or descendants of white men, who possessed wealth and intelligence, and acting under political and fanatical instigations from without, were disposed to perpetuate their residence within the State,—(the part of them still remaining and refusing to join their half tribe beyond the Mississippi). The governor said: "So long as the Cherokees retained their primitive habits, no disposition was shown by the States under the protection of whose government they resided, to make them subject to their laws. Such policy would have been cruel; because it would have interfered with their habits of life, the enjoyments peculiar to Indian people, and the kind of government which accorded with those habits and enjoyments. It was the power of the whites, and of their children among the Cherokees, that destroyed the ancient laws, customs and authority of the tribe, and subjected the nation to the rule of that most oppressive of governments—an oligarchy. There is nothing surprising in this result. From the character of the people, and the causes operating upon them, it could not have been otherwise. It was this state of things that rendered it obligatory upon Georgia to vindicate the rights of her sovereignty by abolishing all Cherokee government within its limits. Whether of the intelligent, or ignorant class, the State of Georgia has passed no laws violative of the liberty, personal security, or private property of any Indian. It has been the object of humanity, and wisdom, to separate the two classes (the ignorant, and the informed Indians) among them, giving the rights of citizenship to those who are capable of performing its duties and properly estimating its privileges; and increasing the enjoyment and the probability of future improvement to the ignorant and idle, by removing them to a situation where the inducements to action will be more in accordance with the character of the Cherokee people."

With respect to the foreign interference with this question, by politicians of other States and pseudo philanthropists, the only effect of which was to bring upon subaltern agents the punishment which the laws inflicted upon its violators, the governor said: “It is well known that the extent of the jurisdiction of Georgia, and the policy of removing the Cherokees and other Indians to the west of the Mississippi, have become party questions. It is believed that the Cherokees in Georgia, had determined to unite with that portion of the tribe who had removed to the west of the Mississippi, if the policy of the President was sustained by Congress. To prevent this result, as soon as it became highly probable that the Indian bill would pass, the Cherokees were persuaded that the right of self-government could be secured to them by the power of the Supreme Court of the United States, in defiance of the legislation of the general and State governments. It was not known, however, until the receipt of your letter, that the spirit of resistance to the laws of the State, and views of the United States, which has of late been evident among the Indians, had in any manner been occasioned by your advice.” Mr. Wirt had been professionally employed by the Cherokees to bring their case before the Supreme Court; but as he classed politically with the party, which took sides with the Indians against Georgia, the governor was the less ceremonious, or reserved in his reply to him.

Judge Clayton, in whose circuit the Indian counties fell, at his first charge to the grand jury assured the Indians of protection, warned the intermeddlers of the mischief they were doing, and of the inutility of applying to the Supreme Court. He said: “My other purpose is to apprise the Indians that they are not to be oppressed, as has been sagely foretold: that the same justice which will be meted to the citizen shall be meted to them.” With respect to intermeddlers he said: “Meetings have been held in all directions, to express opinions on the conduct of Georgia, and Georgia alone—when her adjoining sister States had lately done precisely the same thing; and which she and they had done, in the rightful exercise of their State sovereignty.” The judge even showed that one of these intrusive philanthropists had endeavored to interest European sympathy, in behalf of the Cherokees; and quoted from the address of the reverend Mr. Milner, of New-York, to the Foreign Missionary Society in London: “That if the cause of the negroes in the West Indias was interesting to that auditory—and deeply interesting it ought to be—if the population in Ireland, groaning beneath the degradation of superstition—excited their sympathies, he trusted the Indians of North America would also be considered as the objects of their Christian regard. He was grieved, however, to state that there were those in America, who acted towards them in a different spirit; and he lamented to say that, at this very moment, the State of Georgia was seeking to subjugate and destroy the liberties both of the Creeks and the Cherokees; the former of whom possessed in Georgia, ten millions of acres of land, and the latter three millions.” In this manner European sympathies were sought to be brought to bear upon the question of removal of the Indians—a political and domestic question, long since resolved upon by wise and humane American statesmen—and for the benefit of the Indians themselves, as well as of the States in which they were. If all that the reverend missionary uttered had been true, it would still have been a very improper invocation of European sympathies in an American domestic question, and against a settled governmental policy: but it was not true. The Creeks, with their imputed ten millions of acres, owned not one acre in the State; and had not in five years—not since the treaty of cession in 1825: which shows the recklessness with which the reverend suppliant for foreign sympathy, spoke of the people and States of his own country. The few Cherokees who were there, instead of subjugation and destruction of their liberties, were to be paid a high price for their land, if they chose to join their tribe beyond the Mississippi; and if not, they were to be protected like the white inhabitants of the counties they lived in. “With respect to the Supreme Court, the judge declared that he should pay no attention to its mandate—holding no writ of error to lie from

the Supreme Court of the United States to his State Court—but would execute the sentence of the law, whatever it might be, in defiance of the Supreme Court; and such was the fact. Instigated by foreign interference, and relying upon its protection, one George Tassels, of Indian descent, committed a homicide in resisting the laws of Georgia—was tried for murder—convicted—condemned—and sentenced to be hanged on a given day. A writ of error, to bring the case before itself, was obtained from the Supreme Court of the United States; and it was proposed by the counsel, Mr. Wirt, to try the whole question of the right of Georgia, to exercise jurisdiction over the Indians and Indian country within her limits, by the trial of this writ of error at Washington; and for that purpose, and to save the tedious forms of judicial proceedings, he requested the governor to consent to make up an "agreed case" for the consideration and decision of that high court. This proposition Governor Gilmer declined, in firm but civil terms, saying: "Your suggestion that it would be convenient and satisfactory if yourself, the Indians, and the governor would make up a law case to be submitted to the Supreme Court for the determination of the question, whether the legislature of Georgia has competent authority to pass laws for the government of the Indians residing within its limits, however courteous the manner, and conciliatory the phraseology, cannot but be considered as exceedingly disrespectful to the government of the State. No one knows better than yourself, that the governor would grossly violate his duty, and exceed his authority, by complying with such a suggestion; and that both the letter and the spirit of the powers conferred by the constitution upon the Supreme Court forbid its adjudging such a case. It is hoped that the efforts of the general government to execute its contract with Georgia (the compact of 1802), to secure the continuance and advance the happiness of the Indian tribes, and to give quiet to the country, may be so effectually successful as to prevent the necessity of any further intercourse upon the subject." And there was no further intercourse. The day for the execution of Tassels came round: he was hanged: and the writ of the Supreme Court was no more heard of. The remaining Cherokees afterwards made their treaty, and removed to the west of the Mississippi; and that was the end of the political, and intrusive philanthropical interference in the domestic policy of Georgia. One Indian hanged, some missionaries imprisoned, the writ of the Supreme Court disregarded, the Indians removed: and the political and pseudo-philanthropic intermeddlers left to the reflection of having done much mischief in assuming to become the defenders and guardians of a race which the humanity of our laws and people were treating with parental kindness.

52. Veto On The Maysville Road Bill

This was the third veto on the subject of federal internal improvements within the States, and by three different Presidents. The first was by Mr. Madison, on the bill “to set apart, and pledge certain funds for constructing roads and canals, and improving the navigation of watercourses, in order to facilitate, promote, and give security to internal commerce among the several States; and to render more easy and less expensive the means and provisions of the common defence”—a very long title, and even argumentative—as if afraid of the President’s veto—which it received in a message with the reasons for disapproving it. The second was that of Mr. Monroe on the Cumberland Road bill, which, with an abstract of his reasons and arguments, has already been given in this View. This third veto on the same subject, and from President Jackson, and at a time when internal improvement by the federal government had become a point of party division, and a part of the American system, and when concerted action on the public mind had created for it a degree of popularity: this third veto under such circumstances was a killing blow to the system—which has shown but little, and only occasional vitality since. Taken together, the three vetoes, and the three messages sustaining them, and the action of Congress upon them (for in no instance did the House in which they originated pass the bills, or either of them, in opposition to the vetoes), may be considered as embracing all the constitutional reasoning upon the question; and enough to be studied by any one who wishes to make himself master of the subject.

53. Rupture Between President Jackson, And Vice-President Calhoun

With the quarrels of public men history has no concern, except as they enter into public conduct, and influence public events. In such case, and as the cause of such events, these quarrels belong to history, which would be an empty tale, devoid of interest or instruction, without the development of the causes, and consequences of the acts which it narrates. Division among chiefs has always been a cause of mischief to their country; and when so, it is the duty of history to show it. That mischief points the moral of much history, and has been made the subject of the greatest of poems:

"Achille's wrath, to Greece the direful spring
Of woes unnumbered——"

About the beginning of March, in the year 1831, a pamphlet appeared in Washington City, issued by Mr. Calhoun, and addressed to the people of the United States, to explain the cause of a difference which had taken place between himself and General Jackson, instigated as the pamphlet alleged by Mr. Van Buren, and intended to make mischief between the first and second officers of the government, and to effect the political destruction of himself (Mr. Calhoun) for the benefit of the contriver of the quarrel—the then Secretary of State; and indicated as a candidate for the presidential succession upon the termination of General Jackson's service. It was the same pamphlet of which Mr. Duncanson, as heretofore related, had received previous notice from Mr. Duff Green, as being in print in his office, but the publication delayed for the maturing of the measures which were to attend its appearance; namely: the change in the course of the *Telegraph*; its attacks upon General Jackson and Mr. Van Buren; the defence of Mr. Calhoun; and the chorus of the affiliated presses, to be engaged "in getting up the storm which even the popularity of General Jackson could not stand."

The pamphlet was entitled, "Correspondence between General Andrew Jackson and John C. Calhoun, President and Vice-President of the United States, on the subject of the course of the latter in the deliberations of the cabinet of Mr. Monroe on the occurrences of the Seminole war;" and its contents consisted of a prefatory address, and a number of letters, chiefly from Mr. Calhoun himself, and his friends—the General's share of the correspondence being a few brief notes to ascertain if Mr. Crawford's statement was true and, being informed that, substantially, it was, to decline any further correspondence with Mr. Calhoun, and to promise a full public reply when he had the leisure for the purpose and access to the proofs. His words were: "In your and Mr. Crawford's dispute I have no interest whatever; but it may become necessary for me hereafter, when I shall have more leisure and the documents at hand, to place the subject in its proper light—to notice the historical facts and references in your communication—which will give a very different view to the subject.... Understanding you now, no further communication with you on this subject is necessary."... And none further appears from General Jackson.

But the general did what he had intimated he would—drew up a sustained reply, showing the subject in a different light from that in which Mr. Calhoun's letters had presented it; and quoting vouchers for all that he said. The case, as made out in the published pamphlet, stood before the public as that of an intrigue on the part of Mr. Van Buren to supplant a rival—of which the President was the dupe—Mr. Calhoun the victim—and the country the sufferer: and the *modus operandi* of the intrigue was, to dig up the buried proceedings in Mr.

Monroe's cabinet, in relation to a proposed court of inquiry on the general (at the instance of Mr. Calhoun), for his alleged, unauthorized, and illegal operations in Florida during the Seminole war. It was this case which the general felt himself bound to confront—and did; and in confronting which he showed that Mr. Calhoun himself was the sole cause of breaking their friendship; and, consequently, the sole cause of all the consequences which resulted from that breach. Up to that time—up to the date of the discovery of Mr. Calhoun's now admitted part in the proposed measure of the court of inquiry—that gentleman had been the general's *beau ideal* of a statesman and a man—"the noblest work of God," as he publicly expressed it in a toast: against whom he would believe nothing, to whose friends he gave an equal voice in the cabinet, whom he consulted as if a member of his administration; and whom he actually preferred for his successor. This reply to the pamphlet, entitled "*An exposition of Mr. Calhoun's course towards General Jackson*," though written above twenty years ago, and intended for publication, has never before been given to the public. Its publication becomes essential now. It belongs to a dissension between chiefs which has disturbed the harmony, and loosened the foundations of the Union; and of which the view, on one side, was published in pamphlet at the time, registered in the weeklies and annuals, printed in many papers, carried into the Congress debates, especially on the nomination of Mr. Van Buren; and so made a part of the public history of the times—to be used as historical material in after time. The introductory paragraph to the "Exposition" shows that it was intended for immediate publication, but with a feeling of repugnance to the exhibition of the chief magistrate as a newspaper writer: which feeling in the end predominated, and delayed the publication until the expiration of his office—and afterwards, until his death. But it was preserved to fulfil its original purpose, and went in its manuscript form to Mr. Francis P. Blair, the literary legatee of General Jackson; and by him was turned over to me (with trunks full of other papers) to be used in this Thirty Years' View. It had been previously in the hands of Mr. Amos Kendall, as material for a life of Jackson, which he had begun to write, and was by him made known to Mr. Calhoun, who declined "*furnishing any further information on the subject*."[3] It is in the fair round-hand writing of a clerk, slightly interlined in the general's hand, the narrative sometimes in the first and sometimes in the third person; vouchers referred to and shown for every allegation; and signed by the general in his own well-known hand. Its matter consists of three parts: 1. The justification of himself, under the law of nations and the treaty with Spain of 1795, for taking military possession of Florida in 1818. 2. The same justification, under the orders of Mr. Monroe and his Secretary at War (Mr. Calhoun). 3. The Statement of Mr. Calhoun's conduct towards him (the general) in all that affair of the Seminole war, and in the movements in the cabinet, and in the two Houses of Congress, to which it gave rise. All these parts belong to a life of Jackson, or a history of the Seminole war; but only the two latter come within the scope of this View. To these two parts, then, this publication of the Exposition is confined—omitting the references to the vouchers in the appendix—which having been examined (the essential ones) are found in every

[3] Mr. Kendall's letter to the author is in these words:
"December 29, 1853.—In reply to your note just received, I have to state that, wishing to do exact justice to all men in my Life of General Jackson, I addressed a note to Mr. Calhoun stating to him in substance, that I was in possession of the evidences on which the general based his imputation of duplicity touching his course in Mr. Monroe's cabinet upon the Florida war question, and inquiring whether it was his desire to furnish any further information on the subject, or rest upon that which was already before the public (in his publication). A few days afterwards, the Hon. Dixon H. Lewis told me that Mr. Calhoun had received my letter, and had requested him to ask me what was the nature of the evidences among General Jackson's papers to which I alluded. I stated them to him, as embodied in General Jackson's 'Exposition,' to which you refer. Mr. Lewis afterwards informed me that Mr. Calhoun had concluded to let the matter rest as it was. This is all the answer I ever received from Mr. Calhoun."

particular to sustain the text; and also omitting a separate head of complaint against Mr. Calhoun on account of his representations in relation to South Carolina claims.

"EXPOSITION.

"It will be recollected that in my correspondence with Mr. Calhoun which he has published, I engaged, when the documents should be at hand, to give a statement of facts respecting my conduct in the Seminole campaign, which would present it in a very different light from the one in which that gentleman has placed it.

"Although the time I am able to devote to the subject, engrossed as I am in the discharge of my public duties, is entirely inadequate to do it justice, yet from the course pursued by Mr. Calhoun, from the frequent misrepresentations of my conduct on that occasion, from the misapprehension of my motives for entering upon that correspondence, from the solicitations of numerous friends in different parts of the country, and in compliance with that engagement, I present to my fellow-citizens the following statement, with the documents on which it rests.

"I am aware that there are some among us who deem it unfit that the chief magistrate of this nation should, under any circumstances, appear before the public in this manner, to vindicate his conduct. These opinions or feelings may result from too great fastidiousness, or from a supposed analogy between his station and that of the first magistrate of other countries, of whom it is said they can do no wrong, or they may be well founded. I, however, entertain different opinions on this subject. It seems to me that the course I now take of appealing to the judgment of my fellow-citizens, if not in exact conformity with past usage, at least springs from the spirit of our popular institutions, which requires that the conduct and character of every man, how elevated soever may be his station should be fairly and freely submitted to the discussion and decision of the people. Under this conviction I have acted heretofore, and now act, not wishing this or any other part of my public life to be concealed. I present my whole conduct in connection with the subject of that correspondence in this form to the indulgent but firm and enlightened consideration of my fellow citizens.

[Here follows a justification of Gen. Jackson's conduct under the law of nations, and under the orders to Gen. Gaines, his predecessor in the command.]

"Such was the gradation of orders issued by the government. At first they instructed their general '*not to pass the line*.' He is next instructed to '*exercise a sound discretion as to the necessity of crossing the line*.' He is then directed to *consider himself 'at liberty to march across the Florida line*,' but to halt, and report to the department in case the Indians '*should shelter themselves under a Spanish fort*.' Finally, after being informed of the atrocious massacre of the men, women and children constituting the party of Lieutenant Scott, they order a new general into the field, and direct him to '*adopt the necessary measures to put an end to the conflict*, without regard to territorial "*lines*," or "*Spanish forts*."' Mr. Calhoun's own understanding of the order issued by him, is forcibly and clearly explained in a letter written by him in reply to the inquiries of Governor Bibb, of Alabama, dated the 13th of May, 1818, in which he says:—'*General Jackson is vested with full power to conduct the war as he may think best.*'

"These orders were received by General Jackson at Nashville, on the night of the 12th January, 1818, and he instantly took measures to carry them into effect.

"In the mean time, however, he had received copies of the orders to General Gaines, to take possession of Amelia Island, and to enter Florida, but halt and report to the department, in case the Indians sheltered themselves under a Spanish fort. Approving the policy of the former, and perceiving in the latter, dangers to the army, and injury to the country, on the 6th

of January he addressed a confidential letter to the President, frankly disclosing his views on both subjects. The following is a copy of that letter, viz.:—

"Nashville, *6th Jan.*, 1818.

"Sir:—a few days since, i received a letter from the Secretary of War, of the 17th ult., with inclosures. Your order of the 19th ult. through him to Brevet Major General Gaines to enter the territory of Spain, and chastise the ruthless savages who have been depredating on the property and lives of our citizens, will meet not only the approbation of your country, but the approbation of heaven. Will you however permit me to suggest the catastrophe that might arise by General Gaines's compliance with the last clause of your order? Suppose the case that the Indians are beaten: they take refuge either in Pensacola or St. Augustine, which open their gates to them: to profit by his victory, General Gaines pursues the fugitives, and has to halt before the garrison until he can communicate with his government. In the mean time the militia grow restless, and he is left to defend himself by the regulars. The enemy, with the aid of their Spanish friends, and Woodbine's British partisans, or, if you please with Aurey's force, attacks him. What may not be the result? Defeat and massacre. Permit me to remark that the arms of the United States must be carried to any point within the limits of East Florida, where an enemy is permitted and protected, or disgrace attends.

"The Executive Government have ordered, and, as I conceive, very properly, Amelia Island to be taken possession of. This order ought to be carried into execution at all hazards, and simultaneously the whole of East Florida seized, and held as an indemnity for the outrages of Spain upon the property of our citizens. This done, it puts all opposition down, secures our citizens a complete indemnity, and saves us from a war with Great Britain, or some of the continental powers combined with Spain. This can be done without implicating the government. *Let it be signified to me through any channel (say Mr. J. Rhea), that the possession of the Floridas would be desirable to the United States, and in sixty days it will be accomplished.*

"The order being given for the possession of Amelia Island, it ought to be executed, or our enemies, internal and external, will use it to the disadvantage of the government. If our troops enter the territory of Spain in pursuit of our Indian enemy, all opposition that they meet with must be put down, or we will be involved in danger and disgrace.

"I have the honor, &c.
"ANDREW JACKSON.

"James Monroe, *President U. S.*

"The course recommended by General Jackson in this letter relative to the occupation of the Floridas accords with the policy which dictated the secret act of Congress. He recommended no more than the President had a right to do. In consequence of the occupation of Amelia Island by the officers of the Colombian and Mexican governments, and the attempt to occupy the whole province, the President had a right, under the act of Congress, to order General Jackson to take possession of it in the name of the United States. He would have been the more justifiable in doing so, because the inhabitants of the province, the Indian subjects of the King of Spain, whom he was bound not only by the laws of nations, but by treaty to restrain, were in open war with the United States.

"Mr. Calhoun, the Secretary of War, was the first man who read this letter after its reception at Washington. In a letter from Mr. Monroe to General Jackson, dated 21st December, 1818, published in the Calhoun correspondence, page 44, is the following account of the reception, opening and perusal of this letter, viz.: 'Your letter of January 6th, was received while I was seriously indisposed. Observing that it was from you, I handed it to Mr. Calhoun to read, after

reading one or two lines only myself. The order to you to take command in that quarter had before been issued. He remarked after perusing the letter, that it was a confidential one relating to Florida, *which I must answer*.'

"In accordance with the advice of Mr. Calhoun, and availing himself of the suggestion contained in the letter, Mr. Monroe sent for Mr. John Rhea (then a member of Congress), showed him the confidential letter, and requested him to answer it. In conformity with this request Mr. Rhea did answer the letter, and informed General Jackson that the President had shown him the confidential letter, and requested him to state that he approved of its suggestions. This answer was received by the general on the second night he remained at Big Creek, which is four miles in advance of Hartford, Georgia, and before his arrival at Fort Scott, to take command of the troops in that quarter.

"General Jackson had already received orders, vesting him with discretionary powers in relation to the measures necessary to put an end to the war. He had informed the President in his confidential letter, that in his judgment it was necessary to seize and occupy the whole of Florida. This suggestion had been considered by Mr. Calhoun and the President, and approved. From this confidential correspondence before he entered Florida, it was understood on *both sides*, that under the order received by him he would occupy the whole province, if an occasion to do so should present itself; as Mr. Calhoun wrote to Governor Bibb, he was 'authorized to conduct the war as he thought best;' and how he 'thought best' to conduct it was then made known to the Executive, and approved, before he struck a blow.

"In the approval given by Mr. Monroe upon the advice of Mr. Calhoun to the suggestions of General Jackson, he acted in strict obedience to the laws of his country. By the secret act of Congress, the President was authorized, under circumstances then existing, to seize and occupy all Florida. Orders had been given which were sufficiently general in their terms to cover that object. The confidential correspondence, and private understanding, made them, so far as regarded the parties, as effectually orders *to take and occupy the Province of Florida as if that object had been declared on their face*.

"Under these circumstances General Jackson entered Florida with a *perfect right*, according to international law, and the constitution and laws of his country, to take possession of the whole territory. He was clothed with all the power of the President, and authorized 'to conduct the war as he thought best.' He had orders as general and comprehensive as words could make them: he had the confidential approbation of the President to his confidential recommendation to seize Florida: and he entered the province with the full knowledge that not only justice and policy but the laws of his country, and the orders of the President as publicly and privately explained and understood, would justify him in expelling every Spanish garrison, and extending the jurisdiction of the United States over every inch of its territory.

"'Nevertheless, General Jackson, from his knowledge of the situation of affairs in Florida, expected to find a justification for himself in the conduct of the Spanish authorities. On the contrary, had he found on entering the province that the agents and officers of Spain, instead of instigating, encouraging and supplying the Indians, had used all the means in their power to prevent and put an end to hostilities, he would not have incurred the responsibility of seizing their fortresses and expelling them from the country. But he wrote to the President, and entered upon the campaign with other expectations, and in these he was not disappointed.

"As he approached St. Marks it was ascertained that it was a place of rendezvous and a source of supply for the Indians. Their councils had been held within its walls: its storehouses were appropriated to their use: they had there obtained supplies of ammunition: there they

had found a market for their plunder: and in the commandant's family resided Alexander Arbuthnot, the chief instigator of the war. Moreover, the negroes and Indians under Ambrister threatened to drive out the feeble Spanish garrison and take entire possession of the fort, as a means of protection for themselves and annoyance to the United States. In these circumstances General Jackson found enough to justify him in assuming the responsibility of seizing and occupying that post with an American garrison.

"The Indians had been dispersed, and St. Marks occupied. No facts had as yet appeared which would justify General Jackson in assuming the responsibility of occupying the other Spanish posts in Florida. He considered the war as at an end, and was about to discharge a considerable portion of his force, when he was informed that a portion of the hostile Indians had been received, fed and supplied by the Spanish authorities in Pensacola. He therefore directed his march upon that point. On his advance he received a letter from the governor, denouncing his entry into Florida as a violent outrage on the rights of Spain, requiring his immediate retreat from the Territory, and threatening in case of refusal to use force to expel him. This declaration of hostilities on the part of the Spanish authorities, instead of removing, tended to increase the necessity for the General's advance, because it was manifest to both parties that if the American army then left Florida, the Indians, under the belief that there they would always find a safe retreat, would commence their bloody incursions upon our frontiers with redoubled fury; and General Jackson was warned that if he left any portion of his army to restrain the Indians, and retired with his main force, the Spaniards would be openly united with the Indians to expel the whole, and thus it became as necessary in order to terminate the war to destroy or capture the Spanish force at Pensacola as the Indians themselves. In this attitude of the Spanish governor, and in the fact that the hostile Indians were received, fed, clothed, furnished with munitions of war, and that their plunder was purchased in Pensacola, General Jackson found a justification for seizing that post also, and holding it in the name of the United States.

"St. Augustine was still in the hands of the Spaniards, and no act of the authorities or people of that place was known to General Jackson previous to his return to Tennessee, which would sustain him in assuming the responsibility of occupying that city. However, about the 7th of August, 1818, he received information that the Indians were there also received and supplied. On that day, therefore, he issued an order to General Gaines, directing him to collect the evidences of these facts, and if they were well founded, to take possession of that place. The following is an extract from that order:

"'I have noted with attention Major Twiggs' letter marked No. 5. I contemplated that the agents of Spain or the officers of Fort St. Augustine would excite the Indians to hostility and furnish them with the means. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison with American troops, Fort St. Augustine, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba, as in your judgment under existing circumstances you may think best.'

"An order had some time before been given to the officer of ordnance at Charleston, to have in readiness a battery train, and to him General Gaines was referred.

"The order to take St. Augustine has often been adduced as evidence of General Jackson's determination to do as he pleased, without regard to the orders or wishes of his government. Though justifiable on the ground of self-defence, it would never have been issued but for the confidential orders given to General Gaines and Colonel Bankhead, to take possession of Amelia Island forcibly, if not yielded peaceably, and when possessed, to retain and fortify it;

and the secret understanding which existed between him and the government, in consequence of which he never doubted that he was acting in compliance with the wishes, and in accordance with the orders and expectations of the President and Secretary of War.

"To show more conclusively the impressions under which General Jackson acted, reference should be had to the fact that, after the capture of the Spanish forts, he instructed Captain Gadsden to prepare and report a plan for the permanent defence of Florida, which was agreeable to the confidential orders to General Gaines and Col. Bankhead before referred to. Of this he informed the Secretary of War in a dispatch dated 2d June, 1818, of which the following is an extract:—

"'Captain Gadsden is instructed to prepare and report on the necessary defences as far as the military reconnoissances he has taken will permit, accompanied with plans of existing works; what additions or improvements are necessary, and what new works should, in his opinion, be erected to *give permanent security to this important territorial addition to our republic*. As soon as the report is prepared, Captain Gadsden will receive orders to repair to Washington City with some other documents which I may wish to confide to his charge.'

"This plan was completed and forwarded to Mr. Calhoun on the 10th of the succeeding August, by Captain Gadsden himself, with a letter from General Jackson, urging the necessity not only of retaining possession of St. Marks, but Pensacola. The following is a part of that letter:

"'Captain Gadsden will also deliver you his report made in pursuance of my order, accompanied with the plans of the fortifications thought necessary for the defence of the Floridas, in connection with the line of defence on our Southern frontier.

"'This was done under the belief that the government will never jeopardize the safety of the Union, or the security of our frontier, by surrendering those posts, and the possession of the Floridas, unless upon a sure guaranty agreeable to the stipulations of the articles of capitulation, that will insure permanent peace, tranquillity and security to our Southern frontier. It is believed that Spain can never furnish this guaranty. As long as there are Indians in Florida, and it is possessed by Spain, they will be excited to war, and the indiscriminate murder of our citizens, by foreign agents combined with the officers of Spain. The duplicity and conduct of Spain for the last six years fully prove this. It was on a belief that the Floridas would be held that my order was given to Captain Gadsden to make the report he has done.'

"Again: 'By Captain Gadsden you will receive some letters lately inclosed to me, detailing the information that the Spaniards at Fort St. Augustine are again exciting the Indians to war against us, and a copy of my order to General Gaines on this subject. It is what I expected, and proves the justice and sound policy of not only holding the posts we are now in possession of, but of possessing ourselves of St. Augustine. This, and this alone can give us peace and security on "our Southern frontier."'

"It is thus clearly shown that in taking possession of St. Marks and Pensacola, and giving orders to take St. Augustine, I was acting within the letter as well as spirit of my orders, and in accordance with the secret understanding between the government and myself, and under a full persuasion that these fortresses would never again be permitted by our government to pass under the dominion of Spain. From the time of writing my confidential letter of the 6th of January to the date of this dispatch, the 10th of August, 1818, I never had an intimation that the wishes of the government had changed, or that less was expected of me, if the occasion should prove favorable, than the occupation of the whole of Florida. On the contrary, either by their direct approval of my measures, or their silence, the President and Mr. Calhoun gave me reason to suppose that I was to be sustained, and that the Floridas after

being occupied were to be held for the benefit of the United States. Upon receiving my orders on the 11th of January, I took instant measures to bring into the field a sufficient force to accomplish all the objects suggested in my confidential letter of the 6th, of which I informed the War Department, and Mr. Calhoun in his reply dated 29th January, 1818, after the receipt of my confidential letter, and a full knowledge and approbation of my views says:—

"'The measures you have taken to bring an efficient force into the field are approbated, and a confident hope is entertained that a speedy and successful termination of the Indian war will follow your exertions.'

"Having received further details of my preparations, not only to terminate the Seminole war, but, as the President and his Secretary well knew, *to occupy Florida also*, Mr. Calhoun on the 6th February, writes as follows:—

"'I have the honor to acknowledge the receipt of your letter of the 20th ult., and to acquaint you with the entire approbation of the President of all the measures you have adopted to terminate the rupture with the Indians.'

"On the 13th of May following, with a full knowledge that I intended if a favorable occasion presented itself to occupy Florida, and that the design had the approbation of the President, Mr. Calhoun wrote to Governor Bibb, of Alabama, the letter already alluded to, concluding as follows:—

"'General Jackson is vested with full powers to conduct the war in the manner he may deem best.'

"On the 25th of March, 1818, I informed Mr. Calhoun that I intended to occupy St. Marks, and on the 8th of April I informed him that it was done.

"Not a whisper of disapprobation or of doubt reached me from the government.

"On the 5th May I wrote to Mr. Calhoun that I was about to move upon Pensacola with a view of occupying that place.

"Again, no reply was ever given disapproving or discountenancing this movement.

"On the 2d of June I informed Mr. Calhoun that I had on the 24th May entered Pensacola, and on the 28th had received the surrender of the Barrancas.

"Again no reply was given to this letter expressing any disapproval of these acts.

"In fine, from the receipt of the President's reply to my confidential letter of 6th January, 1818, through Mr. Rhea, until the receipt of the President's private letter, dated 19th July, 1818, I received no instructions or intimations from the government public or private that my operations in Florida were other than such as the President and Secretary of War expected and approved. I had not a doubt that I had acted in every respect in strict accordance with their views, and that without publicly avowing that they had authorized my measures they were ready at all times and under all circumstances to sustain me; and that as there were sound reasons and justifiable cause for taking possession of Florida, they would in pursuance of their private understanding with me retain it as indemnity for the spoliations committed by Spanish subjects on our citizens, and as security for the peace of our Southern frontier. I was willing to rest my vindication for taking the posts on the hostile conduct of their officers and garrisons, bearing all the responsibility myself: but I expected my government would find in their claims upon Spain, and the danger to which our frontier would again be exposed, sufficient reasons for not again delivering them into the possession of Spain.

"It was late in August before I received official information of the decision of the government to restore the posts, and about the same time I saw it stated in the Georgia Journal that the cabinet had been divided in relation to the course pursued by me in Florida; and also an extract of a letter in a Nashville paper, alleging that a movement had been made in the cabinet against me which was attributed to Mr. Crawford, in which extract it is expressly stated that I had been triumphantly vindicated by *Mr. Calhoun* and Mr. Adams. Being convinced that the course I had pursued was justified by considerations of public policy, by the laws of nations, by the state of things to which I have referred, and by the instructions, intimations, and acquiescence of the government, and believing that the latter had been communicated to all the members of the cabinet, I considered that such a movement by Mr. Crawford was founded on considerations foreign to the public interests, and personally inimical to me; and therefore, after these public and explicit intimations of what had occurred in the cabinet, I was prepared to, and did believe that Mr. Crawford was bent on my destruction, and was the author of the movement in the cabinet to which they referred. I the more readily entertained this belief in relation to him (in which I am rejoiced to avail myself of this public occasion to say I did him injustice) because it was impossible that I should suspect that any proposition to punish or censure me could come from either the President or Mr. Calhoun, as I well knew that I had expressed to the President my opinion that Florida ought to be taken, and had offered to take it if he would give me an intimation through Mr. Rhea that it was desirable to do so, which intimation was given; that they had given me orders broad enough to sanction all that was done; that Mr. Calhoun had expressly interpreted those orders vesting me 'with full power to conduct the war as he (I) might think best;' that they had expressly approved of all my preparations, and in silence witnessed all my operations. Under these circumstances it was impossible for me to believe, whatever change might have taken place in their views of public policy, that either the President or Mr. Calhoun could have originated or countenanced any proposition tending to cast censure upon me, much less to produce my arrest, trial, and punishment.

"If these facts and statements could have left room for a doubt in relation to Mr. Calhoun's approval of my conduct and of his friendship for me, I had other evidence of a nature perfectly conclusive. In August, 1818, Colonel A. P. Hayne, Inspector General of the Southern Division, who had served in this campaign, came to Washington to settle his accounts, and resign his staff appointment in the army. He was the fellow-citizen and friend of Mr. Calhoun and held constant personal interviews with him for some weeks in settling his accounts. On the 24th September he addressed a letter to me, stating that he had closed his public accounts entirely to his satisfaction, and in relation to public affairs among other things remarks:—

"'The course the administration has thought proper to adopt is to me *inexplicable*. They *retain St. Marks*, and in the same breath *give up* Pensacola. Who can comprehend this? The American nation possesses discernment, and will judge for themselves. Indeed, sir, I fear that Mr. Monroe has on the present occasion yielded to the opinion of those about him. I cannot believe that it is the result of his own honest convictions. Mr. Calhoun certainly thinks with you altogether, although after the decision of the cabinet, he must of course nominally support what has been done.' And in another letter, dated 21st January, 1819, he says: 'Since I last saw you I have travelled through West and East Tennessee, through Kentucky, through Ohio, through the western and eastern part of Pennsylvania, and the whole of Virginia—have been much in Baltimore and Philadelphia, and the united voice of the people of those States and towns (and I have taken great pains to inform myself) approve of your conduct in every respect. And the people of the United States at large entertain precisely the same opinion with the people of those States. So does the administration, to wit: Mr. Monroe, *Mr. Calhoun*, and

Mr. Adams. Mr. Monroe is your *friend*. He has *identified* you with himself. After the most mature reflection and deliberation upon all of your operations, he has covered your conduct. But I am candid to confess that he did not adopt this line of conduct (in my mind) as soon as he ought to have done. Mr. Adams has done honor to his country and himself.'

"Colonel Hayne is a man of honor, and did not intend to deceive; I had no doubt, and have none now, that he derived his impressions from conversations with Mr. Calhoun himself; nor have I any doubt that Mr. Calhoun purposely conveyed those impressions that they might be communicated to me. Without other evidence than this letter, how could I have understood Mr. Calhoun otherwise than as approving my whole conduct, and as having defended me in the cabinet? How could I have understood any seeming dissent in his official communications otherwise than as arising from his obligation to give a 'nominal support' to the decision of the cabinet which in reality he disapproved?

"The reply to my confidential letter, the approval of my preparations, the silence of Mr. Calhoun during the campaign, the enmity of Mr. Crawford, the language of the newspapers, the letters of Colonel Hayne, and other letters of similar import from other gentlemen who were on familiar terms with the Secretary of War, left no doubt on my mind that Mr. Calhoun approved of my conduct in the Seminole war 'altogether;' had defended me against an attack of Mr. Crawford in the cabinet, and was, throughout the struggle in Congress so deeply involving my character and fame, my devoted and zealous friend. This impression was confirmed by the personal kindness of Mr. Calhoun towards me, during my visit to this city, pending the proceedings of Congress relative to the Seminole war, and on every after occasion. Nor was such conduct confined to me alone, for however inconsistent with his proposition in the cabinet, that I should 'be punished in some form,' or in the language of Mr. Adams, as to what passed there 'that General Jackson should be brought to trial,' in several conversations with Colonel Richard M. Johnson, while he was preparing the counter report of the Military Committee of the House of Representatives, Mr. Calhoun always spoke of me with respect and kindness, *and approved of my course*.

"So strong was my faith in Mr. Calhoun's friendship that the appointment of Mr. Lacock, shortly after he had made his report upon the Seminole war in the Senate, to an important office, although inexplicable to me, did not shake it.

"I was informed by Mr. Rankin (member of the House of Representatives from Mississippi), and others in 1823 and 1824, once in the presence of Colonel Thomas H. Williams (of Mississippi) of the Senate, that I had blamed Mr. Crawford unjustly and that Mr. Calhoun was the instigator of the attacks made upon me: yet in consequence of the facts and circumstances already recapitulated tending to prove Mr. Calhoun's approval of my course, I could not give the assertion the least credit.

"Again in 1825 Mr. Cobb told me that I blamed Mr. Crawford wrongfully both for the attempt to injure me in the cabinet, and for having an agency in framing the resolutions which he (Mr. Cobb) offered in Congress censuring my conduct in the Seminole war. He stated on the contrary that Mr. Crawford was opposed to those resolutions and always asserted that '*General Jackson had a sufficient defence whenever he chose to make it, and that the attempt to censure him would do him good, and recoil upon its authors*;' yet it was impossible for me to believe that Mr. Calhoun had been my enemy; on the contrary I did not doubt that he had been my devoted friend, not only through all those difficulties, but in the contest for the Presidency which ended in the election of Mr. Adams.

"In the Spring of 1828 the impression of Mr. Calhoun's rectitude and fidelity towards me was confirmed by an incident which occurred during the progress of an effort to reconcile all

misunderstanding between him and Mr. Crawford and myself. Colonel James A. Hamilton of New-York inquired of Mr. Calhoun himself, at Washington, 'whether at any meeting of Mr. Monroe's cabinet the propriety of arresting General Jackson for any thing done during the Seminole war had been at any time discussed?' Mr. Calhoun replied, 'Never: such a measure was not thought of, much less discussed. The only point before the cabinet was the answer to be given to the Spanish government.' In consequence of this conversation Colonel Hamilton wrote to Major Lewis, a member of the Nashville committee, that 'the Vice-President, who you know was the member of the cabinet best acquainted with the subject, told me General Jackson's arrest was never thought of, much less discussed.' Information of this statement renewed and strengthened the impression relative to the friendship of Mr. Calhoun, which I had entertained from the time of the Seminole war.

"In a private letter to Mr. Calhoun dated 25th May, 1828, written after the conversation with Colonel Hamilton had been communicated to me, I say in relation to the Seminole war:

"'I can have no wish at this day to obtain an explanation of the orders under which I acted whilst charged with the campaign against the Seminole Indians in Florida. I viewed them when received as plain and explicit, and called for by the situation of the country. I executed them faithfully, and was happy in reply to my reports to the Department of War to receive your approbation for it.'

"Again: 'The fact is, I never had the least ground to believe (previous to the reception of Mr. Monroe's letter of 19th July, 1818) that any difference of opinion between the government and myself existed on the subject of my powers. So far from this, to the communications which I made showing the construction which I placed upon them, there was not only no difference of opinion indicated in the replies of the Executive but as far as I received replies, an entire approval of the measures which I had adopted.'

"This was addressed directly from me to Mr. Calhoun, in May, 1828. In his reply Mr. Calhoun does not inform me that I was in error. He does not tell me that he disapproved my conduct, and thought I ought to have been punished for a violation of orders. He does not inform me that he or any other had proposed in the cabinet council a court of inquiry, or any other court. He says nothing inconsistent with the impression already made upon my mind—nothing which might not have been expected from one who had been obliged to give a 'nominal support' to a decision which he disapproved. His reply, dated 10th July, 1828, is in these words:

"'Any discussion of them' (the orders) 'now, I agree with you, would be unnecessary. They are matters of history, and must be left to the historian as they stand. In fact I never did suppose that the justification of yourself or the government depended on a critical construction of them. It is sufficient for both that they were honestly issued, and honestly executed, without involving the question whether they were executed strictly in accordance with the intention that they were issued. Honest and patriotic motives are all that can be required, and I never doubted that they existed on both sides.'

"It was certainly impossible for me to conceive that Mr. Calhoun had urged in cabinet council a court of inquiry with a view to my ultimate punishment for violation of orders which he admitted were '*honestly executed*,' especially as he *never doubted* that my 'motives' were '*honest and patriotic*.' After this letter I could not have doubted, if I had before, that Mr. Calhoun had zealously vindicated my 'honest and patriotic' acts in Mr. Monroe's cabinet against the supposed attacks of Mr. Crawford, as had long before been announced. I could not have doubted that Mr. Calhoun 'thought with me altogether,' as I had been informed by Colonel Hayne. I could not have conceived that Mr. Calhoun had *ever* called in question my

compliance with my orders, when he says he '*never did suppose*' that my '*justification* depended on a critical construction of them,' and 'that it was sufficient that they were honestly executed.'

"By the unlimited authority conferred on me by my orders; by the writing and reception of my confidential letter and the answer thereto advised by Mr. Calhoun; by the positive approval of all my preparatory measures and the silence of the government during my operations; by uncontradicted publications in the newspapers; by positive assurances received through the friends of Mr. Calhoun; by Mr. Calhoun's declaration to Colonel Hamilton; and finally by his own assurance that he never doubted the honesty or patriotism with which I executed my orders, which he '*deemed sufficient*' without inquiring '*whether they were executed strictly in accordance with the intention that they were issued*,' I was authorized to believe and did believe that Mr. Calhoun had been my devoted friend, defending on all occasions, public and private, my whole conduct in the Seminole war. With these impressions I entered upon the discharge of the duties of President, in March, 1829.

"Recent disclosures prove that these impressions were entirely erroneous, and that Mr. Calhoun himself was the author of the proposition made in the cabinet to subject me to a court of inquiry with a view to my ultimate punishment for a violation of orders.

"My feelings towards Mr. Calhoun continued of the most friendly character until my suspicions of his fairness were awakened by the following incident. The late Marshal of the District of Columbia (Mr. Tench Ringold), conversing with a friend of mine in relation to the Seminole war, spoke in strong terms of Mr. Monroe's support of me; and upon being informed that I had always regarded Mr. Calhoun as my firm and undeviating friend and supporter, and particularly on that occasion, Mr. Ringold replied that *Mr. Calhoun was the first man to move in the cabinet for my punishment, and that he was against me on that subject*. Informed of this conversation, and recurring to the repeated declarations that had been made to me by different persons and at different times, that Mr. Calhoun, and not Mr. Crawford, was the person who had made that movement against me in the cabinet, and observing the mysterious opposition that had shown itself, particularly among those who were known to be the friends and partisans of Mr. Calhoun, and that the measures which I had recommended to the consideration of Congress, and which appeared to have received the approbation of the people, were neglected or opposed in that quarter whence I had a right to believe they would have been brought forward and sustained, I felt a desire to see the written statement which I had been informed Mr. Crawford had made, in relation to the proceedings of the cabinet, that I might ascertain its true character. I sought and obtained it, in the manner heretofore stated, and immediately sent it to Mr. Calhoun, and asked him frankly whether it was possible that the information given in it was correct? His answer, which he has given to the world, indeed, as I have before stated, surprised, nay, astonished me. I had always refused to believe, notwithstanding the various assurances I had received, that Mr. Calhoun could be so far regardless of that duty which the plainest principles of justice and honor imposed upon him, as to propose the punishment of a subordinate officer for the violation of orders which were so evidently discretionary as to permit me as he (Mr. Calhoun) informed Governor Bibb, 'to conduct the war as he may think best.' But the fact that he so acted has been affirmed by all who were present on the occasion, and admitted by himself.[4]

[4] Mr. Calhoun in his conversation with Colonel Hamilton, substantially denied that such a proposition as that which he now admits he made, was ever submitted to the cabinet. He is asked "whether at any meeting of Mr. Monroe's cabinet the propriety of arresting General Jackson for any thing done during the Seminole war had been at any time discussed." He replies "Never; such a measure was not thought of, much less discussed: *the only point before the cabinet was the answer to be given to the Spanish government.*" By the last branch of the

"That Mr. Calhoun, with his knowledge of facts and circumstances, should have dared to make such a proposition, can only be accounted for from the sacredly confidential character which he attaches to the proceedings of a cabinet council. His views of this subject are strongly expressed in his printed correspondence, page 15. 'I am not at all surprised,' says he, 'that Mr. Crawford should feel that he stands in need of an apology for betraying the deliberations of the cabinet. It is, I believe, not only the first instance in our country, but one of a very few instances in any country, or any age, that an individual has felt himself absolved from the high obligations which honor and duty impose on one situated as he was.' It was under this veil, which he supposed to be for ever impenetrable, that Mr. Calhoun came forward and denounced those measures which he knew were not only impliedly, but positively authorized by the President himself. He proposed to take preparatory steps for the punishment of General Jackson, whose '*honest and patriotic motives he never doubted*,' for the violation of orders which he admits were '*honestly executed*.' That he expected to succeed with his proposition so long as there was a particle of honor, honesty, or prudence left to President Monroe, is not to be imagined. The movement was intended for some future contingency, which perhaps Mr. Calhoun himself only can certainly explain.

"The shape in which this proposition was made is variously stated. Mr. Calhoun, in the printed correspondence, page 15, says: 'I was of the impression that you had exceeded your orders, and acted on your own responsibility, but I neither questioned your patriotism nor your motives. Believing that where orders were transcended, investigation as a matter of course ought to follow, as due in justice to the government and the officer, unless there be strong reasons to the contrary, I came to the [cabinet] meeting under the impression that the usual course ought to be pursued in this case, which I supported by presenting fully and freely all the arguments that occurred to me.'

"Mr. Crawford, in his letter to Mr. Forsyth, published in the same correspondence, page 9, says: 'Mr. Calhoun's proposition in the cabinet was, that General Jackson should be punished in some form, or reprehended in some form, I am not positively certain which.'

answer the denial is made to embrace the whole subject in any form it might have assumed, and therefore deprives Mr. Calhoun of all grounds of cavil or escape by alleging that he only proposed a military inquiry, and not an arrest, and that he did not therefore answer the inquiry in the negative. But again when Colonel Hamilton submitted to Mr. Calhoun his recollection of the conversation that Mr. Calhoun might correct it if erroneous, and informed him that he did so because he intended to communicate in to Major Lewis, Mr. Calhoun did not question the correctness of Colonel Hamilton's recollection of the conversation; he does not qualify or alter it; he does not say, as in frankness he was bound to do—"It is true, the proposition to arrest General Jackson was not discussed, but an inquiry into his conduct in that war was discussed on a proposition to that end made by me." He does not say that the answer to the Spanish government was not the only point before the cabinet, but he endeavors, without denying as was alleged by Colonel Hamilton that this part of the conversation was understood between them to be confidential, to prevent him from making it public, and to that end and that alone he writes a letter of ten pages on the sacredness of cabinet deliberations. Why, let us ask, did Mr. Calhoun upon reflection feel so much solicitude to prevent a disclosure of his answer to Colonel Hamilton, which if true could not injure him? At first, although put upon his guard, he admits that this part of the conversation was not confidential, although it referred to what was, as well as what was not done in cabinet council. The reason is to be found in his former involutions, and in the fact that the answer was not true, and in his apprehension that if that answer was made public, Mr. Crawford, who entertained the worst opinions of Mr. Calhoun, and who had suffered in General Jackson's opinion on this subject, would immediately disclose the whole truth, as he has since done; and that thus the veil worn out, of the sacredness of cabinet deliberations under which Mr. Calhoun upon second thought had endeavored to conceal himself, would be raised, and he would be exposed to public indignation and scorn. This could alone be the motive for his extreme anxiety to prevent Colonel Hamilton from communicating the result of an inquiry made by him from the best and purest motives, to the persons who had prompted that inquiry from like motives.

"Mr. Adams, in a letter to Mr. Crawford, dated 30th July, 1830, says: 'The main point upon which it was urged that General Jackson should be *brought to trial*, was, that he had violated his orders by taking St. Marks and Pensacola.'

"Mr. Crowninshield, in a letter to Mr. Crawford, dated 25th July, 1830, says: 'I remember too, that Mr. Calhoun was severe upon the conduct of General Jackson, but the words particularly spoken have slipped my memory.'

"From the united testimony it appears that Mr. Calhoun made a proposition for a court of inquiry upon the conduct of General Jackson, upon the charge of having violated his orders in taking St. Marks and Pensacola, with a view to his ultimate trial and punishment, and that he was severe in his remarks upon that conduct. But the President would listen to no such proposition. Mr. Crawford, in his letter to Mr. Calhoun, dated 2d October, 1830, says: 'You remembered the excitement which your proposition produced in the mind and on the feelings of the President, and did not dare to ask him any question tending to revive his recollection of that proposition.' This excitement was very natural. Hearing the very member of his cabinet whom he had consulted upon the subject of General Jackson's confidential letter, and who had advised the answer which had approved beforehand the capture of St. Marks and Pensacola and who on the 8th September, 1818, wrote to General Jackson, that 'St. Marks will be retained till Spain shall be ready to garrison it with a sufficient force, and Fort Gadsden, and any other position in East or West Florida within the Indian country, which may be deemed eligible, will be retained so long as there is any danger, which, it is hoped, will afford the desired security,' make a proposition which went to stamp his character with treachery, by the punishment of General Jackson for those very acts, it was impossible that Mr. Monroe should not be excited. He must have been more than human, or less, to have beheld Mr. Calhoun uttering violent philippics against General Jackson for those acts, without the strongest emotion.

"Mr. Calhoun's proposition was rejected, as he knew it would be, and he came from behind the veil of cabinet secrecy all smiles and professions of regard and friendship for General Jackson! It was then that by his deceitful conversations he induced Colonel Hayne and others to inform General Jackson, that so far from thinking that he had violated his orders and ought to be punished, he disapproved and only nominally supported the more friendly decision of the cabinet, and thought with him altogether! There was no half-way feeling in his friendship! So complete and entire was the deception, that while General Jackson was passing through Virginia the next winter on his way to Washington, he toasted '*John C. Calhoun*,' as '*an honest man, the noblest work of God.*' Who can paint the workings of the guilty Calhoun's soul when he read that toast!!

"But Mr. Calhoun was not content with the attack made by him upon General Jackson's character and fame in the dark recesses of Mr. Monroe's cabinet. At the next session of Congress the same subject was taken in hand in both houses. Mr. Cobb came forward with his resolutions of censure in the House of Representatives, where, after a long discussion, the assailants were signally defeated. Mr. Lacock headed a committee in the Senate which was engaged in the affair from the 18th December, 1818, to the 24th February, 1819, when they made a report full of bitterness against General Jackson. It charged him with a violation of the laws and constitution of his country; disobedience of orders; disregard of the principles of humanity, and almost every crime which a military man can commit.

"It was not suspected at the time that this report owed any of its bitterness to Mr. Calhoun, yet that such was the fact is now susceptible of the strongest proof!

"While the attacks upon General Jackson were in progress in Congress his presence in the city was thought to be necessary by his friends. Colonel Robert Butler, then in Washington, wrote to him to that effect. A few days afterwards Mr. Calhoun accosted him, and asked him in an abrupt manner why he had written to General Jackson to come to the city. Colonel Butler answered, 'that he might see that justice was done him in person.' Mr. Calhoun turned from him without speaking another word with an air of anger and vexation which made an indelible impression on the colonel's mind. It was obvious enough that he did not desire, but rather feared General Jackson's presence in the city. Colonel Butler's letter to General Jackson, dated the 9th June, 1831, is in these words:

"'When in Washington in the winter of 1818-'19, finding the course which Congress appeared to be taking on the Seminole question, I wrote you that I esteemed it necessary that you should be present at Washington. Having done so, I communicated this fact to our friend Bronaugh, who held the then Secretary of War in high estimation. The succeeding evening, while at the French Minister's, he came to me and inquired in a tone somewhat abrupt, what could induce me to write for General Jackson to come to the city—(Bronaugh having informed him that I had done so)—to which I replied, perhaps as sternly, "*that he may in person have justice done him*." The Secretary turned on his heel, and so ended the conversation; but there was a something inexplicable in the countenance that subsequent events have given meaning to. After your arrival at Washington, we were on a visit at the Secretary's, and examining a map—(the Yellow Stone expedition of the Secretary's being the subject of conversation)—Mr. Lacock, of the Senate, was announced to the Secretary, who remarked—"Do not let him come in now, General Jackson is here, but will soon be gone, when I can see him." There was nothing strange in all this; but the whispered manner and apparent agitation fastened on my mind the idea that Mr. Calhoun and Lacock understood each other on the Seminole matter. Such were my impressions at the time.'

"On my arrival, however, in January, 1819, Mr. Calhoun treated me with marked kindness. The latter part of Colonel Butler's letter, as to Mr. Lacock, is confirmed by my own recollection that one day when Mr. Calhoun and myself were together in the War Department, the messenger announced Mr. Lacock at the door: Mr. Calhoun, in a hurried manner, pronounced the name of General Jackson, and Mr. Lacock did not come in. This circumstance indicated an intimacy between them, but I inferred nothing from it unfavorable to Mr. Calhoun.

"In speaking of my confidential letter to Mr. Monroe (printed correspondence, page 19), Mr. Calhoun states, that after reading it when received, 'I thought no more of it. Long after, I think it was at the commencement of the next session of Congress, I heard some allusion which brought that letter to my recollection. It was from a quarter which induced me to believe that it came from Mr. Crawford. I called and mentioned it to Mr. Monroe, and found that he had entirely forgotten the letter. After searching some time he found it among some other papers, and read it, as he told me, for the first time.'

"The particular '*quarter*' whence the '*allusion*' which called up the recollection of this confidential letter came, Mr. Calhoun has not thought proper to state. Probably it was Mr. Lacock, who was the friend of Mr. Crawford. Probably he applied to Mr. Calhoun for information, and Mr. Calhoun went to the President, and requested a sight of that letter that he might communicate its contents to Mr. Lacock. Mr. Lacock was appointed upon the committee on the Seminole war, on the 18th December. On the 21st of that month the recollection of the confidential letter was first in the mind of Mr. Monroe, for on that day, in a letter to General Jackson, he gives an account of its reception, and the disposition made of it. Probably, therefore, it was about the time that Mr. Lacock undertook the investigation of

this affair in the Senate, and that it was for his information that Mr. Calhoun called on Mr. Monroe to inquire about this letter.

“Nay, it is *certain* that the existence and contents of this letter *were* about that time *communicated to Mr. Lacock: that he conversed freely and repeatedly with Mr. Calhoun upon the whole subject: that he was informed of all that had passed: the views of the President, of Mr. Calhoun, and the cabinet, and that Mr. Calhoun coincided with Mr. Lacock in all his views*.

“These facts are stated *upon the authority of Mr. Lacock himself*.

“The motives of these secret communications to Mr. Lacock by Mr. Calhoun cannot be mistaken. By communicating the contents of the confidential letter, and withholding the fact that an approving answer had been returned, he wished to impress Mr. Lacock with the belief that General Jackson had predetermined before he entered Florida, to seize the Spanish posts, right or wrong, with orders or without. Acting under this impression, he would be prepared to discredit and disbelieve all General Jackson’s explanations and defences, and put the worst construction upon every circumstance disclosed in the investigation. By this perfidy General Jackson was deprived of all opportunity to make an effectual defence. To him Mr. Calhoun was all smiles and kindness. He believed him his friend, seeking by all proper means, in public and private, to shield him from the attacks of his enemies. Having implicit confidence in Mr. Calhoun and the President, he would sooner have endured the tortures of the inquisition than have disclosed their answer to his letter through Mr. Rhea. The tie which he felt, Mr. Calhoun felt not. He did not scruple to use one side of a correspondence to destroy a man, his friend, who confided in him with the faith and affection of a brother—when he knew that man felt bound by obligations from which no considerations short of a knowledge of his own perfidy could absolve him, to hold the other side in eternal silence. General Jackson had no objection to a disclosure of the whole correspondence. There was nothing in it of which he was ashamed, or which on his own account he wished to conceal. Public policy made it inexpedient that the world should know at that time how far the government had approved beforehand of his proceedings. But had he known that Mr. Calhoun was attempting to destroy him by secretly using one side of the correspondence, he would have been justified by the laws of self-defence in making known the other. He saw not, heard not, imagined not, that means so perfidious and dishonorable were in use to destroy him. It never entered his confiding heart that the hand he shook with the cordiality of a warm friend was secretly pointing out to his enemies the path by which they might ambuscade and destroy him. He was incapable of conceiving that the honeyed tongue, which to him spake nothing but kindness, was secretly conveying poison into the ears of Mr. Lacock, and other members of Congress. It could not enter his mind that his confidential letters, the secrets of the cabinet, and the opinions of its members, were all secretly arrayed against him by the friend in whom he implicitly confided, misinterpreted and distorted, without giving him an opportunity for self-defence or explanation.

“Mr. Calhoun’s object was accomplished. Mr. Lacock made a report far transcending in bitterness any thing which even in the opinion of General Jackson’s enemies the evidence seemed to justify. This extraordinary and unaccountable severity is now explained. It proceeded from the secret and perfidious representations of Mr. Calhoun, based on General Jackson’s confidential letter. Mr. Lacock ought to be partially excused, and stand before the world comparatively justified. For most of the injustice done by his report to the soldier who had risked all for his country, Mr. Calhoun *is the responsible man*.

“As dark as this transaction is, a shade is yet to be added. It was not enough that General Jackson had been deceived and betrayed by a professing friend; that the contents of his

confidential correspondence had been secretly communicated to his open enemies, while all information of the reply was withheld: it was not enough that an official report overflowing with bitterness had gone out to the world to blast his fame, which must stand for ever recorded in the history of his country. Lest some accident might expose the evidences of the understanding under which he acted, and the duplicity of his secret accuser, means must be taken to procure the destruction of the answer to the confidential letter through Mr. Rhea. They were these. About the time Mr. Lacock made his report General Jackson and Mr. Rhea were both in the city of Washington. Mr. Rhea called on General Jackson, as he said, at the request of Mr. Monroe, and begged him on his return home to burn his reply. He said the President feared that by the death of General Jackson, or some other accident, it might fall into the hands of those who would make an improper use of it. He therefore conjured him by the friendship which had always existed between them (and by his obligations as a brother mason) to destroy it on his return to Nashville. Believing Mr. Monroe and Mr. Calhoun to be his devoted friends, and not deeming it *possible* that any incident could occur which would require or justify its use, he gave Mr. Rhea the promise he solicited, and accordingly after his return to Nashville he burnt Mr. Rhea's letter, and on his letter-book opposite the copy of his confidential letter to Mr. Monroe made this entry:—

"*'Mr. Rhea's letter in answer is burnt this 12th April, 1819.'*

"Mr. Calhoun's management was thus far completely triumphant. He had secretly assailed General Jackson in cabinet council, and caused it to be publicly announced that he was his friend. While the confiding soldier was toasting him as 'an honest man, the noblest work of God,' he was betraying his confidential correspondence to his enemy, and laying the basis of a document which was intended to blast his fame and ruin his character in the estimation of his countrymen. Lest accident should bring the truth to light, and expose his duplicity, he procures through the President and Mr. Rhea the destruction of the approving answer to the confidential letter. Mr. Rhea was an old man and General Jackson's health feeble. In a few years all who were supposed to have any knowledge of the reply would be in their graves. Every trace of the approval given beforehand by the government to the operations of General Jackson would soon be obliterated, and the undivided responsibility would forever rest on his head. At least, should accident or policy bring to light the duplicity of Mr. Calhoun, he might deny all knowledge of this reply, and challenge its production. He might defend his course in the cabinet and extenuate his disclosures to Mr. Lacock, by maintaining before the public that he had always believed General Jackson violated his orders and ought to have been punished. At the worst, the written reply if once destroyed could never be recalled from the flames; and should General Jackson still be living, his assertion might not be considered more conclusive than Mr. Calhoun's denial. In any view it was desirable to him that this letter should be destroyed, and through his management, as is verily believed, it was destroyed.

"Happily however for the truth of history and the cause of public justice, the writer of the reply is still alive; and from a journal kept at the time, is able to give an accurate account of this transaction. He testifies directly to the writing of the letter, to its contents, and the means taken to secure its destruction. Judge Overton, to whom the letter was confidentially shown, testifies directly to the existence of the letter, and to the fact that General Jackson afterwards told him it was destroyed.

"These, with the statement of General Jackson himself, and the entry in his letter-book which was seen by several persons many years ago, fix these facts beyond a doubt.

"Certainly the history of the world scarcely presents a parallel to this transaction. It has been seen with what severity Mr. Calhoun denounced Mr. Crawford for revealing the secret proceedings of the cabinet: with what justice may a retort of tenfold severity be made upon

him, when he not only reveals to Mr. Lacock the proceedings of the cabinet, but the confidential letter of a confiding friend, not for the benefit of that friend, but through misrepresentation of the transaction and concealment of the reply, to aid his enemies in accomplishing his destruction. It was doubtless expected that Mr. Lacock would produce a document which would overwhelm General Jackson and destroy him in public estimation. In that event the proceedings of the cabinet would no longer have been held sacred. The erroneous impression made on the public mind would have been corrected, and the world have been informed that Mr. Calhoun not only disapproved the acts of General Jackson, but had in the cabinet attempted in vain to procure his punishment. As the matter stood, the responsibility of attacking the General rested on Mr. Crawford, and had the decision of the people been different, the responsibility of *defending* him would have been thrown exclusively upon Mr. Adams, and Mr. Calhoun would have claimed the merit of the attack. But until the public should decide, it was not prudent to lose the friendship of General Jackson, which might be of more service to Mr. Calhoun than the truth. It was thus at the sacrifice of every principle of honor and friendship that Mr. Calhoun managed to throw all responsibility on his political rivals, and profit by the result of these movements whatever it might be. It cannot be doubted, however, that Mr. Calhoun expected the entire prostration of General Jackson, and managed to procure the destruction of Mr. Rhea's letter, for the purpose of disarming the friend he had betrayed, that he might, with impunity when the public should have pronounced a sentence of condemnation, have come forward and claimed the merit of having been the first to denounce him.

"The people however sustained General Jackson against the attacks of all his enemies, public and private, open and secret, and therefore it became convenient for Mr. Calhoun to retain his mask, to appear as the friend of one whom the people had pronounced their friend, and to let Mr. Crawford bear the unjust imputation of having assailed him in the cabinet.

"It must be confessed that the mask was worn with consummate skill. Mr. Calhoun was understood by all of General Jackson's friends to be his warm and able defender. When, in 1824, Mr. Calhoun was withdrawn from the lists as a candidate for the Presidency, the impression made on the friends of General Jackson was that he did it to favor the election of their favorite, when it is believed to be susceptible of proof that he secretly flattered the friends of Mr. Adams with the idea that he was with them. It is certain that for the Vice-Presidency he continued to secure nearly all the Adams votes, most of the Jackson votes, and even half of the Clay votes in Kentucky. But never did the friends of General Jackson doubt his devotion to their cause in that contest, until the publication of his correspondence with General Jackson. In a note, page 7, he undeceives them by saying:

"'When my name was withdrawn from the list of presidential candidates, I assumed a perfectly neutral position between General Jackson and Mr. Adams. I was decidedly opposed to a congressional caucus, as both those gentlemen were also, and as I bore very friendly personal and political relations to both, I would have been well satisfied with the election of either.'

"I have now given a faithful detail of the circumstances and facts which transpired touching my movements in Florida, during the Seminole campaign.

"When Mr. Calhoun was secretly misinterpreting my views and conduct through Mr. Speer to the citizens of South Carolina, I had extended to him my fullest confidence, inasmuch as I consulted him as if he were one of my cabinet, showed him the written rules by which my administration was to be governed, which he apparently approved, received from him the strongest professions of friendship, so much so that I would have scorned even a suggestion that he was capable of such unworthy conduct.

"ANDREW JACKSON."

Such is the paper which General Jackson left behind him for publication, and which is so essential to the understanding of the events of the time. From the rupture between General Jackson and Mr. Calhoun (beginning to open in 1830, and breaking out in 1831), dates calamitous events to this country, upon which history cannot shut her eyes, and which would be a barren relation without the revelation of their cause. Justice to Mr. Monroe (who seemed to hesitate in the cabinet about the proposition to censure or punish Gen. Jackson), requires it to be distinctly brought out that he had either never read, or had entirely forgotten General Jackson's confidential letter, to be answered through the venerable representative from Tennessee (Mr. John Rhea), and the production of which in the cabinet had such a decided influence on Mr. Calhoun's proposition—and against it. This is well told in the letter of Mr. Crawford to Mr. Forsyth—is enforced in the "Exposition," and referred to in the "correspondence," but deserves to be reproduced in Mr. Crawford's own words. He says: "Indeed, my own views on the subject had undergone a material change after the cabinet had been convened. Mr. Calhoun made some allusion to a letter the General had written to the President, who had forgotten that he had received such a letter, but said if he had received such an one, he could find it; and went directly to his cabinet and brought the letter out. In it General Jackson approved of the determination of the government to break up Amelia Island and Galveston; and gave it also as his opinion that the Floridas should be taken by the United States. He added it might be a delicate matter for the Executive to decide; but if the President approved of it, he had only to give a hint to some confidential member of Congress, say Mr. Johnny Ray (Rhea), and he would do it, and take the responsibility of it on himself. I asked the President if the letter had been answered. He replied, No; for that he had no recollection of having received it. I then said that I had no doubt that General Jackson, in taking Pensacola, believed he was doing what the Executive wished. After that letter was produced unanswered I should have opposed the infliction of punishment upon the General, who had considered the silence of the President as a tacit consent. Yet it was after this letter was produced and read that Mr. Calhoun made his proposition to the cabinet for punishing the General. You may show this letter to Mr. Calhoun, if you please." It was shown to him by General Jackson, as shown in the "correspondence," and in the "Exposition;" and is only reproduced here for the sake of doing justice to Mr. Monroe.

54. Breaking Up Of The Cabinet, And Appointment Of Another

The publication of Mr. Calhoun's pamphlet was quickly followed by an event which seemed to be its natural consequence—that of a breaking up, and reconstructing the President's cabinet. Several of its members classed as the political friends of Mr. Calhoun, and could hardly expect to remain as ministers to General Jackson while adhering to that gentleman. The Secretary of State, Mr. Van Buren, was in the category of future presidential aspirants; and in that character obnoxious to Mr. Calhoun, and became the cause of attacks upon the President. He determined to resign; and that determination carried with it the voluntary, or obligatory resignations of all the others—each one of whom published his reasons for his act. Mr. Eaton, Secretary at War, placed his upon the ground of original disinclination to take the place, and a design to quit it at the first suitable moment—which he believed had now arrived. Mr. Ingham, Secretary of the Treasury, Mr. Branch, of the Navy, and Mr. Berrien, Attorney General, placed theirs upon the ground of compliance with the President's wishes. Of the three latter, the two first classed as the friends of Mr. Calhoun; the Attorney General, on this occasion, was considered as favoring him, but not of his political party. The unpleasant business was courteously conducted—transacted in writing as well as in personal conversations, and all in terms of the utmost decorum. Far from attempting to find an excuse for his conduct in the imputed misconduct of the retiring Secretaries, the President gave them letters of respect, in which he bore testimony to their acceptable deportment while associated with him, and placed the required resignations exclusively on the ground of a determination to reorganize his cabinet. And, in fact, that determination became unavoidable after the appearance of Mr. Calhoun's pamphlet. After that Mr. Van Buren could not remain, as being viewed under the aspect of "Mordecai, the Jew, sitting at the king's gate." Mr. Eaton, as his supporter, found a reason to do what he wished, in following his example. The supporters of Mr. Calhoun, howsoever unexceptionable their conduct had been, and might be, could neither expect, nor desire, to remain among the President's confidential advisers after the broad rupture with that gentleman. Mr. Barry, Postmaster General, and the first of that office who had been called to the cabinet councils, and classing as friendly to Mr. Van Buren, did not resign, but soon had his place vacated by the appointment of minister to Spain. Mr. Van Buren's resignation was soon followed by the appointment of minister to London; and Mr. Eaton was made Governor of Florida; and, on the early death of Mr. Barry, became his successor at Madrid.

The new cabinet was composed of Edward Livingston of Louisiana, Secretary of State; Louis McLane of Delaware (recalled from the London mission for that purpose), Secretary of the Treasury; Lewis Cass of Ohio, Secretary at War; Levi Woodbury of New Hampshire, Secretary of the Navy; Amos Kendall of Kentucky, Postmaster General; Roger Brooke Taney of Maryland, Attorney General. This change in the cabinet made a great figure in the party politics of the day, and filled all the opposition newspapers, and had many sinister reasons assigned for it—all to the prejudice of General Jackson, and Mr. Van Buren—to which neither of them replied, though having the easy means of vindication in their hands—the former in the then prepared "Exposition" which is now first given to the public—the latter in the testimony of General Jackson, also first published in this Thirty Years' View, and in the history of the real cause of the breach between General Jackson and Mr. Calhoun, which the "Exposition" contains. Mr. Crawford was also sought to be injured in the published "correspondence," chiefly as the alleged divulger, and for a wicked purpose, of the

proceedings in Mr. Monroe's cabinet in relation to the proposed military court on General Jackson. Mr. Calhoun arraigned him as the divulger of that cabinet secret, to the faithful keeping of which, as well as of all the cabinet proceedings, every member of that council is most strictly enjoined. Mr. Crawford's answer to this arraignment was brief and pointed. He denied the divulgation—affirmed that the disclosure had been made immediately after the cabinet consultation, in a letter sent to Nashville, Tennessee, and published in a paper of that city, in which the facts were reversed—Mr. Crawford being made the mover of the court of inquiry proposition, and Mr. Calhoun the defender of the General; and he expressed his belief that Mr. Calhoun procured that letter to be written and published, for the purpose of exciting General Jackson against him; (which belief the Exposition seems to confirm)—and declaring that he only spoke of the cabinet proposition after the publication of that letter, and for the purpose of contradicting it, and telling the fact, that Mr. Calhoun made the proposition for the court, and that Mr. Adams and himself resisted, and defeated it. His words were: "My apology for having disclosed what passed in a cabinet meeting, is this: In the summer after that meeting, an extract of a letter from Washington was published in a Nashville paper, in which it was stated that I had proposed to arrest General Jackson, but that he was triumphantly defended by Mr. Calhoun and Mr. Adams. This letter I have always believed was written by Mr. Calhoun, or by his direction. It had the desired effect. General Jackson became extremely inimical to me, and friendly to Mr. Calhoun. In stating the arguments of Mr. Adams to induce Mr. Monroe to support General Jackson's conduct throughout, adverting to Mr. Monroe's apparent admission, that if a young officer had acted so, he might be safely punished, Mr. Adams said—that if General Jackson had acted so, that if he had been a subaltern officer, *shooting was too good for him*. This, however, was said with a view of driving Mr. Monroe to an unlimited support of what General Jackson had done, and not with an unfriendly view to the General. Mr. Calhoun's proposition in the cabinet was, that General Jackson should be punished in some form, I am not positive which. As Mr. Calhoun did not propose to *arrest* General Jackson, I feel confident that I could not have made use of *that* word in my relation to you of the circumstances which transpired in the cabinet." This was in the letter to Mr. Forsyth, of April 30th, 1830, and which was shown to General Jackson, and by him communicated to Mr. Calhoun; and which was the second thing that brought him to suspect Mr. Calhoun, having repulsed all previous intimations of his hostility to the General, or been quieted by Mr. Calhoun's answers. The Nashville letter is strongly presented in the "Exposition" as having come from Mr. Calhoun, as believed by Mr. Crawford.

Upon the publication of the "correspondence," the *Telegraph*, formerly the Jackson organ, changed its course, as had been revealed to Mr. Duncanson—came out for Mr. Calhoun, and against General Jackson and Mr. Van Buren, followed by all the affiliated presses which awaited its lead. The *Globe* took the stand for which it was established; and became the faithful, fearless, incorruptible, and powerful supporter of General Jackson and his administration, in the long, vehement, and eventful contests in which he became engaged.

55. Military Academy

The small military establishment of the United States seemed to be almost in a state of dissolution about this time, from the frequency of desertion; and the wisdom of Congress was taxed to find a remedy for the evil. It could devise no other than an increase of pay to the rank and file and non-commissioned officers; which upon trial, was found to answer but little purpose. In an army of 6000 the desertions were 1450 in the year; and increasing. Mr. Macon from his home in North Carolina, having his attention directed to the subject by the debates in Congress, wrote me a letter, in which he laid his finger upon the true cause of these desertions, and consequently showed what should be the true remedy. He wrote thus:

"Why does the army, of late years, desert more than formerly? Because the officers have been brought up at West Point, and not among the people. Soldiers desert because not attached to the service, or not attached to the officers. West Point cadets prevent the promotion of good sergeants, and men cannot like a service which denies them promotion, nor like officers who get all the commissions. The increase of pay will not cure the evil, and nothing but promotion will. In the Revolutionary army, we had many distinguished officers, who entered the army as privates."

This is wisdom, and besides carrying conviction for the truth of all it says, it leads to reflections upon the nature and effects of our national military school, which extend beyond the evil which was the cause of writing it. Since the act of 1812, which placed this institution upon its present footing, giving its students a legal right to appointment (as constructed and practised), it may be assumed that there is not a government in Europe, and has been none since the commencement of the French revolution (when the nobles had pretty nearly a monopoly of army appointments), so unfriendly to the rights of the people, and giving such undue advantages to some parts of the community over the rest. Officers can now rise from the ranks in all the countries of Europe—in Austria, Russia, Prussia, as well as in Great Britain, of which there are constant and illustrious examples. Twenty-three marshals of the empire rose from the ranks—among them Key, Massena, Oudinot, Murat, Soult, Bernadotte. In Great Britain, notwithstanding her Royal Military College, the largest part of the commissions are now given to citizens in civil life, and to non-commissioned officers. A return lately made to parliament shows that in eighteen years—from 1830 to 1847—the number of citizens who received commissions, was 1,266; the number of non-commissioned officers promoted, was 446; and the number of cadets appointed from the Royal Military College was 473. These citizen appointments were exclusive of those who purchased commissions—another mode for citizens to get into the British army, and which largely increases the number in that class of appointments—sales of commissions, with the approbation of the government, being there valid. But exclusive of purchased commissions during the same period of eighteen years, the number of citizens appointed, and of non-commissioned officers promoted, were, together, nearly four times the number of government cadets appointed. Now, how has it been in our service during any equal number of years, or all the years, since the Military Academy got into full operation under the act of 1812? I confine the inquiry to the period subsequent to the war of 1812, for during that war there were field and general officers in service who came from civil life, and who procured the promotion of many meritorious non-commissioned officers; the act not having at first been construed to exclude them. How many? Few or none, of citizens appointed, or non-commissioned officers promoted—only in new or temporary corps—the others being held to belong to the government cadets.

I will mention two instances coming within my own knowledge, to illustrate the difficulty of obtaining a commission for a citizen in the regular regiments—one the case of the late Capt. Hermann Thorn, son of Col. Thorn, of New-York. The young man had applied for the place of cadet at West Point; and not being able to obtain it, and having a strong military turn, he sought service in Europe, and found it in Austria; and admitted into a hussar regiment on the confines of Turkey, without commission, but with the pay, clothing, and ration of a corporal; with the privilege of associating with officers, and a right to expect a commission if he proved himself worthy. These are the exact terms, substituting sergeant for corporal, on which cadets were received into the army, and attached to companies, in Washington's time. Young Thorn proved himself to be worthy; received the commission; rose in five years to the rank of first lieutenant; when, the war breaking out between the United States and Mexico, he asked leave to resign, was permitted to do so, and came home to ask service in the regular army of the United States. His application was made through Senator Cass and others, he only asking for the lowest place in the gradation of officers, so as not to interfere with the right of promotion in any one. The application was refused on the ground of illegality, he not having graduated at West Point. Afterwards I took up the case of the young man, got President Polk to nominate him, sustained the nomination before the Senate; and thus got a start for a young officer who soon advanced himself, receiving two brevets for gallant conduct and several wounds in the great battles of Mexico; and was afterwards drowned, conducting a detachment to California, in crossing his men over the great Colorado of the West.

Thus Thorn was with difficulty saved. The other case was that of the famous Kit Carson also nominated by President Polk. I was not present to argue his case when he was rejected, and might have done no good if I had been, the place being held to belong to a cadet that was waiting for it. Carson was rejected because he did not come through the West Point gate. Being a patriotic man, he has since led many expeditions of his countrymen, and acted as guide to the United States officers, in New Mexico, where he lives. He was a guide to the detachment that undertook to rescue the unfortunate Mrs. White, whose fate excited so much commiseration at the time; and I have the evidence that if he had been commander, the rescue would have been effected, and the unhappy woman saved from massacre.

This rule of appointment (the graduates of the academy to take all) may now be considered the law of the land, so settled by construction and senatorial acquiescence; and consequently that no American citizen is to enter the regular army except through the gate of the United States Military Academy; and few can reach that gate except through the weight of a family connection, a political influence, or the instrumentality of a friend at court. Genius in obscurity has no chance; and the whole tendency of the institution is to make a governmental, and not a national army. Appointed cadet by the President, nominated officer by him, promoted upon his nomination, holding commission at his pleasure, receiving his orders as law, looking to him as the fountain of honor, the source of preferment, and the dispenser of agreeable and profitable employment—these cadet officers must naturally feel themselves independent of the people, and dependent upon the President; and be irresistibly led to acquire the habits and feelings which, in all ages, have rendered regular armies obnoxious to popular governments.

The instinctive sagacity of the people has long since comprehended all this, and conceived an aversion to the institution which has manifested itself in many demonstrations against it—sometimes in Congress, sometimes in the State legislatures, always to be met, and triumphantly met, by adducing Washington as the father and founder of the institution.—No adduction could be more fallacious. Washington is no more the father of the present West Point than he is of the present Mount Vernon. The West Point of his day was a school of

engineering and artillery, and nothing more; the cadet of his day was a young soldier, attached to a company, and serving with it in the field and in the camp, "with the pay, clothing, and ration of sergeant" (act of 1794); and in the intervals of active service, if he had shown an inclination for the profession, and a capacity for its higher branches, then he was sent, in the "discretion" of the President, to West Point, to take instruction in those higher branches, namely, artillery and engineering, and nothing more. All the drills both of officer and private—all the camp duty—all the trainings in the infantry, the cavalry, and the rifle—were then left to be taught in the field and the camp—a better school than any academy; and under officers who were to lead them into action—better teachers than any school-room professors. And all without any additional expense to the United States.

All was right in the time of Washington, and afterwards, up to the act of 1812. None became cadets then but those who had a stomach for the hardships, as well as taste for the pleasures of a soldier's life—who, like the Young Norval on the Grampian Hills, had felt the soldier's blood stir in their veins, and longed to be off to the scene of war's alarms, instead of standing guard over flocks and herds. Cadets were not then sent to a superb school, with the emoluments of officers, to remain four years at public expense, receiving educations for civil as well as military life, with the right to have commissions and be provided for by the government; or with the secret intent to quit the service as soon as they could do better—which most of them soon do. The act of 1812 did the mischief and that insidiously and by construction, while ostensibly keeping up the old idea of cadets serving with their companies, and only detached when the President pleased, to get instruction at the academy. It runs thus: "The cadets heretofore appointed in the service of the United States, whether of artillery, cavalry, riflemen, or infantry, or may be in future appointed or hereinafter provided, shall at no time exceed 250; that they may be attached, at the discretion of the President of the United States as students to the Military Academy; and be subject to the established regulations thereof."

The deception of this clause is in keeping up the old idea of these cadets being with their companies, and by the judgment of the President detached from their companies, and attached, as students, to the Military Academy. The President is to exercise a "discretion," by which the cadet is transferred for a while from his company to the school, to be there as a student; that is to say, like a student, but still retaining his original character of *quasi* officer in his company. This change from camp to school, upon the face of the act, was to be, as formerly, a question for the President to decide, dependent for its solution upon the military indications of the young man's character, and his capacity for the higher branches of the service; and this only permissive in the President. He "may" attach, &c. Now, all this is illusion. Cadets are not sent to companies, whether of artillery, infantry, cavalry, or riflemen. The President exercises no "discretion" about detaching them from their company and attaching them as students. They are appointed as students, and go right off to school, and get four years' education at the public expense, whether they have any taste for military life, or not. That is the first large deception under the act: others follow, until it is all deception. Another clause says, the cadet shall "sign articles, with the consent of his parent or guardian, to serve five years, unless sooner discharged." This is deceptive, suggesting a service which has no existence, and taking a bond for what is not to be performed. It is the language of a soldier's enlistment, where there is no enlistment; and was a fiction invented to constitutionalize the act. The language makes the cadet an enlisted soldier, bound to serve the United States the usual soldier's term, when this paper soldier—this apparent private in the ranks—is in reality a gentleman student, with the emoluments of an officer, obtaining education at public expense, instead of carrying a musket in the ranks. The whole clause is an illusion, to use no stronger term, and put in for a purpose which the legislative history of the

day well explains; and that was, to make the act constitutional on its face, and enable it to get through the forms, and become a law. There were members who denied the constitutional right of Congress to establish this national eleemosynary university; and others who doubted the policy and expediency of officering the army in this manner. To get over these objections, the selection of the students took the form, in the statute, of a soldier's enlistment; and in fact they sign articles of enlistment, like recruits, but only to appease the constitution and satisfy scruples; and I have myself, in the early periods of my service in the Senate, seen the original articles brought into secret session and exhibited, to prove that the student was an enlisted soldier, and not a student, and therefore constitutionally in service. The term of five years being found to be no term of service at all, as the student might quit the service within a year after his education, which many of them did, it was extended to eight; but still without effect, except in procuring a few years of unwilling service from those who mean to quit; as the greater part do. I was told by an officer in the time of the Mexican war that, of thirty-six cadets who had graduated and been commissioned at the same time with himself, there were only about half a dozen then in service; so that this great national establishment is mainly a school for the gratuitous education of those who have influence to get there. The act provides that these students are to be instructed in the lower as well as the higher branches of the military art; they are to be "trained and taught all the duties incident to a regular camp." Now, all this training and teaching, and regular camp duty, was done in Washington's time in the regular camp itself, and about as much better done as substance is better than form, and reality better than imitation, with the advantage of training each officer to the particular arm of the service to which he was to belong, and in which he would be expected to excel.

Gratuitous instruction to the children of the living is a vicious principle, which has no foundation in reason or precedent. Such instruction, to the children of those who have died for their country, is as old as the first ages of the Grecian republics, as we learn from the oration which Thucydides puts into the mouth of Pericles at the funeral of the first slain of the Peloponnesian war: and as modern as the present British Military Royal Academy; which, although royal, makes the sons of the living nobility and gentry pay; and only gives gratuitous instruction and support to the sons of those who have died in the public service. And so, I believe, of other European military schools.

These are vital objections to the institution; but they do not include the high practical evil which the wisdom of Mr. Macon discerned, and with which this chapter opened—namely, a monopoly of the appointments. That is effected in the fourth section, not openly and in direct terms (for that would have rendered the act unconstitutional on its face), but by the use of words which admit the construction and the practice, and therefore make the law, which now is, the legal right of the cadet to receive a commission who has received the academical diploma for going through all the classes. This gives to these cadets a monopoly of the offices, to the exclusion of citizens and non-commissioned officers; and it deprives the Senate of its constitutional share in making these appointments. By a "regulation," the academic professors are to recommend at each annual examination, five cadets in each class, on account of their particular merit, whom the President is to attach to companies. This expunges the Senate, opens the door to that favoritism which natural parents find it hard to repress among their own children, and which is proverbial among teachers. By the constitution, and for a great public purpose, and not as a privilege of the body, the Senate is to have an advising and consenting power over the army appointments: by practice and construction it is not the President and Senate, but the President and the academy who appoint the officers. The President sends the student to the academy: the academy gives a diploma, and that gives him a right to the commission—the Senate's consent being an obligatory form. The President and the academy are the real appointing power, and the Senate nothing but an office for the

registration of their appointments. And thus the Senate, by construction of a statute and its own acquiescence, has ceased to have control over these appointments: and the whole body of army officers is fast becoming the mere creation of the President and of the military academy. The effect of this mode of appointment will be to create a governmental, instead of a national army; and the effect of this exclusion of non-commissioned officers and privates from promotion, will be to degrade the regular soldier into a mercenary, serving for pay without affection for a country which dishonors him. Hence the desertions and the correlative evil of diminished enlistments on the part of native-born Americans.

Courts of law have invented many fictions to facilitate trials, but none to give jurisdiction. The jurisdiction must rest upon fact, and so should the constitutionality of an act of Congress; but this act of 1812 rests its constitutionality upon fictions. It is a fiction to suppose that the cadet is an enlisted soldier—a fiction to suppose that he is attached to a company and thence transferred, in the "discretion" of the President, to the academy—a fiction to suppose that he is constitutionally appointed in the army by the President and Senate. The very title of the act is fictitious, giving not the least hint, not even in the convenient formula of "other purposes" of the great school it was about to create.

It is entitled, "An act making further provision for the corps of engineers;" when five out of the six sections which it contains go to make further provision for two hundred and fifty students at a national military and civil university. As now constituted, our academy is an imitation of the European military schools, which create governmental and not national officers—which make routine officers, but cannot create military genius—and which block up the way against genius—especially barefooted genius—such as this country abounds in, and which the field alone can develope. "My children,"—the French generals were accustomed to say to the young conscripts during the Revolution—"My children, there are some captains among you, and the first campaign will show who they are, and they shall have their places." And such expressions, and the system in which they are founded, have brought out the military genius of the country in every age and nation, and produced such officers as the schools can never make.

The adequate remedy for these evils is to repeal the act of 1812, and remit the academy to condition in Washington's time, and as enlarged by several acts up to 1812. Then no one would wish to become a cadet but he that had the soldier in him, and meant to stick to his profession, and work his way up from the "pay, ration, and clothing of a sergeant," to the rank of field-officer or general. Struggles for West Point appointments would then cease, and the boys on the "Grampian Hills" would have their chance. This is the adequate remedy. If that repeal cannot be had, then a subordinate and half-way remedy may be found in giving to citizens and non-commissioned officers a share of the commissions, equal to what they get in the British service, and restoring the Senate to its constitutional right of rejecting as well as confirming cadet nominations.

These are no new views with me. I have kept aloof from the institution. During the almost twenty years that I was at the head of the Senate's Committee on Military Affairs, and would have been appropriately a "visitor" at West Point at some of the annual examinations, I never accepted the function, and have never even seen the place. I have been always against the institution as now established, and have long intended to bring my views of it before the country; and now fulfil that intention.

56. Bank Of The United States.—Non-Renewal Of Charter

From the time of President Jackson's intimations against the recharter of the Bank, in the annual message of 1829, there had been a ceaseless and pervading activity in behalf of the Bank in all parts of the Union, and in all forms—in the newspapers, in the halls of Congress, in State legislatures, even in much of the periodical literature, in the elections, and in the conciliation of presses and individuals—all conducted in a way to operate most strongly upon the public mind, and to conclude the question in the forum of the people before it was brought forward in the national legislature. At the same time but little was done, or could be done on the other side. The current was all setting one way. I determined to raise a voice against it in the Senate, and made several efforts before I succeeded—the thick array of the Bank friends throwing every obstacle in my way, and even friends holding me back for the regular course, which was to wait until the application for the renewed charter to be presented; and then to oppose it. I foresaw that, if this course was followed, the Bank would triumph without a contest—that she would wait until a majority was installed in both Houses of Congress—then present her application—hear a few barren speeches in opposition;—and then gallop the renewed charter through. In the session of 1830, '31, I succeeded in creating the first opportunity of delivering a speech against it; it was done a little irregularly by submitting a negative resolution against the renewal of the charter, and taking the opportunity while asking leave to introduce the resolution, to speak fully against the re-charter. My mind was fixed upon the character of the speech which I should make—one which should avoid the beaten tracks of objection, avoid all settled points, avoid the problem of constitutionality—and take up the institution in a practical sense, as having too much power over the people and the government,—over business and politics—and too much disposed to exercise that power to the prejudice of the freedom and equality which should prevail in a republic, to be allowed to exist in our country. But I knew it was not sufficient to pull down: we must build up also. The men of 1811 had committed a fatal error, when most wisely refusing to re-charter the institution of that day, they failed to provide a substitute for its currency, and fell back upon the local banks, whose inadequacy speedily made a call for the re-establishment of a national bank. I felt that error must be avoided—that another currency of general circulation must be provided to replace its notes; and I saw that currency in the gold coin of the constitution, then an ideal currency in the United States, having been totally banished for many years by the erroneous valuation adopted in the time of Gen. Hamilton, Secretary of the Treasury. I proposed to revive that currency, and brought it forward at the conclusion of my first speech (February, 1831) against the Bank, thus:

"I am willing to see the charter expire, without providing any substitute for the present bank. I am willing to see the currency of the federal government left to the hard money mentioned and intended in the constitution; I am willing to have a hard money government, as that of France has been since the time of *assignats* and *mandats*. Every species of paper might be left to the State authorities, unrecognized by the federal government, and only touched by it for its own convenience when equivalent to gold and silver. Such a currency filled France with the precious metals, when England, with her overgrown bank, was a prey to all the evils of unconvertible paper. It furnished money enough for the imperial government when the population of the empire was three times more numerous, and the expense of government twelve times greater, than the population and expenses of the United States; and, when France possessed no mines of gold or silver, and was destitute of the exports which command

the specie of other countries. The United States possess gold mines, now yielding half a million per annum, with every prospect of equalling those of Peru. But this is not the best dependence. We have what is superior to mines, namely, the exports which command the money of the world; that is to say, the food which sustains life and the raw materials which sustain manufactures. Gold and silver is the best currency for a republic; it suits the men of middle property and the working people best; and if I was going to establish a working man's party, it should be on the basis of hard money:—a hard money party, against a paper party."

In the speech which I delivered, I quoted copiously from British speakers—not the brilliant rhetoricians, but the practical, sensible, upright business men, to whom countries are usually indebted for all beneficial legislation: the Sir Henry Parnells, the Mr. Joseph Humes, the Mr. Edward Ellices, the Sir William Pulteneys; and men of that class, legislating for the practical concerns of life, and merging the orator in the man of business.

THE SPEECH—EXTRACTS.

"Mr. Benton commenced his speech in support of the application for the leave he was about to ask, with a justification of himself for bringing forward the question of renewal at this time, when the charter had still five years to run; and bottomed his vindication chiefly on the right he possessed, and the necessity he was under to answer certain reports of one of the committee of the Senate, made in opposition to certain resolutions relative to the bank, which he had submitted to the Senate at former sessions, and which reports he had not had an opportunity of answering. He said it had been his fortune, or chance, some three years ago, to submit a resolution in relation to the undrawn balances of public money in the hands of the bank, and to accompany it with some poor remarks of unfavorable implication to the future existence of that institution. My resolution [said Mr. B.] was referred to the Committee on Finance, who made a report decidedly adverse to all my views, and eminently favorable to the bank, both as a present and future institution. This report came on the 13th of May, just fourteen days before the conclusion of a six months' session, when all was hurry and precipitation to terminate the business on hand, and when there was not the least chance to engage the attention of the Senate in the consideration of any new subject. The report was, therefore, laid upon the table unanswered, but was printed by order of the Senate, and that in extra numbers, and widely diffused over the country by means of the newspaper press. At the commencement of the next session, it being irregular to call for the consideration of the past report, I was under the necessity to begin anew, and accordingly submitted my resolution a second time, and that quite early in the session; say on the first day of January. It was my wish and request that this resolution might be discussed in the Senate, but the sentiment of the majority was different, and a second reference of it was made to the Finance Committee. A second report of the same purport with the first was a matter of course; but what did not seem to me to be a matter of course was this; that this second report should not come in until the 20th day of February, just fourteen days again before the end of the session, for it was then the short session, and the Senate as much pinched as before for time to finish the business on hand. No answer could be made to it, but the report was printed, with the former report appended to it; and thus, united like the Siamese twins, and with the apparent, but not real sanction of the Senate, they went forth together to make the tour of the Union in the columns of the newspaper press. Thus, I was a second time out of court; a second time nonsuited for want of a replication, when there was no time to file one. I had intended to begin *de novo*, and for the third time, at the opening of the ensuing session; but, happily, was anticipated and prevented by the annual message of the new President [General Jackson], which brought this question of renewing the bank charter directly before Congress. A reference of this part of the message was made, of course, to the Finance Committee: the committee, of course, again reported, and with increased ardor, in favor of the bank.

Unhappily this third report, which was an amplification and reiteration of the two former, did not come in until the session was four months advanced, and when the time of the Senate had become engrossed, and its attention absorbed, by the numerous and important subjects which had accumulated upon the calendar. Printing in extra numbers, general circulation through the newspaper press, and no answer, was the catastrophe of this third reference to the Finance Committee. Thus was I nonsuited for the third time. The fourth session has now come round; the same subject is again before the same committee on the reference of the part of the President's second annual message which relates to the bank; and, doubtless, a fourth report of the same import with the three preceding ones, may be expected. But when? is the question. And, as I cannot answer that question, and the session is now two thirds advanced, and as I have no disposition to be cut off for the fourth time, I have thought proper to create an occasion to deliver my own sentiments, by asking leave to introduce a joint resolution, adverse to the tenor of all the reports, and to give my reasons against them, while supporting my application for the leave demanded; a course of proceeding which is just to myself and unjust to no one, since all are at liberty to answer me. These are my personal reasons for this step, and a part of my answer to the objection that I have begun too soon. The conduct of the bank, and its friends, constitutes the second branch of my justification. It is certainly not 'too soon' for them, judging by their conduct, to engage in the question of renewing the bank charter. In and out of Congress, they all seem to be of one accord on this point. Three reports of committees in the Senate, and one from a committee of the House of Representatives, have been made in favor of the renewal; and all these reports, instead of being laid away for future use—instead of being stuck in pigeon holes, and labelled for future attention, as things coming forth prematurely, and not wanted for present service—have, on the contrary, been universally received by the bank and its friends, in one great tempest of applause; greeted with every species of acclamation; reprinted in most of the papers, and every effort made to give the widest diffusion, and the highest effect, to the arguments they contain. In addition to this, and at the present session, within a few days past, three thousand copies of the exposition of the affairs of the Bank have been printed by order of the two Houses, a thing never before done, and now intended to blazon the merits of the bank. [Mr. Smith, of Maryland, here expressed some dissent to this statement; but Mr. B. affirmed its correctness in substance if not to the letter, and continued.] This does not look as if the bank advocates thought it was *too soon* to discuss the question of renewing the charter; and, upon this exhibition of their sentiments, I shall rest the assertion and the proof, that they do not think so. The third branch of my justification rests upon a sense of public duty; upon a sense of what is just and advantageous to the people in general, and to the debtors and stockholders of the bank in particular. The renewal of the charter is a question which concerns the people at large; and if they are to have any hand in the decision of this question—if they are even to know what is done before it is done, it is high time that they and their representatives in Congress should understand each other's mind upon it. The charter has but five years to run; and if renewed at all, will probably be at some short period, say two or three years, before the time is out, and at any time sooner that a chance can be seen to gallop the renewal through Congress. The people, therefore, have no time to lose, if they mean to have any hand in the decision of this great question. To the bank itself, it must be advantageous, at least, if not desirable, to know its fate at once, that it may avoid (if there is to be no renewal) the trouble and expense of multiplying branches upon the eve of dissolution, and the risk and inconvenience of extending loans beyond the term of its existence. To the debtors upon mortgages, and indefinite accommodations, it must be also advantageous, if not desirable, to be notified in advance of the end of their indulgences: so that, to every interest, public and private, political and pecuniary, general and particular, full discussion, and seasonable decision, is just and proper.

"I hold myself justified, Mr. President, upon the reasons given, for proceeding in my present application; but, as example is sometimes more authoritative than reason, I will take the liberty to produce one, which is as high in point of authority as it is appropriate in point of application, and which happens to fit the case before the Senate as completely as if it had been made for it. I speak of what has lately been done in the Parliament of Great Britain. It so happens, that the charter of the Bank of England is to expire, upon its own limitation, nearly about the same time with the charter of the Bank of the United States, namely, in the year 1833; and as far back as 1824, no less than nine years before its expiration, the question of its renewal was debated, and that with great freedom, in the British House of Commons. I will read some extracts from that debate, as the fairest way of presenting the example to the Senate, and the most effectual mode of securing to myself the advantage of the sentiments expressed by British statesman.

The Extracts.

"'Sir Henry Parnell.—The House should no longer delay to turn its attention to the expediency of renewing the charter of the Bank of England. Heretofore, it had been the regular custom to renew the charter several years before the existing charter had expired. The last renewal was made when the existing charter had eleven years to run: the present charter had nine years only to continue, and he felt very anxious to prevent the making of any agreement between the government and the bank for a renewal, without a full examination of the policy of again conferring upon the Bank of England any exclusive privilege. The practice had been for government to make a secret arrangement with the bank; to submit it immediately to the proprietors of the bank for their approbation, and to call upon the House the next day to confirm it, without affording any opportunity of fair deliberation. So much information had been obtained upon the banking trade, and upon the nature of currency in the last fifteen years, that it was particularly necessary to enter upon a full investigation of the policy of renewing the bank charter before any negotiation should be entered upon between the government and the bank; and he trusted the government would not commence any such negotiation until the sense of Parliament had been taken on this important subject.'

"'Mr. Hume said it was of very great importance that his majesty's ministers should take immediate steps to free themselves from the trammels in which they had long been held by the bank. As the interest of money was now nearly on a level with what it was when the bank lent a large sum to government, he hoped the Chancellor of the Exchequer would not listen to any application for a renewal of the bank charter, but would pay off every shilling that had been borrowed from the bank. * * * * * Let the country gentlemen recollect that the bank was now acting as pawn-broker on a large scale, and lending money on estates, a system entirely contrary to the original intention of that institution. * * * * * * He hoped, before the expiration of the charter, that a regular inquiry would be made into the whole subject.'

"'Mr. Edward Ellice. It (the Bank of England) is a great monopolizing body, enjoying privileges which belonged to no other corporation, and no other class of his majesty's subjects. * * * * * * * He hoped that the exclusive charter would never again be granted; and that the conduct of the bank during the last ten or twelve years would make government very cautious how they entertained any such propositions. The right honorable Chancellor of the Exchequer [Mr. Robinson] had protested against the idea of straining any point to the prejudice of the bank; he thought, however, that the bank had very little to complain of, when their stock, after all their past profits, was at 238.'

"'The Chancellor of the Exchequer deprecated the discussion, as leading to no practical result.'

"'Mr. Alexander Baring objected to it as premature and unnecessary.'

"'Sir William Pulteney (in another debate). The prejudices in favor of the present bank have proceeded from the long habit of considering it as a sort of pillar which nothing can shake. * * * * * * * The bank has been supported, and is still supported, by the fear and terror which, by means of its monopoly, it has had the power to inspire. It is well known, that there is hardly an extensive trader, a manufacturer, or a banker, either in London, or at a distance from it, to whom the bank could not do a serious injury, and could often bring on even insolvency. * * * * * I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave. * * * * * * It is in the nature of man, that a monopoly must necessarily be ill-conducted. * * * * * * * Whatever language the [private] bankers may feel themselves obliged to hold, yet no one can believe that they have any satisfaction in being, and continuing, under a dominion which has proved so grievous and so disastrous. * * * * * I can never believe that the merchants and bankers of this country will prove unwilling to emancipate themselves, if they can do it without risking the resentment of the bank. No man in France was heard to complain, openly, of the Bastile while it existed. The merchants and bankers of this country have the blood of Englishmen, and will be happy to relieve themselves from a situation of perpetual terror, if they could do it consistently with a due regard to their own interest.'

"Here is authority added to reason—the force of a great example added to the weight of unanswerable reasons, in favor of early discussion; so that, I trust, I have effectually put aside that old and convenient objection to the 'time,' that most flexible and accommodating objection, which applies to all seasons, and all subjects, and is just as available for cutting off a late debate, because it is too late, as it is for stifling an early one, because it is too early.

"But, it is said that the debate will injure the stockholders; that it depreciates the value of their property, and that it is wrong to sport with the vested rights of individuals. This complaint, supposing it to come from the stockholders themselves, is both absurd and ungrateful. It is absurd, because the stockholders, at least so many of them as are not foreigners, must have known when they accepted a charter of limited duration, that the approach of its expiration would renew the debate upon the propriety of its existence; that every citizen had a right, and every public man was under an obligation, to declare his sentiments freely; that there was nothing in the charter, numerous as its peculiar privileges were, to exempt the bank from that freedom of speech and writing, which extends to all our public affairs; and that the charter was not to be renewed here, as the Bank of England charter had formerly been renewed, by a private arrangement among its friends, suddenly produced in Congress, and galloped through without the knowledge of the country. The American part of the stockholders (for I would not reply to the complaints of the foreigners) must have known all this; and known it when they accepted the charter. They adapted it, subject to this known consequence; and, therefore, the complaint about injuring their property is absurd. That it is ungrateful, must be apparent to all who will reflect upon the great privileges which these stockholders will have enjoyed for twenty years, and the large profits they have already derived from their charter. They have been dividing seven per cent. per annum, unless when prevented by their own mismanagement; and have laid up a real estate of three millions of dollars for future division; and the money which has done these handsome things, instead of being diminished or impaired in the process, is still worth largely upwards of one hundred cents to the dollar: say, one hundred and twenty-five cents. For the peculiar privileges which enabled them to make these profits, the stockholders ought to be grateful: but, like all persons who have been highly favored with undue benefits, they mistake a privilege for a right—a favor for a duty—and resent, as an attack upon their property, a refusal to prolong their undue advantages. There is no ground for these complaints, but for thanks and benedictions rather, for permitting the

bank to live out its numbered days! That institution has forfeited its charter. It may be shut up at any hour. It lives from day to day by the indulgence of those whom it daily attacks; and, if any one is ignorant of this fact, let him look at the case of the Bank of the United States against Owens and others, decided in the Supreme Court, and reported in the 2d Peters.

"[Here Mr. B. read a part of this case, showing that it was a case of usury at the rate of forty-six per cent. and that Mr. Sergeant, counsel for the bank, resisted the decision of the Supreme Court, upon the ground that it would expose the charter of the bank to forfeiture; and that the decision was, nevertheless, given upon that ground; so that the bank, being convicted of taking usury, in violation of its charter, was liable to be deprived of its charter, at any time that a *scire facias* should issue against it.]

"Mr. B. resumed. Before I proceed to the consideration of the resolution, I wish to be indulged in adverting to a rule or principle of parliamentary practice, which it is only necessary to read now in order to avoid the possibility of any necessity for recurring to it hereafter. It is the rule which forbids any member to be present—which, in fact, requires him to withdraw—during the discussion of any question in which his private interest may be concerned; and authorizes the expurgation from the Journal of any vote which may have been given under the predicament of an interested motive. I demand that the Secretary of the Senate may read the rule to which I allude.

"[The Secretary read the following rule:]

"'Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule, of immemorial observance, should be strictly adhered to.'

"*First*: Mr. President, I object to the renewal of the charter of the Bank of the United States, because I look upon the bank as an institution too great and powerful to be tolerated in a government of free and equal laws. Its power is that of the purse; a power more potent than that of the sword; and this power it possesses to a degree and extent that will enable this bank to draw to itself too much of the political power of this Union; and too much of the individual property of the citizens of these States. The money power of the bank is both direct and indirect.

"[The Vice-President here intimated to Mr. Benton that he was out of order, and had not a right to go into the merits of the bank upon the motion which he had made. Mr. Benton begged pardon of the Vice-President, and respectfully insisted that he was in order, and had a right to proceed. He said he was proceeding upon the parliamentary rule of asking leave to bring in a joint resolution, and, in doing which, he had a right to state his reasons, which reasons constituted his speech; that the motion was debatable, and the whole Senate might answer him. The Vice-President then directed Mr. Benton to proceed.]

"Mr. B. resumed. The direct power of the bank is now prodigious, and in the event of the renewal of the charter, must speedily become boundless and uncontrollable. The bank is now authorized to own effects, lands inclusive, to the amount of fifty-five millions of dollars, and to issue notes to the amount of thirty-five millions more. This makes ninety millions; and, in addition to this vast sum, there is an opening for an unlimited increase: for there is a dispensation in the charter to issue as many more notes as Congress, by law, may permit. This opens the door to boundless emissions; for what can be more unbounded than the will and pleasure of successive Congresses? The indirect power of the bank cannot be stated in

figures; but it can be shown to be immense. In the first place, it has the keeping of the public moneys, now amounting to twenty-six millions per annum (the Post Office Department included), and the gratuitous use of the undrawn balances, large enough to constitute, in themselves, the capital of a great State bank. In the next place, its promissory notes are receivable, by law, in purchase of all property owned by the United States, and in payment of all debts due them; and this may increase its power to the amount of the annual revenue, by creating a demand for its notes to that amount. In the third place, it wears the name of the United States, and has the federal government for a partner; and this name, and this partnership, identifies the credit of the bank with the credit of the Union. In the fourth place, it is armed with authority to disparage and discredit the notes of other banks, by excluding them from all payments to the United States; and this, added to all its other powers, direct and indirect, makes this institution the uncontrollable monarch of the moneyed system of the Union. To whom is all this power granted? To a company of private individuals, many of them foreigners, and the mass of them residing in a remote and narrow corner of the Union, unconnected by any sympathy with the fertile regions of the Great Valley, in which the natural power of this Union—the power of numbers—will be found to reside long before the renewed term of a second charter would expire. By whom is all this power to be exercised? By a directory of seven (it may be), governed by a majority, of four (it may be); and none of these elected by the people, or responsible to them. Where is it to be exercised? At a single city, distant a thousand miles from some of the States, receiving the produce of none of them (except one); no interest in the welfare of any of them (except one); no commerce with the people; with branches in every State; and every branch subject to the secret and absolute orders of the supreme central head: thus constituting a system of centralism, hostile to the federative principle of our Union, encroaching upon the wealth and power of the States, and organized upon a principle to give the highest effect to the greatest power. This mass of power, thus concentrated, thus ramified, and thus directed, must necessarily become, under a prolonged existence, the absolute monopolist of American money, the sole manufacturer of paper currency, and the sole authority (for authority it will be) to which the federal government, the State governments, the great cities, corporate bodies, merchants, traders, and every private citizen, must, of necessity apply, for every loan which their exigencies may demand. ‘The rich ruleth the poor, and the borrower is the servant of the lender.’ Such are the words of Holy Writ; and if the authority of the Bible admitted of corroboration, the history of the world is at hand to give it. But I will not cite the history of the world, but one eminent example only, and that of a nature so high and commanding, as to include all others; and so near and recent, as to be directly applicable to our own situation. I speak of what happened in Great Britain, in the year 1795, when the Bank of England, by a brief and unceremonious letter to Mr. Pitt, such as a miser would write to a prodigal in a pinch, gave the proof of what a great moneyed power could do, and would do, to promote its own interest, in a crisis of national alarm and difficulty. I will read the letter. It is exceedingly short; for after the compliments are omitted, there are but three lines of it. It is, in fact, about as long as a sentence of execution, leaving out the prayer of the judge. It runs thus:

“‘It is the wish of the Court of Directors that the Chancellor of the Exchequer would settle his arrangements of finances for the present year, in such manner as not to depend upon any further assistance from them, beyond what is already agreed for.’

“Such were the words of this memorable note, sufficiently explicit and intelligible; but to appreciate it fully, we must know what was the condition of Great Britain at that time? Remember it was the year 1795, and the beginning of that year, than which a more portentous one never opened upon the British empire. The war with the French republic had been raging for two years; Spain had just declared war against Great Britain; Ireland was bursting into

rebellion; the fleet in the Nore was in open mutiny; and a cry for the reform of abuses, and the reduction of taxes, resounded through the land. It was a season of alarm and consternation, and of imminent actual danger to Great Britain; and this was the moment which the Bank selected to notify the minister that no more loans were to be expected! What was the effect of this notification? It was to paralyze the government, and to subdue the minister to the purposes of the bank. From that day forth Mr. Pitt became the minister of the bank; and, before two years were out, he had succeeded in bringing all the departments of government, King, Lords, and Commons, and the Privy Council, to his own slavish condition. He stopped the specie payments of the bank, and made its notes the lawful currency of the land. In 1797 he obtained an order in council for this purpose; in the same year an act of parliament to confirm the order for a month, and afterwards a series of acts to continue it for twenty years. This was the reign of the bank. For twenty years it was a dominant power in England; and, during that disastrous period, the public debt was increased about £400,000,000 sterling, equal nearly to two thousand millions of dollars, and that by paper loans from a bank which, according to its own declarations, had not a shilling to lend at the commencement of the period! I omit the rest. I say nothing of the general subjugation of the country banks, the rise in the price of food, the decline in wages, the increase of crimes and taxes, the multiplication of lords and beggars, and the frightful demoralization of society. I omit all this. I only seize the prominent figure in the picture, that of a government arrested in the midst of war and danger by the veto of a moneyed corporation; and only permitted to go on upon condition of assuming the odium of stopping specie payments, and sustaining the promissory notes of an insolvent bank, as the lawful currency of the land. This single feature suffices to fix the character of the times; for when the government becomes the 'servant of the lender,' the people themselves become its slaves. Cannot the Bank of the United States, if re-chartered, act in the same way? It certainly can, and just as certainly will, when time and opportunity shall serve, and interest may prompt. It is to no purpose that gentlemen may come forward, and vaunt the character of the United States Bank, and proclaim it too just and merciful to oppress the state. I must be permitted to repudiate both the pledge and the praise. The security is insufficient, and the encomium belongs to Constantinople. There were enough such in the British Parliament the year before, nay, the day before the bank stopped; yet their pledges and praises neither prevented the stoppage, nor made good the damage that ensued. There were gentlemen in our Congress to pledge themselves in 1810 for the then expiring bank, of which the one now existing is a second and deteriorated edition; and if their securityship had been accepted, and the old bank re-chartered, we should have seen this government greeted with a note, about August, 1814—about the time the British were burning this capitol—of the same tenor with the one received by the younger Pitt in the year 1795; for, it is incontestable, that that bank was owned by men who would have glorified in arresting the government, and the war itself, for want of money. Happily, the wisdom and patriotism of Jefferson, under the providence of God, prevented that infamy and ruin, by preventing the renewal of the old bank charter.

"*Secondly.* I object to the continuance of this bank, because its tendencies are dangerous and pernicious to the government and the people.

"What are the tendencies of a great moneyed power, connected with the government, and controlling its fiscal operations? Are they not dangerous to every interest, public and private—political as well as pecuniary? I say they are; and briefly enumerate the heads of each mischief.

"1. Such a bank tends to subjugate the government, as I have already shown in the history of what happened to the British minister in the year 1795.

“2. It tends to collusions between the government and the bank in the terms of the loans, as has been fully experienced in England in those frauds upon the people, and insults upon the understating, called three per cent. loans, in which the government, for about £50 borrowed, became liable to pay £100.

“3. It tends to create public debt, by facilitating public loans, and substituting unlimited supplies of paper, for limited supplies of coin. The British debt is born of the Bank of England. That bank was chartered in 1694, and was nothing more nor less in the beginning, than an act of Parliament for the incorporation of a company of subscribers to a government loan. The loan was £1,200,000; the interest £80,000; and the expenses of management £4,000. And this is the birth and origin, the germ and nucleus of that debt, which is now £900,000,000 (the unfunded items included), which bears an interest of £30,000,000, and costs £260,000 for annual management.

“4. It tends to beget and prolong unnecessary wars, by furnishing the means of carrying them on without recurrence to the people. England is the ready example for this calamity. Her wars for the restoration of the Capet Bourbons were kept up by loans and subsidies created out of bank paper. The people of England had no interest in these wars, which cost them about £600,000,000 of debt in twenty-five years, in addition to the supplies raised within the year. The kings she put back upon the French throne were not able to sit on it. Twice she put them on; twice they tumbled off in the mud; and all that now remains of so much sacrifice of life and money is, the debt, which is eternal, the taxes, which are intolerable, the pensions and titles of some warriors, and the keeping of the Capet Bourbons, who are returned upon their hands.

“5. It tends to aggravate the inequality of fortunes; to make the rich richer, and the poor poorer; to multiply nabobs and paupers; and to deepen and widen the gulf which separates Dives from Lazarus. A great moneyed power is favorable to great capitalists; for it is the principle of money to favor money. It is unfavorable to small capitalists; for it is the principle of money to eschew the needy and unfortunate. It is injurious to the laboring classes; because they receive no favors, and have the price of the property they wish to acquire raised to the paper maximum, while wages remain at the silver minimum.

“6. It tends to make and to break fortunes, by the flux and reflux of paper. Profuse issues, and sudden contractions, perform this operation, which can be repeated, like planetary and pestilential visitations, in every cycle of so many years; at every periodical return, transferring millions from the actual possessors of property to the Neptunes who preside over the flux and reflux of paper. The last operation of this kind performed by the Bank of England, about five years ago, was described by Mr. Alexander Baring, in the House of Commons, in terms which are entitled to the knowledge and remembrance of American citizens. I will read his description, which is brief, but impressive. After describing the profuse issues of 1823-24, he painted the reaction in the following terms:

“‘They, therefore, all at once, gave a sudden jerk to the horse on whose neck they had before suffered the reins to hang loose. They contracted their issues to a considerable extent. The change was at once felt throughout the country. A few days before that, no one knew what to do with his money; now, no one knew where to get it. * * * * The London bankers found it necessary to follow the same course towards their country correspondents, and these again towards their customers, and each individual towards his debtor. The consequence was obvious in the late panic. Every one, desirous to obtain what was due to him, ran to his banker, or to any other on whom he had a claim; and even those who had no immediate use for their money, took it back, and let it lie unemployed in their pockets, thinking it unsafe in others’ hands. The effect of this alarm was, that houses which were weak went immediately.

Then went second rate houses; and, lastly, houses which were solvent went, because their securities were unavailable. The daily calls to which each individual was subject put it out of his power to assist his neighbor. Men were known to seek for assistance, and that, too, without finding it, who, on examination of their affairs, were proved to be worth 200,000 pounds,—men, too, who held themselves so secure, that, if asked six months before whether they could contemplate such an event, they would have said it would be impossible, unless the sky should fall, or some other event equally improbable should occur.'

"This is what was done in England five years ago, it is what may be done here in every five years to come, if the bank charter is renewed. Sole dispenser of money, it cannot omit the oldest and most obvious means of amassing wealth by the flux and reflux of paper. The game will be in its own hands, and the only answer to be given is that to which I have alluded: 'The Sultan is too just and merciful to abuse his power.'

"*Thirdly.* I object to the renewal of the charter, on account of the exclusive privileges, and anti-republican monopoly, which it gives to the stockholders. It gives, and that by an act of Congress, to a company of individuals, the exclusive legal privileges:

"1. To carry on the trade of banking upon the revenue and credit, and in the name, of the United States of America.

"2. To pay the revenues of the Union in their own promissory notes.

"3. To hold the moneys of the United States in deposit, without making compensation for the undrawn balances.

"4. To discredit and disparage the notes of other banks, by excluding them from the collection of the federal revenue.

"5. To hold real estate, receive rents, and retain a body of tenantry.

"6. To deal in pawns, merchandise, and bills of exchange.

"7. To establish branches in the States without their consent.

"8. To be exempt from liability on the failure of the bank.

"9. To have the United States for a partner.

"10. To have foreigners for partners.

"11. To be exempt from the regular administration of justice for the violations of their charter.

"12. To have all these exclusive privileges secured to them as a monopoly, in a pledge of the public faith not to grant the like privileges to any other company.

"These are the privileges, and this the monopoly of the bank. Now, let us examine them, and ascertain their effect and bearing. Let us contemplate the magnitude of the power which they create; and ascertain the compatibility of this power with the safety of this republican government, and the rights and interests of its free and equal constituents.

"1. The name, the credit, and the revenues of the United States are given up to the use of this company, and constitute in themselves an immense capital to bank upon. The name of the United States, like that of the King, is a tower of strength; and this strong tower is now an outwork to defend the citadel of a moneyed corporation. The credit of the Union is incalculable; and, of this credit, as going with the name, and being in partnership with the United States, the same corporation now has possession. The revenues of the Union are twenty-six millions of dollars, including the post-office; and all this is so much capital in the

hands of the bank, because the revenue is received by it, and is payable in its promissory notes.

“2. To pay the revenues of the United States in their own notes, until Congress, by law, shall otherwise direct. This is a part of the charter, incredible and extraordinary as it may appear. The promissory notes of the bank are to be received in payment of every thing the United States may have to sell—in discharge of every debt due to her, until Congress, by law, shall otherwise direct; so that, if this bank, like its prototype in England, should stop payment, its promissory notes would still be receivable at every custom-house, land-office, post-office, and by every collector of public moneys, throughout the Union, until Congress shall meet, pass a repealing law, and promulgate the repeal. Other banks depend upon their credit for the receivability of their notes; but this favored institution has law on its side, and a chartered right to compel the reception of its paper by the federal government. The immediate consequence of this extraordinary privilege is, that the United States becomes virtually bound to stand security for the bank, as much so as if she had signed a bond to that effect; and must stand forward to sustain the institution in all emergencies, in order to save her own revenue. This is what has already happened, some ten years ago, in the early progress of the bank, and when the immense aid given it by the federal government enabled it to survive the crisis of its own overwhelming mismanagement.

“3. To hold the moneys of the United States in deposit, without making compensation for the use of the undrawn balances.—This is a right which I deny; but, as the bank claims it, and, what is more material, enjoys it; and as the people of the United States have suffered to a vast extent in consequence of this claim and enjoyment, I shall not hesitate to set it down to the account of the bank. Let us then examine the value of this privilege, and its effect upon the interest of the community; and, in the first place, let us have a full and accurate view of the amount of these undrawn balances, from the establishment of the bank to the present day. Here it is! Look! Read!

“See, Mr. President, what masses of money, and always on hand. The paper is covered all over with millions: and yet, for all these vast sums, no interest is allowed; no compensation is made to the United States. The Bank of England, for the undrawn balances of the public money, has made an equitable compensation to the British government; namely, a permanent loan of half a million sterling, and a temporary loan of three millions for twenty years, without interest. Yet, when I moved for a like compensation to the United States, the proposition was utterly rejected by the Finance Committee, and treated as an attempt to violate the charter of the bank. At the same time it is incontestable, that the United States have been borrowing these undrawn balances from the bank, and paying an interest upon their own money. I think we can identify one of these loans. Let us try. In May, 1824, Congress authorized a loan of five millions of dollars to pay the awards under the treaty with Spain, commonly called the Florida treaty. The bank of the United States took that loan, and paid the money for the United States in January and March, 1825. In looking over the statement of undrawn balances, it will be seen that they amounted to near four millions at the end of the first, and six millions at the end of the second quarter of that year. The inference is irresistible, and I leave every senator to make it; only adding, that we have paid $1,469,375 in interest upon that loan, either to the bank or its transferrees. This is a strong case; but I have a stronger one. It is known to every body, that the United States subscribed seven millions to the capital stock of the bank, for which she gave her stock note, bearing an interest of five per cent. per annum. I have a statement from the Register of the Treasury, from which it appears that, up to the 30th day of June last, the United States had paid four millions seven hundred and twenty-five thousand dollars in interest upon that note; when it is proved by the statement of balances exhibited, that the United States, for the whole period in which that interest was

accruing, had the half, or the whole, and once the double, of these seven millions in the hands of the bank. This is a stronger case than that of the five million loan, but it is not the strongest. The strongest case is this: in the year 1817, when the bank went into operation, the United States owed, among other debts, a sum of about fourteen millions and three-quarters, bearing an interest of three per cent. In the same year, the commissioners of the sinking fund were authorized by an act of Congress to purchase that stock at sixty-five per cent., which was then its market price. Under this authority, the amount of about one million and a half was purchased; the remainder, amounting to about thirteen millions and a quarter, has continued unpurchased to this day; and, after costing the United States about six millions in interest since 1817, the stock has risen about four millions in value; that is to say, from sixty-five to nearly ninety-five. Now, here is a clear loss of ten millions of dollars to the United States. In 1817 she could have paid off thirteen millions and a quarter of debt, with eight millions and a half of dollars: now, after paying six millions of interest, it would require twelve millions and a half to pay off the same debt. By referring to the statement of undrawn balances, it will be seen that the United States had, during the whole year 1817, an average sum of above ten millions of dollars in the hands of the bank, being a million and a half more than enough to have bought in the whole of the three per cent. stock. The question, therefore, naturally comes up, why was it not applied to the redemption of these thirteen millions and a quarter, according to the authority contained in the act of Congress of that year? Certainly the bank needed the money; for it was just getting into operation, and was as hard run to escape bankruptcy about that time, as any bank that ever was saved from the brink of destruction. This is the largest injury which we have sustained, on account of accommodating the bank with the gratuitous use of these vast deposits. But, to show myself impartial, I will now state the smallest case of injury that has come within my knowledge: it is the case of the *bonus* of fifteen hundred thousand dollars which the bank was to pay to the United States, in three equal instalments, for the purchase of its charter. Nominally, this *bonus* has been paid, but out of what moneys? Certainly out of our own; for the statement shows our money was there, and further, shows that it is still there; for, on the 30th day of June last, which is the latest return, there was still $2,550,664 in the hands of the bank, which is above $750,000 more than the amount of the *bonus*.

“One word more upon the subject of these balances. It is now two years since I made an effort to repeal the 4th section of the Sinking Fund act of 1817; a section which was intended to limit the amount of surplus money which might be kept in the treasury, to two millions of dollars; but, by the power of construction, was made to authorize the keeping of two millions in addition to the surplus. I wished to repeal this section, which had thus been construed into the reverse of its intention, and to revive the first section of the Sinking Fund act of 1790, which directed the whole of the surplus on hand to be applied, at the end of each year, to the payment of the public debt. My argument was this: that there was no necessity to keep any surplus; that the revenue, coming in as fast as it went out, was like a perennial fountain, which you might drain to the last drop, and not exhaust; for the place of the last drop would be supplied the instant it was out. And I supported this reasoning by a reference to the annual treasury reports, which always exhibit a surplus of four or five millions; and which were equally in the treasury the whole year round, as on the last day of every year. This was the argument, which in fact availed nothing; but now I have mathematical proof of the truth of my position. Look at this statement of balances; look for the year 1819, and you will find but three hundred thousand dollars on hand for that year; look still lower for 1821, and you will find this balance but one hundred and eighty-two thousand dollars. And what was the consequence? Did the Government stop? Did the wheels of the State chariot cease to turn round in those years for want of treasury oil? Not at all. Every thing went on as well as before; the operations of the treasury were as perfect and regular in those two years of

insignificant balances, as in 1817 and 1818, when five and ten millions were on hand. This is proof; this is demonstration; it is the indubitable evidence of the senses which concludes argument, and dispels uncertainty; and, as my proposal for the repeal of the 4th Section of the Sinking Fund act of 1817 was enacted into a law at the last session of Congress, upon the recommendation of the Secretary of the Treasury, a vigilant and exemplary officer, I trust that the repeal will be acted upon, and that the bank platter will be wiped as clean of federal money in 1831, as it was in 1821. Such clean-taking from that dish will allow two or three millions more to go to the reduction of the public debt; and there can be no danger in taking the last dollar, as reason and experience both prove. But, to quiet every apprehension on this point, to silence the last suggestion of a possibility of any temporary deficit, I recur to a provision contained in two different clauses in the bank charter, copied from an amendment in the charter of the Bank of England, and expressly made, at the instance of the ministry, to meet the contingency of a temporary deficiency in the annual revenue. The English provision is this: that the government may borrow of the bank half a million sterling, at any time, without a special act of parliament to authorize it. The provision in our charter is the same, with the single substitution of dollars for pounds. It is, in words and intention, a standing authority to borrow that limited sum, for the obvious purpose of preventing a constant keeping of a sum of money in hand as a reserve, to meet contingencies which hardly ever occur. This contingent authority to effect a small loan has often been used in England—in the United States, never; possibly, because there has been no occasion for it; probably, because the clause was copied mechanically from the English charter, and without the perception of its practical bearing. Be this as it may, it is certainly a wise and prudent provision, such as all governments should, at all times be clothed with.

“If any senator thinks that I have exaggerated the injury suffered by the United States, on account of the uncompensated masses of public money in the hands of the bank, I am now going to convince him that he is wrong. I am going to prove to him that I have understated the case; that I have purposely kept back a large part of it; and that justice requires a further development. The fact is, that there are two different deposits of public money in the bank; one in the name of the Treasurer of the United States, the other in the name of disbursing officers. The annual average of the former has been about three and a half millions of dollars, and of this I have said not a word. But the essential character of both deposits is the same; they are both the property of the United States; both permanent; both available as so much capital to the bank; and both uncompensated.

“I have not ascertained the average of these deposits since 1817, but presume it may equal the amount of that *bonus* of one million five hundred thousand dollars for which we sold the charter, and which the Finance Committee of the Senate compliments the bank for paying in three, instead of seventeen, annual instalments; and shows how much interest they lost by doing so. Certainly, this was a disadvantage to the bank.

“Mr. President, it does seem to me that there is something ominous to the bank in this contest for compensation on the undrawn balances. It is the very way in which the struggle began in the British Parliament which has ended in the overthrow of the Bank of England. It is the way in which the struggle is beginning here. My resolutions of two and three years ago are the causes of the speech which you now hear; and, as I have reason to believe, some others more worthy of your hearing, which will come at the proper time. The question of compensation for balances is now mixing itself up here, as in England, with the question of renewing the charter; and the two, acting together, will fall with combined weight upon the public mind, and certainly eventuate here as they did there.

"4. To discredit and disparage the notes of all other banks, by excluding them from the collection of the federal revenue. This results from the collection—no, not the collection, but the receipt of the revenue having been communicated to the bank, and along with it the virtual execution of the joint resolution of 1816, to regulate the collection of the federal revenue. The execution of that resolution was intended to be vested in the Secretary of the Treasury—a disinterested arbiter between rival banks; but it may be considered as virtually devolved upon the Bank of the United States, and powerfully increases the capacity of that institution to destroy, or subjugate, all other banks. This power to disparage the notes of all other banks, is a power to injure them; and, added to all the other privileges of the Bank of the United States, is a power to destroy them! If any one doubts this assertion, let him read the answers of the president of the bank to the questions put to him by the chairman of the Finance Committee. These answers are appended to the committee's report of the last session in favor of the bank, and expressly declare the capacity of the federal bank to destroy the State banks. The worthy chairman [Mr. Smith, of Md.] puts this question; 'Has the bank at any time oppressed any of the State banks.' The president [Mr. Biddle] answers, as the whole world would answer to a question of oppression, that it never had; and this response was as much as the interrogatory required. But it did not content the president of the bank; he chose to go further, and to do honor to the institution over which he presided, by showing that it was as just and generous as it was rich and powerful. He, therefore, adds the following words, for which, as a seeker after evidence, to show the alarming and dangerous character of the bank, I return him my unfeigned thanks: 'There are very few banks which might not have been destroyed by an exertion of the power of the bank.'

"This is enough! proof enough! not for me alone, but for all who are unwilling to see a moneyed domination set up—a moneyed oligarchy established in this land, and the entire Union subjected to its sovereign will. The power to destroy all other banks is admitted and declared; the inclination to do so is known to all rational beings to reside with the power! Policy may restrain the destroying faculties for the present; but they exist; and will come forth when interest prompts and policy permits. They have been exercised; and the general prostration of the Southern and Western banks attest the fact. They will be exercised (the charter being renewed), and the remaining State banks will be swept with the besom of destruction. Not that all will have their signs knocked down, and their doers closed up. Far worse than that to many of them. Subjugation, in preference to destruction, will be the fate of many. Every planet must have its satellites; every tyranny must have its instruments; every knight is followed by his squire; even the king of beasts, the royal quadruped, whose roar subdues the forest, must have a small, subservient animal to spring his prey. Just so of this imperial bank, when installed anew in its formidable and lasting power. The State banks, spared by the sword, will be passed under the yoke. They will become subordinate parts in the great machine. Their place in the scale of subordination will be one degree below the rank of the legitimate branches; their business, to perform the work which it would be too disreputable for the legitimate branches to perform. This will be the fate of the State banks which are allowed to keep up their signs, and to set open their doors; and thus the entire moneyed power of the Union would fall into the hands of one single institution, whose inexorable and invisible mandates, emanating from a centre, would pervade the Union, giving or withholding money according to its own sovereign will and absolute pleasure. To a favored State, to an individual, or a class of individuals, favored by the central power, the golden stream of Pactolus would flow direct. To all such the munificent mandates of the High Directory would come, as the fabled god made his terrestrial visit of love and desire, enveloped in a shower of gold. But to others—to those not favored—and to those hated—the mandates of this same directory would be as 'the planetary plague which hangs its poison in the sick air;' death to them! death to all who minister to their wants! What a state of things!

What a condition for a confederacy of States! What grounds for alarm and terrible apprehension, when in a confederacy of such vast extent, so many independent States, so many rival commercial cities, so much sectional jealousy, such violent political parties, such fierce contests for power, there should be but one moneyed tribunal, before which all the rival and contending elements must appear! but one single dispenser of money, to which every citizen, every trader, every merchant, every manufacturer, every planter, every corporation, every city, every State, and the federal government itself, must apply, in every emergency, for the most indispensable loan! and this, in the face of the fact, that, in every contest for human rights, the great moneyed institutions of the world have uniformly been found on the side of kings and nobles, against the lives and liberties of the people;

"5. To hold real estate, receive rents, and retain a body of tenantry. This privilege is hostile to the nature of our republican government, and inconsistent with the nature and design of a banking institution. Republics want freeholders, not landlords and tenants; and, except the corporators in this bank, and in the British East India Company, there is not an incorporated body of landlords in any country upon the face of the earth whose laws emanate from a legislative body. Banks are instituted to promote trade and industry, and to aid the government and its citizens with loans of money. The whole argument in favor of banking—every argument in favor of this bank—rests upon that idea. No one, when this charter was granted, presumed to speak in favor of incorporating a society of landlords, especially foreign landlords, to buy lands, build houses, rent tenements, and retain tenantry. Loans of money was the object in view, and the purchase of real estate is incompatible with that object. Instead of remaining bankers, the corporators may turn land speculators: instead of having money to lend, they may turn you out tenants to vote. To an application for a loan, they may answer, and answer truly, that they have no money on hand; and the reason may be, that they have laid it out in land. This seems to be the case at present. A committee of the legislature of Pennsylvania has just applied for a loan; the president of the bank, nothing loth to make a loan to that great State, for twenty years longer than the charter has to exist, expresses his regret that he cannot lend but a limited and inadequate sum. The funds of the institution, he says, will not permit it to advance more than eight millions of dollars. And why? because it has invested three millions in real estate! To this power to hold real estate, is superadded the means to acquire it. The bank is now the greatest moneyed power in the Union; in the event of the renewal of its charter, it will soon be the sole one. Sole dispenser of money, it will soon be the chief owner of property. To unlimited means of acquisition, would be united perpetuity of tenure; for a corporation never dies, and is free from the operation of the laws which govern the descent and distribution of real estate in the hands of individuals. The limitations in the charter are vain and illusory. They insult the understanding, and mock the credulity of foolish believers. The bank is first limited to such acquisitions of real estate as are necessary to its own accommodation; then comes a proviso to undo the limitation, so far as it concerns purchases upon its own mortgages and executions! This is the limitation upon the capacity of such an institution to acquire real estate. As if it had any thing to do but to make loans upon mortgages, and push executions upon judgments! Having all the money, it would be the sole lender; mortgages being the road to loans, all borrowers must travel that road. When birds enough are in the net, the fowler draws his string, and the heads are wrung off. So when mortgages enough are taken, the loans are called in; discounts cease; curtailments are made; failures to pay ensue; writs issue; judgments and executions follow; all the mortgaged premises are for sale at once; and the attorney of the bank appears at the elbow of the marshal, sole bidder and sole purchaser.

"What is the legal effect of this vast capacity to acquire, and this legal power to retain, real estate? Is it not the creation of a new species of mortmain? And of a kind more odious

and dangerous than that mortmain of the church which it baffled the English Parliament so many ages to abolish. The mortmain of the church was a power in an ecclesiastical corporation to hold real estate, independent of the laws of distribution and descent: the mortmain of the bank is a power in a lay corporation to do the same thing. The evil of the two tenures is identical; the difference between the two corporations is no more than the difference between parsons and money-changers; the capacity to do mischief incomparably the greatest on the part of the lay corporators. The church could only operate upon the few who were thinking of the other world; the bank, upon all who are immersed in the business or the pleasures of this. The means of the church were nothing but prayers; the means of the bank is money! The church received what it could beg from dying sinners; the bank may extort what it pleases from the whole living generation of the just and unjust. Such is the parallel between the mortmain of the two corporations. They both end in monopoly of estates and perpetuity of succession; and the bank is the greatest monopolizer of the two. Monopolies and perpetual succession are the bane of republics. Our ancestors took care to provide against them, by abolishing entails and primogeniture. Even the glebes of the church, lean and few as they were in most of the States, fell under the republican principle of limited tenures. All the States abolished the anti-republican tenures; but Congress re-establishes them, and in a manner more dangerous and offensive than before the Revolution. They are now given, not generally, but to few; not to natives only, but to foreigners also; for foreigners are large owners of this bank. And thus, the principles of the Revolution sink before the privileges of an incorporated company. The laws of the States fall before the mandates of a central directory in Philadelphia. Foreigners become the landlords of free-born Americans; and the young and flourishing towns of the United States are verging to the fate of the family boroughs which belong to the great aristocracy of England.

“Let no one say the bank will not avail itself of its capacity to amass real estate. The fact is, it has already done so. I know towns, yea, cities, and could name them, if it might not seem invidious from this elevated theatre to make a public reference to their misfortunes, in which this bank already appears as a dominant and engrossing proprietor. I have been in places where the answers to inquiries for the owners of the most valuable tenements, would remind you of the answers given by the Egyptians to similar questions from the French officers, on their march to Cairo. You recollect, no doubt, sir, the dialogue to which I allude: ‘Who owns that palace?’ ‘The Mameluke;’ ‘Who this country house?’ ‘The Mameluke;’ ‘These gardens?’ ‘The Mameluke;’ ‘That field covered with rice?’ ‘The Mameluke.’—And thus have I been answered, in the towns and cities referred to, with the single exception of the name of the Bank of the United States substituted for that of the military scourge of Egypt. If this is done under the first charter, what may not be expected under the second? If this is done while the bank is on its best behavior, what may she not do when freed from all restraint and delivered up to the boundless cupidity and remorseless exactions of a moneyed corporation?

“6. To deal in pawns, merchandise, and bills of exchange. I hope the Senate will not require me to read dry passages from the charter to prove what I say. I know I speak a thing nearly incredible when I allege that this bank, in addition to all its other attributes, is an incorporated company of pawnbrokers! The allegation staggers belief, but a reference to the charter will dispel incredulity. The charter, in the first part, forbids a traffic in merchandise; in the after part, permits it. For truly this instrument seems to have been framed upon the principles of contraries; one principle making limitations, and the other following after with provisos to undo them. Thus is it with lands, as I have just shown; thus is it with merchandise, as I now show. The bank is forbidden to deal in merchandise—proviso, unless in the case of goods pledged for money lent, and not redeemed to the day; and, proviso, again, unless for goods which shall be the proceeds of its lands. With the help of these two provisos, it is clear that

the limitation is undone; it is clear that the bank is at liberty to act the pawnbroker and merchant, to any extent that it pleases. It may say to all the merchants who want loans, Pledge your stores, gentlemen! They must do it, or do worse; and, if any accident prevents redemption on the day, the pawn is forfeited, and the bank takes possession. On the other hand, it may lay out its rents for goods; it may sell its real estate, now worth three millions of dollars, for goods. Thus the bank is an incorporated company of pawnbrokers and merchants, as well as an incorporation of landlords and land-speculators; and this derogatory privilege, like the others, is copied from the old Bank of England charter of 1694. Bills of exchange are also subjected to the traffic of this bank. It is a traffic unconnected with the trade of banking, dangerous for a great bank to hold, and now operating most injuriously in the South and West. It is the process which drains these quarters of the Union of their gold and silver, and stifles the growth of a fair commerce in the products of the country. The merchants, to make remittances, buy bills of exchange from the branch banks, instead of buying produce from the farmers. The bills are paid for in gold and silver; and, eventually, the gold and silver are sent to the mother bank, or to the branches in the Eastern cities, either to meet these bills, or to replenish their coffers, and to furnish vast loans to favorite States or individuals. The bills sell cheap, say a fraction of one per cent.; they are, therefore, a good remittance to the merchant. To the bank the operation is doubly good; for even the half of one per cent. on bills of exchange is a great profit to the institution which monopolizes that business, while the collection and delivery to the branches of all the hard money in the country is a still more considerable advantage. Under this system, the best of the Western banks—I do not speak of those which had no foundations, and sunk under the weight of neighborhood opinion, but those which deserved favor and confidence—sunk ten years ago. Under this system, the entire West is now undergoing a silent, general, and invisible drain of its hard money; and, if not quickly arrested, these States will soon be, so far as the precious metals are concerned, no more than the empty skin of an immolated victim.

“7. To establish branches in the different States without their consent, and in defiance of their resistance. No one can deny the degrading and injurious tendency of this privilege. It derogates from the sovereignty of a State; tramples upon her laws; injures her revenue and commerce; lays open her government to the attacks of centralism; impairs the property of her citizens; and fastens a vampire on her bosom to suck out her gold and silver. 1. It derogates from her sovereignty, because the central institution may impose its intrusive branches upon the State without her consent, and in defiance of her resistance. This has already been done. The State of Alabama, but four years ago, by a resolve of her legislature, remonstrated against the intrusion of a branch upon her. She protested against the favor. Was the will of the State respected? On the contrary, was not a branch instantaneously forced upon her, as if, by the suddenness of the action, to make a striking and conspicuous display of the omnipotence of the bank, and the nullity of the State? 2. It tramples upon her laws; because, according to the decision of the Supreme Court, the bank and all its branches are wholly independent of State legislation; and it tramples on them again, because it authorizes foreigners to hold lands and tenements in every State, contrary to the laws of many of them; and because it admits of the *mortmain* tenure, which is condemned by all the republican States in the Union. 3. It injures her revenue, because the bank stock, under the decision of the Supreme Court, is not liable to taxation. And thus, foreigners, and non-resident Americans, who monopolize the money of the State, who hold its best lands and town lots, who meddle in its elections, and suck out its gold and silver, and perform no military duty, are exempted from paying taxes, in proportion to their wealth, for the support of the State whose laws they trample upon, and whose benefits they usurp. 4. It subjects the State to the dangerous manœuvres and intrigues of centralism, by means of the tenants, debtors, bank officers, and bank money, which the central directory retain in the State, and may embody and direct against it in its elections, and

in its legislative and judicial proceedings. 5. It tends to impair the property of the citizens, and, in some instances, that of the States, by destroying the State banks in which they have invested their money. 6. It is injurious to the commerce of the States (I speak of the Western States), by substituting a trade in bills of exchange, for a trade in the products of the country. 7. It fastens a vampire on the bosom of the State, to suck away its gold and silver, and to co-operate with the course of trade, of federal legislation, and of exchange, in draining the South and West of all their hard money. The Southern States, with their thirty millions of annual exports in cotton, rice, and tobacco, and the Western States, with their twelve millions of provisions and tobacco exported from New Orleans, and five millions consumed in the South, and on the lower Mississippi,—that is to say, with three fifths of the marketable productions of the Union, are not able to sustain thirty specie paying banks; while the minority of the States north of the Potomac, without any of the great staples for export, have above four hundred of such banks. These States, without rice, without cotton, without tobacco, without sugar, and with less flour and provisions, to export, are saturated with gold and silver; while the Southern and Western States, with all the real sources of wealth, are in a state of the utmost destitution. For this calamitous reversal of the natural order of things, the Bank of the United States stands forth pre-eminently culpable. Yes, it is pre-eminently culpable! and a statement in the 'National Intelligencer' of this morning (a paper which would overstate no fact to the prejudice of the bank), cites and proclaims the fact which proves this culpability. It dwells, and exults, on the quantity of gold and silver in the vaults of the United States Bank. It declares that institution to be 'overburdened' with gold and silver; and well may it be so overburdened, since it has lifted the load entirely from the South and West. It calls these metals 'a drug' in the hands of the bank; that is to say, an article for which no purchaser can be found. Let this 'drug,' like the treasures of the dethroned Dey of Algiers, be released from the dominion of its keeper; let a part go back to the South and West, and the bank will no longer complain of repletion, nor they of depletion.

"8. Exemption of the stockholders from individual liability on the failure of the bank. This privilege derogates from the common law, is contrary to the principle of partnerships, and injurious to the rights of the community. It is a peculiar privilege granted by law to these corporators, and exempting them from liability, except in their corporate capacity, and to the amount of the assets of the corporation. Unhappily these assets are never *assez*, that is to say, enough, when occasion comes for recurring to them. When a bank fails, its assets are always less than its debts; so that responsibility fails the instant that liability accrues. Let no one say that the bank of the United States is too great to fail. One greater than it, and its prototype, has failed, and that in our own day, and for twenty years at a time: the Bank of England failed in 1797, and the Bank of the United States was on the point of failing in 1819. The same cause, namely, stockjobbing and overtrading, carried both to the brink of destruction; the same means saved both, namely, the name, the credit, and the helping hand of the governments which protected them. Yes, the Bank of the United States may fail; and its stockholders live in splendor upon the princely estates acquired with its notes, while the industrious classes, who hold these notes, will be unable to receive a shilling for them. This is unjust. It is a vice in the charter. The true principle in banking requires each stockholder to be liable to the amount of his shares; and subjects him to the summary action of every holder on the failure of the institution, till he has paid up the amount of his subscription. This is the true principle. It has prevailed in Scotland for the last century, and no such thing as a broken bank has been known there in all that time.

"9. To have the United States for a partner. Sir, there is one consequence, one result of all partnerships between a government and individuals, which should of itself, and in a mere mercantile point of view, condemn this association on the part of the federal government. It is

the principle which puts the strong partner forward to bear the burden whenever the concern is in danger. The weaker members flock to the strong partner at the approach of the storm, and the necessity of venturing more to save what he has already staked, leaves him no alternative. He becomes the Atlas of the firm, and bears all upon his own shoulders. This is the principle: what is the fact? Why, that the United States has already been compelled to sustain the federal bank; to prop it with her revenues and its credit in the trials and crisis of its early administration. I pass over other instances of the damage suffered by the United States on account of this partnership; the immense standing deposits for which we receive no compensation; the loan of five millions of our own money, for which we have paid a million and a half in interest; the five per cent. stock note, on which we have paid our partners four million seven hundred and twenty-five thousand dollars in interest; the loss of ten millions on the three per cent. stock, and the ridiculous catastrophe of the miserable *bonus*, which has been paid to us with a fraction of our own money: I pass over all this, and come to the point of a direct loss, as a partner, in the dividends upon the stock itself. Upon this naked point of profit and loss, to be decided by a rule in arithmetic, we have sustained a direct and heavy loss. The stock held by the United States, as every body knows, was subscribed, not paid. It was a stock note, deposited for seven millions of dollars, bearing an interest of five per cent. The inducement to this subscription was the seductive conception that, by paying five per cent. on its note, the United States would clear four or five per cent. in getting a dividend of eight or ten. This was the inducement; now for the realization of this fine conception. Let us see it. Here it is; an official return, from the Register of the Treasury of interest paid, and of dividends received. The account stands thus:

Interest paid by the United States, $4,725,000

Dividends received by the United States, 4,629,426

Loss to the United States, $95,574

“Disadvantageous as this partnership must be to the United States in a moneyed point of view, there is a far more grave and serious aspect under which to view it. It is the political aspect, resulting from the union between the bank and the government. This union has been tried in England, and has been found there to be just as disastrous a conjunction as the union between church and state. It is the conjunction of the lender and the borrower, and Holy Writ has told us which of these categories will be master of the other. But suppose they agree to drop rivalry, and unite their resources. Suppose they combine, and make a push for political power: how great is the mischief which they may not accomplish! But, on this head, I wish to use the language of one of the brightest patriots of Great Britain; one who has shown himself, in these modern days, to be the worthy successor of those old iron barons whose patriotism commanded the unpurchasable eulogium of the elder Pitt. I speak of Sir William Pulteney, and his speech against the Bank of England, in 1797.

“THE SPEECH:—EXTRACT.

“‘I have said enough to show that government has been rendered dependent on the bank, and more particularly so in the time of war; and though the bank has not yet fallen into the hands of ambitious men, yet it is evident that it might, in such hands, assume a power sufficient to control and overawe, not only the ministers, but king, lords, and commons. * * * * * * As the bank has thus become dangerous to government, it might, on the other hand, by uniting with an ambitious minister, become the means of establishing a fourth estate, sufficient to involve this nation in irretrievable slavery, and ought, therefore, to be dreaded as much as a certain East India bill was justly dreaded, at a period not very remote. I will not say that the present minister (the younger Pitt), by endeavoring, at this crisis, to take the Bank of England under

his protection, can have any view to make use, hereafter, of that engine to perpetuate his own power, and to enable him to domineer over our constitution: if that could be supposed, it would only show that men can entertain a very different train of ideas, when endeavoring to overset a rival, from what occurs to them when intending to support and fix themselves. My object is to secure the country against all risk either from the bank as opposed to government, or as the engine of ambitious men.'

"And this is my object also. I wish to secure the Union from all chance of harm from this bank. I wish to provide against its friendship, as well as its enmity—against all danger from its hug, as well as from its blow. I wish to provide against all risk, and every hazard; for, if this risk and hazard were too great to be encountered by King, Lords, and Commons, in Great Britain, they must certainly be too great to be encountered by the people of the United States, who are but commons alone.

"10. To have foreigners for partners. This, Mr. President, will be a strange story to be told in the West. The downright and upright people of that unsophisticated region believe that words mean what they signify, and that 'the Bank of the United States' is the Bank of the United States. How great then must be their astonishment to learn that this belief is a false conception, and that this bank (its whole name to the contrary notwithstanding) is just as much the bank of foreigners as it is of the federal government. Here I would like to have the proof—a list of the names and nations, to establish this almost incredible fact. But I have no access except to public documents, and from one of these I learn as much as will answer the present pinch. It is the report of the Committee of Ways and Means, in the House of Representatives, for the last session of Congress. That report admits that foreigners own seven millions of the stock of this bank; and every body knows that the federal government owns seven millions also.

"Thus it is proved that foreigners are as deeply interested in this bank as the United States itself. In the event of a renewal of the charter they will be much more deeply interested than at present; for a prospect of a rise in the stock to two hundred and fifty, and the unsettled state of things in Europe, will induce them to make great investments. It is to no purpose to say that the foreign stockholders cannot be voters or directors. The answer to that suggestion is this: the foreigners have the money; they pay down the cash, and want no accommodations; they are lenders, not borrowers; and in a great moneyed institution, such stockholders must have the greatest influence. The name of this bank is a deception upon the public. It is not the bank of the federal government, as its name would import, nor of the States which compose this Union; but chiefly of private individuals, foreigners as well as natives, denizens, and naturalized subjects. They own twenty-eight millions of the stock, the federal government but seven millions, and these seven are precisely balanced by the stock of the aliens. The federal government and the aliens are equal, owning one fifth each; and there would be as much truth in calling it the English Bank as the Bank of the United States. Now mark a few of the privileges which this charter gives to these foreigners. To be landholders, in defiance of the State laws, which forbid aliens to hold land; to be landlords by incorporation, and to hold American citizens for tenants; to hold lands in mortmain; to be pawnbrokers and merchants by incorporation; to pay the revenue of the United States in their own notes; in short, to do every thing which I have endeavored to point out in the long and hideous list of exclusive privileges granted to this bank. If I have shown it to be dangerous for the United States to be in partnership with its own citizens, how much stronger is not the argument against a partnership with foreigners? What a prospect for loans when at war with a foreign power, and the subjects of that power large owners of the bank here, from which alone, or from banks liable to be destroyed by it, we can obtain money to carry on the war! What a state of things, if, in the division of political parties, one of these parties and the foreigners, coalescing,

should have the exclusive control of all the money in the Union, and, in addition to the money, should have bodies of debtors, tenants, and bank officers stationed in all the States, with a supreme and irresponsible system of centralism to direct the whole! Dangers from such contingencies are too great and obvious to be insisted upon. They strike the common sense of all mankind, and were powerful considerations with the old whig republicans for the non-renewal of the charter of 1791. Mr. Jefferson and the whig republicans staked their political existence on the non-renewal of that charter. They succeeded; and, by succeeding, prevented the country from being laid at the mercy of British and ultra-federalists for funds to carry on the last war. It is said the United States lost forty millions by using depreciated currency during the last war. That, probably, is a mistake of one half. But be it so! For what are forty millions compared to the loss of the war itself—compared to the ruin and infamy of having the government arrested for want of money—stopped and paralyzed by the reception of such a note as the younger Pitt received from the Bank of England in 1795?

"11. Exemption from due course of law for violations of its charter.—This is a privilege which affects the administration of justice, and stands without example in the annals of republican legislation. In the case of all other delinquents, whether persons or corporations, the laws take their course against those who offend them. It is the right of every citizen to set the laws in motion against every offender; and it is the constitution of the law, when set in motion, to work through, like a machine, regardless of powers and principalities, and cutting down the guilty which may stand in its way. Not so in the case of this bank. In its behalf, there are barriers erected between the citizen and his oppressor, between the wrong and the remedy, between the law and the offender. Instead of a right to sue out a *scire facias* or a *quo warranto*, the injured citizen, with an humble petition in his hand, must repair to the President of the United States, or to Congress, and crave their leave to do so. If leave is denied (and denied it will be whenever the bank has a peculiar friend in the President, or a majority of such friends in Congress, the convenient pretext being always at hand that the general welfare requires the bank to be sustained), he can proceed no further. The machinery of the law cannot be set in motion, and the great offender laughs from behind his barrier at the impotent resentment of its helpless victim. Thus the bank, for the plainest violations of its charter, and the greatest oppressions of the citizen, may escape the pursuit of justice. Thus the administration of justice is subject to be strangled in its birth for the shelter and protection of this bank. But this is not all. Another and most alarming mischief results from the same extraordinary privilege. It gives the bank a direct interest in the presidential and congressional elections: it gives it need for friends in Congress and in the presidential chair. Its fate, its very existence, may often depend upon the friendship of the President and Congress; and, in such cases, it is not in human nature to avoid using the immense means in the hands of the bank to influence the elections of these officers. Take the existing fact—the case to which I alluded at the commencement of this speech. There is a case made out, ripe with judicial evidence, and big with the fate of the bank. It is a case of usury at the rate of forty-six per cent., in violation of the charter, which only admits an interest of six. The facts were admitted, in the court below, by the bank's demurrer; the law was decided, in the court above, by the supreme judges. The admission concludes the facts; the decision concludes the law. The forfeiture of the charter is established; the forfeiture is incurred; the application of the forfeiture alone is wanting to put an end to the institution. An impartial President or Congress might let the laws take their course; those of a different temper might interpose their veto. What a crisis for the bank! It beholds the sword of Damocles suspended over its head! What an interest in keeping those away who might suffer the hair to be cut!

"12. To have all these unjust privileges secured to the corporators as a monopoly, by a pledge of the public faith to charter no other bank.—This is the most hideous feature in the whole

mass of deformity. If these banks are beneficial institutions, why not several? one, at least, and each independent of the other, to each great section of the Union? If malignant, why create one? The restriction constitutes the monopoly, and renders more invidious what was sufficiently hateful in itself. It is, indeed, a double monopoly, legislative as well as banking; for the Congress of 1816 monopolized the power to grant these monopolies. It has tied up the hands of its successors; and if this can be done on one subject, and for twenty years, why not upon all subjects, and for all time? Here is the form of words which operate this double engrossment of our rights: 'No other bank shall be established by any future law of Congress, during the continuance of the corporation hereby enacted, for which the faith of Congress is hereby pledged;' with a proviso for the District of Columbia. And that no incident might be wanting to complete the title of this charter, to the utter reprobation of whig republicans, this compound monopoly, and the very form of words in which it is conceived, is copied from the charter of the Bank of England!—not the charter of William and Mary, as granted in 1694 (for the Bill of Rights was then fresh in the memories of Englishmen), but the charter as amended, and that for money, in the memorable reign of Queen Anne, when a tory queen, a tory ministry, and a tory parliament, and the apostle of toryism, in the person of Dr. Sacheverell, with his sermons of divine right, passive obedience, and non-resistance, were riding and ruling over the prostrate liberties of England! This is the precious period, and these the noble authors, from which the idea was borrowed, and the very form of words copied, which now figure in the charter of the Bank of the United States, constituting that double monopoly, which restricts at once the powers of Congress and the rights of the citizens.

"These, Mr. President, are the chief of the exclusive privileges which constitute the monopoly of the Bank of the United States. I have spoken of them, not as they deserved, but as my abilities have permitted. I have shown you that they are not only evil in themselves, but copied from an evil example. I now wish to show you that the government from which we have made this copy has condemned the original; and, after showing this fact, I think I shall be able to appeal, with sensible effect, to all liberal minds, to follow the enlightened example of Great Britain, in getting rid of a dangerous and invidious institution, after having followed her pernicious example in assuming it. For this purpose, I will have recourse to proof, and will read from British state papers of 1826. I will read extracts from the correspondence between Earl Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on the one side, and the Governor and Deputy Governor of the Bank of England on the other; the subject being the renewal, or rather non-renewal, of the charter of the Bank of England.

Communications from the First Lord of the Treasury and Chancellor of the Exchequer to the Governor and Deputy Governor of the Bank of England.—Extracts.

"'The failures which have occurred in England, unaccompanied as they have been by the same occurrences in Scotland, tend to prove that there must have been an unsolid and delusive system of banking in one part of Great Britain, and a solid and substantial one in the other. * * * * In Scotland, there are not more than thirty banks (three chartered), and these banks have stood firm amidst all the convulsions of the money market in England, and amidst all the distresses to which the manufacturing and agricultural interests in Scotland, as well as in England, have occasionally been subject. Banks of this description must necessarily be conducted upon the generally understood and approved principles of banking. * * * * The Bank of England may, perhaps, propose, as they did upon a former occasion, the extension of the term of their exclusive privilege, as to the metropolis and its neighborhood, beyond the year 1833, as the price of this concession [immediate surrender of exclusive privileges]. It would be very much to be regretted that they should require any such condition. * * * * It is obvious, from what passed before, that Parliament will never agree to it. * * * * Such

privileges are out of fashion; and what expectation can the bank, under present circumstances, entertain that theirs will be renewed?'—*Jan. 13.*

Answer of the Court of Directors.—Extract.

"'Under the uncertainty in which the Court of Directors find themselves with respect to the death of the bank, and the effect which they may have on the interests of the bank, this court cannot feel themselves justified in recommending to the proprietors to give up the privilege which they now enjoy, sanctioned and confirmed as it is by the solemn acts of the legislature.'—*Jan. 20.*

Second communication from the Ministers.—Extract.

"'The First Lord of the Treasury and Chancellor of the Exchequer have considered the answer of the bank of the 20th instant. They cannot but regret that the Court of Directors should have declined to recommend to the Court of Proprietors the consideration of the paper delivered by the First Lord of the Treasury and the Chancellor of the Exchequer to the Governor and Deputy Governor on the 13th instant. The statement contained in that paper appears to the First Lord of the Treasury and the Chancellor of the Exchequer so full and explicit on all the points to which it related, that they have nothing further to add, although they would have been, and still are, ready to answer, as far as possible, any specific questions which might be put, for the purpose of removing the uncertainty in which the court of directors state themselves to be with respect to the details of the plan suggested in that paper.'—*Jan. 23.*

Second answer of the Bank.—Extract.

"'The Committee of Treasury [bank] having taken into consideration the paper received from the First Lord of the Treasury and the Chancellor of the Exchequer, dated January 23d, and finding that His Majesty's ministers persevere in their desire to propose to restrict immediately the exclusive privilege of the bank, as to the number of partners engaged in banking to a certain distance from the metropolis, and also continue to be of opinion that Parliament would not consent to renew the privilege at the expiration of the period of their present charter; finding, also, that the proposal by the bank of establishing branch banks is deemed by His Majesty's ministers inadequate to the wants of the country, are of opinion that it would be desirable for this corporation to propose, as a basis, the act of 6th of George the Fourth, which states, the conditions on which the Bank of Ireland relinquished its exclusive privileges; this corporation waiving the question of a prolongation of time, although the committee [of the bank] cannot agree in the opinion of the First Lord of the Treasury and the Chancellor of the Exchequer, that they are not making a considerable sacrifice, adverting especially to the Bank of Ireland remaining in possession of that privilege five years longer than the Bank of England.'—*January 25.*

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"Here, Mr. President, is the end of all the exclusive privileges and odious monopoly of the Bank of England. That ancient and powerful institution, so long the haughty tyrant of the moneyed world—so long the subsidizer of kings and ministers—so long the fruitful mother of national debt and useless wars—so long the prolific manufactory of nabobs and paupers—so long the dread dictator of its own terms to parliament—now droops the conquered wing, lowers its proud crest, and quails under the blows if its late despised assailants. It first puts on a courageous air, and takes a stand upon privileges sanctioned by time, and confirmed by solemn acts. Seeing that the ministers could have no more to say to men who would talk of privileges in the nineteenth century, and being reminded that parliament was inexorable, the bully suddenly degenerates into the craven, and, from showing fight, calls for quarter. The

directors condescend to beg for the smallest remnant of their former power, for five years only; for the city of London even; and offer to send branches into all quarters. Denied at every point, the subdued tyrant acquiesces in his fate; announces his submission to the spirit and intelligence of the age; and quietly sinks down into the humble, but safe and useful condition of a Scottish provincial bank.

"And here it is profitable to pause; to look back, and see by what means this ancient and powerful institution—this Babylon of the banking world—was so suddenly and so totally prostrated. Who did it? And with what weapons? Sir, it was done by that power which is now regulating the affairs of the civilized world. It was done by the power of public opinion, invoked by the working members of the British parliament. It was done by Sir Henry Parnell, who led the attack upon the Wellington ministry, on the night of the 15th of November; by Sir William Pulteney, Mr. Grenfell, Mr. Hume, Mr. Edward Ellice, and others, the working members of the House of Commons, such as had, a few years before, overthrown the gigantic oppressions of the salt tax. These are the men who have overthrown the Bank of England. They began the attack in 1824, under the discouraging cry of too soon, too soon—for the charter had then nine years to run! and ended with showing that they had began just soon enough. They began with the ministers in their front, on the side of the bank, and ended with having them on their own side, and making them co-operators in the attack, and the instruments and inflicters of the fatal and final blow. But let us do justice to these ministers. Though wrong in the beginning, they were right in the end; though monarchists, they behaved like republicans. They were not Polignacs. They yielded to the intelligence of the age; they yielded to the spirit which proscribes monopolies and privileges, and in their correspondence with the bank directors, spoke truth and reason and asserted liberal principles, with a point and power which quickly put an end to dangerous and obsolete pretensions. They told the bank the mortifying truths, that its system was unsolid and delusive—that its privileges and monopoly were out of fashion—that they could not be prolonged for five years even—nor suffered to exist in London alone; and, what was still more cutting, that the banks of Scotland, which had no monopoly, no privilege, no connection with the government, which paid interest on deposits, and whose stockholders were responsible to the amount of their shares—were the solid and substantial banks, which alone the public interest could hereafter recognize. They did their business, when they undertook it, like true men; and, in the single phrase, '*out of fashion*,' achieved the most powerful combination of solid argument and contemptuous sarcasm, that ever was compressed into three words. It is a phrase of electrical power over the senses and passions. It throws back the mind to the reigns of the Tudors and Stuarts—the termagant Elizabeth and the pedagogue James—and rouses within us all the shame and rage we have been accustomed to feel at the view of the scandalous sales of privileges and monopolies which were the disgrace and oppression of these wretched times. Out of fashion! Yes; even in England, the land of their early birth, and late protection. And shall they remain in fashion here? Shall republicanism continue to wear, in America, the antique costume which the doughty champions of antiquated fashion have been compelled to doff in England? Shall English lords and ladies continue to find, in the Bank of the United States, the unjust and odious privileges which they can no longer find in the Bank of England? Shall the copy survive here, after the original has been destroyed there? Shall the young whelp triumph in America, after the old lion has been throttled and strangled in England? No! never! The thing is impossible! The Bank of the United States dies, as the Bank of England dies, in all its odious points, upon the limitation of its charter; and the only circumstance of regret is, that the generous deliverance is to take effect two years earlier in the British monarchy than in the American republic. It came to us of war—it will go away with peace. It was born of the war of 1812—it will die in the long peace with which the world is blessed. The arguments on which it was created will no longer apply. Times have changed;

and the policy of the republic changes with the times. The war made the bank; peace will unmake it. The baleful planet of fire, and blood, and every human woe, did bring that pestilence upon us; the benignant star of peace shall chase it away."

This speech was not answered. Confident in its strength, and insolent in its nature, the great moneyed power had adopted a system in which she persevered, until hard knocks drove her out of it: it was to have an anti-bank speech treated with the contempt of silence in the House, and caricatured and belittled in the newspapers; and according to this system my speech was treated. The instant it was delivered, Mr. Webster called for the vote, and to be taken by yeas and nays, which was done; and resulted differently from what was expected—a strong vote against the bank—20 to 23; enough to excite uneasiness, but not enough to pass the resolution and legitimate a debate on the subject. The debate stopped with the single speech; but it was a speech to be read by the people—the masses—the millions; and was conceived and delivered for that purpose; and was read by them; and has been complimented since, as having crippled the bank, and given it the wound of which it afterwards died; but not within the year and a day which would make the slayer responsible for the homicide. The list of yeas and nays was also favorable to the effect of the speech. Though not a party vote, it was sufficiently so to show how it stood—the mass of the democracy against the bank—the mass of the anti-democrats against it. The names were:—

"Yeas.—Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Forsyth, Grundy, Hayne, Iredell, King, McKinley, Poindexter, Sanford, Smith of S. C., Tazewell, Troup, Tyler, White, Woodbury—20.

"Nays.—Messrs. Barton, Bell, Burnet, Chase, Clayton, Root, Frelinghuysen, Holmes, Hendricks, Johnston, Knight, Livingston, Marks, Noble, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith of Md., Sprague, Webster, Willey—23."

57. Error Of De Tocqueville, In Relation To The House Of Representatives

I have had occasion several times to notice the errors of Monsieur de Tocqueville, in his work upon American democracy. That work is authority in Europe, where it has appeared in several languages; and is sought by some to be made authority here, where it has been translated into English, and published with notes, and a preface to recommend it. It was written with a view to enlighten European opinion in relation to democratic government, and evidently with a candid intent; but abounds with errors to the prejudice of that form of government, which must do it great mischief, both at home and abroad, if not corrected. A fundamental error of this kind—one which goes to the root of representative government, occurs in chapter 8 of his work, where he finds a great difference in the members comprising the two Houses of Congress, attributing an immense superiority to the Senate, and discovering the cause of the difference in the different modes of electing the members—the popular elections of the House, and the legislative elections of the Senate. He says:—

"On entering the House of Representatives at Washington, one is struck with the vulgar demeanor of that great assembly. The eye frequently does not discover a man of celebrity within its walls. Its members are almost all obscure individuals, whose names present no associations to the mind; they are mostly village lawyers, men in trade, or even persons belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly. At a few yards' distance from this spot is the door of the Senate, which contains within a small space a large proportion of the celebrated men in America. Scarcely an individual is to be found in it, who does not recall this idea of an active and illustrious career. The Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose language would at all times do honor to the most remarkable parliamentary debates of Europe. What, then, is the cause of this strange contrast? and why are the most able citizens to be found in one assembly rather than in the other? Why is the former body remarkable for its vulgarity, and its poverty of talent, whilst the latter seems to enjoy a monopoly of intelligence and of sound judgment? Both of these assemblies emanate from the people. From what cause, then, does so startling a difference arise? The only reason which appears to me adequately to account for it is, that the House of Representatives is elected by the populace directly, and that of the Senate is elected by an indirect application of universal suffrage; but this transmission of the popular authority through an assembly of chosen men operates an important change in it, by refining its discretion and improving the forms which it adopts. Men who are chosen in this manner, accurately represent the majority of the nation which governs them; but they represent the elevated thoughts which are current in the community, the generous propensities which prompt its nobler actions, rather than the petty passions which disturb, or the vices which disgrace it. The time may be already anticipated at which the American republics will be obliged to introduce the plan of election by an elected body more frequently into their system of representation, or they will incur no small risk of perishing miserably among the shoals of democracy."—*Chapter 8.*

The whole tenor of these paragraphs is to disparage the democracy—to disparage democratic government—to attack fundamentally the principle of popular election itself. They disqualify the people for self-government, hold them to be incapable of exercising the elective franchise, and predict the downfall of our republican system, if that franchise is not still further restricted, and the popular vote—the vote of the people—reduced to the subaltern

choice of persons to vote for them. These are profound errors on the part of Mons. de Tocqueville, which require to be exposed and corrected; and the correction of which comes within the scope of this work, intended to show the capacity of the people for self-government, and the advantage of extending—instead of restricting—the privilege of the direct vote. He seems to look upon the members of the two Houses as different orders of beings—different classes—a higher and a lower class; the former placed in the Senate by the wisdom of State legislatures, the latter in the House of Representatives by the folly of the people—when the fact is, that they are not only of the same order and class, but mainly the same individuals. The Senate is almost entirely made up out of the House! and it is quite certain that every senator whom Mons. de Tocqueville had in his eye when he bestowed such encomium on that body had come from the House of Representatives! placed there by the popular vote, and afterwards transferred to the Senate by the legislature; not as new men just discovered by the superior sagacity of that body, but as public men with national reputations, already illustrated by the operation of popular elections. And if Mons. de Tocqueville had chanced to make his visit some years sooner, he would have seen almost every one of these senators, to whom his exclusive praise is directed, actually sitting in the other House.

Away, then, with his fact! and with it, away with all his fanciful theory of wise elections by small electoral colleges, and silly ones by the people! and away with all his logical deductions, from premises which have no existence, and which would have us still further to "refine popular discretion," by increasing and extending the number of electoral colleges through which it is to be filtrated. Not only all vanishes, but his praise goes to the other side, and redounds to the credit of popular elections; for almost every distinguished man in the Senate or in any other department of the government, now or heretofore—from the Congress of Independence down to the present day—has owed his first elevation and distinction, to popular elections—to the direct vote of the people, given, without the intervention of any intermediate body, to the visible object of their choice; and it is the same in other countries, now and always. The English, the Scotch and the Irish have no electoral colleges; they vote direct, and are never without their ablest men in the House of Commons. The Romans voted direct; and for five hundred years—until fair elections were destroyed by force and fraud—never failed to elect consuls and prætors, who carried the glory of their country beyond the point at which they had found it.

The American people know this—know that popular election has given them every eminent public man that they have ever had—that it is the safest and wisest mode of political election—most free from intrigue and corruption; and instead of further restricting that mode, and reducing the masses to mere electors of electors, they are, in fact, extending it, and altering constitutions to carry elections to the people, which were formerly given to the general assemblies. Many States furnish examples of this. Even the constitution of the United States has been overruled by universal public sentiment in the greatest of its elections—that of President and Vice-President. The electoral college by that instrument, both its words and intent, was to have been an independent body, exercising its own discretion in the choice of these high officers. On the contrary, it has been reduced to a mere formality for the registration of the votes which the people prepare and exact. The speculations of Monsieur de Tocqueville are, therefore, groundless; and must be hurtful to representative government in Europe, where the facts are unknown; and may be injurious among ourselves, where his book is translated into English, with a preface and notes to recommend it.

Admitting that there might be a difference between the appearance of the two Houses, and between their talent, at the time that Mons. de Tocqueville looked in upon them, yet that difference, so far as it might then have existed, was accidental and temporary, and has already vanished. And so far as it may have appeared, or may appear in other times, the difference in

favor of the Senate may be found in causes very different from those of more or less judgment and virtue in the constituencies which elect the two Houses. The Senate is a smaller body, and therefore may be more decorous; it is composed of older men, and therefore should be graver, its members have usually served in the highest branches of the State governments, and in the House of Representatives, and therefore should be more experienced; its terms of service are longer, and therefore give more time for talent to mature, and for the measures to be carried which confer fame. Finally, the Senate is in great part composed of the pick of the House, and therefore gains double—by brilliant accession to itself and abstraction from the other. These are causes enough to account for any occasional, or general difference which may show itself in the decorum or ability of the two Houses. But there is another cause, which is found in the practice of some of the States—the caucus system and rotation in office—which brings in men unknown to the people, and turns them out as they begin to be useful; to be succeeded by other new beginners, who are in turn turned out to make room for more new ones; all by virtue of arrangements which look to individual interests, and not to the public good.

The injury of these changes to the business qualities of the House and the interests of the State, is readily conceivable, and very visible in the delegations of States where they do, or do not prevail—in some Southern and some Northern States, for example. To name them might seem invidious, and is not necessary, the statement of the general fact being sufficient to indicate an evil which requires correction. Short terms of service are good on account of their responsibility, and two years is a good legal term; but every contrivance is vicious, and also inconsistent with the re-eligibility permitted by the constitution, which prevents the people from continuing a member as long as they deem him useful to them. Statesmen are not improvised in any country; and in our own, as well as in Great Britain, great political reputations have only been acquired after long service—20, 30, 40, and even 50 years; and great measures have only been carried by an equal number of years of persevering exertion by the same man who commenced them. Earl Grey and Major Cartwright—I take the aristocratic and the democratic leaders of the movement—only carried British parliamentry reform after forty years of annual consecutive exertion. They organized the Society for Parliamentry Reform in 1792, and carried the reform in 1832—disfranchising 56 burgs, half disfranchising 31 others, enfranchising 41 new towns; and doubling the number of voters by extending the privilege to £10 householders—extorting, perhaps, the greatest concession from power and corruption to popular right that was ever obtained by civil and legal means. Yet this was only done upon forty years' continued annual exertions. Two men did it, but it took them forty years.

The same may be said of other great British measures—Catholic emancipation, corn law repeal, abolition of the slave trade, and many others; each requiring a lifetime of continued exertion from devoted men. Short service, and not popular election, is the evil of the House of Representatives; and this becomes more apparent by contrast—contrast between the North and the South—the caucus, or rotary system, not prevailing in the South, and useful members being usually continued from that quarter as long as useful; and thus with fewer members, usually showing a greater number of men who have attained a distinction. Monsieur de Tocqueville is profoundly wrong, and does great injury to democratic government, as his theory countenances the monarchial idea of the incapacity of the people for self-government. They are with us the best and safest depositories of the political elective power. They have not only furnished to the Senate its ablest members through the House of Representatives, but have sometimes repaired the injustice of State legislatures, which repulsed or discarded some eminent men. The late Mr. John Quincy Adams, after forty years of illustrious service—after having been minister to half the great courts of Europe, a senator in Congress, Secretary of

State, and President of the United States—in the full possession of all his great faculties, was refused an election by the Massachusetts legislature to the United States Senate, where he had served thirty years before. Refused by the legislature, he was taken up by the people, sent to the House of Representatives, and served there to octogenarian age—attentive, vigilant and capable—an example to all, and a match for half the House to the last. The brilliant, incorruptible, sagacious Randolph—friend of the people, of the constitution, of economy and hard money—scourge and foe to all corruption, plunder and jobbing—had nearly the same fate; dropped from the Senate by the Virginia general assembly, restored to the House of Representatives by the people of his district, to remain there till, following the example of his friend, the wise Macon, he voluntarily withdrew. I name no more, confining myself to instances of the illustrious dead.

I have been the more particular to correct this error of De Tocqueville, because, while disparaging democratic government generally, it especially disparages that branch of our government which was intended to be the controlling part. Two clauses of the constitution—one vesting the House of Representatives with the sole power of originating revenue bills, the other with the sole power of impeachment—sufficiently attest the high function to which that House was appointed. They are both borrowed from the British constitution, where their effect has been seen in controlling the course of the whole government, and bringing great criminals to the bar. No sovereign, no ministry holds out an hour against the decision of the House of Commons. Though an imperfect representation of the people, even with the great ameliorations of the reform act of 1832, it is at once the democratic branch, and the master-branch of the British government. Wellington administrations have to retire before it. Bengal Governors-General have to appear as criminals at its bar. It is the theatre which attracts the talent, the patriotism, the high spirit, and the lofty ambition of the British empire; and the people look to it as the master-power in the working of the government, and the one in which their will has weight. No rising man, with ability to acquire a national reputation, will quit it for a peerage and a seat in the House of Lords. Our House of Representatives, with its two commanding prerogatives and a perfect representation, should not fall below the British House of Commons in the fulfilment of its mission. It should not become second to the Senate, and in the beginning it did not. For the first thirty years it was the controlling branch of the government, and the one on whose action the public eye was fixed. Since then the Senate has been taking the first place, and people have looked less to the House. This is an injury above what concerns the House itself. It is an injury to our institutions, and to the people. The high functions of the House were given to it for wise purposes—for paramount national objects. It is the immediate representation of the people, and should command their confidence and their hopes. As the sole originator of tax bills, it is the sole dispenser of burthens on the people, and of supplies to the government. As sole authors of impeachment, it is the grand inquest of the nation, and has supervision over all official delinquencies. Duty to itself, to its high functions, to the people, to the constitution, and to the character of democratic government, require it to resume and maintain its controlling place in the machinery and working of our federal government: and that is what it has commenced doing in the last two or three sessions—and with happy results to the economy of the public service—and in preventing an increase of the evils of our diplomatic representation abroad.

58. The Twenty-Second Congress

This body commenced its first session the 5th of December, 1831, and terminated that session July 17th, 1832; and for this session alone belongs to the most memorable in the annals of our government. It was the one at which the great contest for the renewal of the charter of the Bank of the United States was brought on, and decided—enough of itself to entitle it to lasting remembrance, though replete with other important measures. It embraced, in the list of members of the two Houses, much shining talent, and a great mass of useful ability, and among their names will be found many, then most eminent in the Union, and others destined to become so. The following are the names:

SENATE.

Maine—John Holmes, Peleg Sprague.

New Hampshire—Samuel Bell, Isaac Hill.

Massachusetts—Daniel Webster, Nathaniel Silsbee.

Rhode Island—Nehemiah R. Knight, Asher Robbins.

Connecticut—Samuel A. Foot, Gideon Tomlinson.

Vermont—Horatio Seymour, Samuel Prentiss.

New-York—Charles E. Dudley, Wm. Marcy.

New Jersey—M. Dickerson, Theodore Frelinghuysen.

Pennsylvania—Geo. M. Dallas, Wm. Wilkins.

Delaware—John M. Clayton, Arnold Naudain.

Maryland—E. F. Chambers, Samuel Smith.

Virginia—Littleton W. Tazewell, John Tyler.

North Carolina—B. Brown, W. P. Mangum.

South Carolina—Robert Y. Hayne, S. D. Miller.

Georgia—George M. Troup, John Forsyth.

Kentucky—George M. Bibb, Henry Clay.

Tennessee—Felix Grundy, Hugh L. White.

Ohio—Benjamin Ruggles, Thomas Ewing.

Louisiana—J. S. Johnston, Geo. A. Waggaman.

Indiana—William Hendricks, Robert Hanna.

Mississippi—Powhatan Ellis, Geo. Poindexter.

Illinois—Elias K. Kane, John M. Robinson.

Alabama—William R. King, Gabriel Moore.

Missouri—Thomas H. Benton, Alex. Buckner.

HOUSE OF REPRESENTATIVES.

From Maine—John Anderson, James Bates, George Evans, Cornelius Holland, Leonard Jarvis, Edward Kavanagh, Rufus McIntire.

New Hampshire—John Brodhead, Thomas Chandler, Joseph Hammons, Henry Hubbard, Joseph M. Harper, John W. Weeks.

Massachusetts—John Quincy Adams, Nathan Appleton, Isaac C. Bates, George N. Briggs, Rufus Choate, Henry A. S. Dearborn, John Davis, Edward Everett, George Grennell, jun., James L. Hodges, Joseph G. Kendall, John Reed. (*One vacancy.*)

Rhode Island—Tristam Burgess, Dutee J. Pearce.

Connecticut—Noyes Barber, William W. Ellsworth, Jabez W. Huntington, Ralph I. Ingersoll, William L. Storrs, Ebenezer Young.

Vermont—Heman Allen, William Cahoon, Horace Everett, Jonathan Hunt, William Slade.

New York—William G. Angel, Gideon H. Barstow, Joseph Bouck, William Babcock, John T. Bergen, John C. Brodhead, Samuel Beardsley, John A. Collier, Bates Cooke, C. C. Cambreleng, John Dickson, Charles Dayan, Ulysses F. Doubleday, William Hogan, Michael Hoffman, Freeborn G. Jewett, John King, Gerrit Y. Lansing, James Lent, Job Pierson, Nathaniel Pitcher, Edmund H. Pendleton, Edward C. Reed, Erastus Root, Nathan Soule, John W. Taylor, Phineas L. Tracy, Gulian C. Verplanck, Frederic Whittlesey, Samuel J. Wilkin, Grattan H. Wheeler, Campbell P. White, Aaron Ward, Daniel Wardwell.

New Jersey—Lewis Condict, Silas Condict, Richard M. Cooper, Thomas H. Hughes, James Fitz Randolph, Isaac Southard.

Pennsylvania—Robert Allison, John Banks, George Burd, John C. Bucher, Thomas H. Crawford, Richard Coulter, Harmar Denny, Lewis Dewart, Joshua Evans, James Ford, John Gilmore, William Heister, Henry Horn, Peter Ihrie, jun., Adam King, Henry King, Joel K. Mann, Robert McCoy, Henry A. Muhlenberg, T. M. McKennan, David Potts, jun., Andrew Stewart, Samuel A. Smith, Philander Stephens, Joel B. Sutherland, John G. Watmough.

Delaware—John J. Milligan.

Maryland—Benjamin C. Howard, Daniel Jenifer, John L. Kerr, George E. Mitchell, Benedict I. Semmes, John S. Spence, Francis Thomas, George C. Washington, J. T. H. Worthington.

Virginia—Mark Alexander, Robert Allen, William S. Archer, William Armstrong, John S. Barbour, Thomas T. Bouldin, Nathaniel H. Claiborne, Robert Craig, Joseph W. Chinn, Richard Coke, jun., Thomas Davenport, Philip Doddridge, Wm. F. Gordon, Charles C. Johnston, John Y. Mason, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John M. Patton, John J. Roane, Andrew Stevenson.

North Carolina—Dan'l L. Barringer, Laughlin Bethune, John Branch, Samuel P. Carson, Henry W. Conner, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.

South Carolina—Robert W. Barnwell, Jas. Blair, Warren R. Davis, William Drayton, John M. Felder, J. R. Griffin, Thomas R. Mitchell, George McDuffie, Wm. T. Nuckolls.

Georgia—Thomas F. Foster, Henry G. Lamar, Daniel Newnan, Wiley Thompson, Richard H. Wilde, James M. Wayne. (One vacancy.)

Kentucky—John Adair, Chilton Allan, Henry Daniel, Nathan Gaither, Albert G. Hawes, R. M. Johnson, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Thomas A. Marshall, Christopher Tompkins, Charles A. Wickliffe.

Tennessee—Thomas D. Arnold, John Bell, John Blair, William Fitzgerald, William Hall, Jacob C. Isacks, Cave Johnson, James K. Polk, James Standifer.

Ohio—Joseph H. Crane, Eleutheros Cooke, William Creighton, jun., Thomas Corwin, James Findlay, William W. Irwin, William Kennon, Humphrey H. Leavitt, William Russel, William Stanberry, John Thomson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey.

Louisiana—H. A. Bullard, Philemon Thomas, Edward D. White.

Indiana—Ratliff Boon, John Carr, Jonathan McCarty.

Mississippi—Franklin E. Plummer.

Illinois—Joseph Duncan.

Alabama—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis.

Missouri—William H. Ashley.

DELEGATES.

Michigan—Austin E. Wing.

Arkansas—Ambrose H. Sevier.

Florida—Joseph M. White.

Andrew Stevenson, Esq., of Virginia, was re-elected speaker; and both branches of the body being democratic, they were organized, in a party sense, as favorable to the administration, although the most essential of the committees, when the Bank question unexpectedly sprung up, were found to be on the side of that institution. In his message to the two Houses, the President presented a condensed and general view of our relations, political and commercial, with foreign nations, from which the leading passages are here given:

"After our transition from the state of colonies to that of an independent nation, many points were found necessary to be settled between us and Great Britain. Among them was the demarcation of boundaries, not described with sufficient precision in the treaty of peace. Some of the lines that divide the States and territories of the United States from the British provinces, have been definitively fixed. That, however, which separates us from the provinces of Canada and New Brunswick to the North and the East, was still in dispute when I came into office. But I found arrangements made for its settlement, over which I had no control. The commissioners who had been appointed under the provisions of the treaty of Ghent, having been unable to agree, a convention was made with Great Britain by my immediate predecessor in office, with the advice and consent of the Senate, by which it was agreed 'that the points of difference which have arisen in the settlement of the boundary line between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference:' and the King of the Netherlands having, by the late President and his Britannic Majesty, been designated as such friendly sovereign, it became my duty to carry, with good faith, the agreement, so made, into full effect. To this end I caused all the measures to be taken which were necessary to a full exposition of our case to the sovereign arbiter; and nominated as minister plenipotentiary to his court, a distinguished citizen of the State most interested in the question, and who had been one of the agents previously employed for settling the controversy. On the 10th day of January last, His Majesty the King of the Netherlands delivered to the plenipotentiaries of the United States, and of Great Britain, his written opinion on the case referred to him. The papers in relation to the subject will be communicated, by a special message, to the proper

branch of the government, with the perfect confidence that its wisdom will adopt such measures as will secure an amicable settlement of the controversy, without infringing any constitutional right of the States immediately interested.

“In my message at the opening of the last session of Congress, I expressed a confident hope that the justice of our claims upon France, urged as they were with perseverance and signal ability by our minister there, would finally be acknowledged. This hope has been realized. A treaty has been signed, which will immediately be laid before the Senate for its approbation; and which, containing stipulations that require legislative acts, must have the concurrence of both Houses before it can be carried into effect.

“Should this treaty receive the proper sanction, a source of irritation will be stopped, that has, for so many years, in some degree alienated from each other two nations who, from interest as well as the remembrance of early associations, ought to cherish the most friendly relations—an encouragement will be given for perseverance in the demands of justice, by this new proof, that, if steadily pursued, they will be listened to—and admonition will be offered to those powers, if any, which may be inclined to evade them, that they will never be abandoned. Above all, a just confidence will be inspired in our fellow-citizens, that their government will exert all the powers with which they have invested it, in support of their just claims upon foreign nations; at the same time that the frank acknowledgment and provision for the payment of those which were addressed to our equity, although unsupported by legal proof, affords a practical illustration of our submission to the Divine rule of doing to others what we desire they should do unto us.

“Sweden and Denmark having made compensation for the irregularities committed by their vessels, or in their ports, to the perfect satisfaction of the parties concerned, and having renewed the treaties of commerce entered into with them, our political and commercial relations with those powers continue to be on the most friendly footing.

“With Spain, our differences up to the 22d of February, 1819, were settled by the treaty of Washington of that date; but, at a subsequent period, our commerce with the states formerly colonies of Spain, on the continent of America, was annoyed and frequently interrupted by her public and private armed ships. They captured many of our vessels prosecuting a lawful commerce, and sold them and their cargoes; and at one time, to our demands for restoration and indemnity, opposed the allegation, that they were taken in the violation of a blockade of all the ports of those states. This blockade was declaratory only, and the inadequacy of the force to maintain it was so manifest, that this allegation was varied to a charge of trade in contraband of war. This, in its turn, was also found untenable; and the minister whom I sent with instructions to press for the reparation that was due to our injured fellow-citizens, has transmitted an answer to his demand, by which the captures are declared to have been legal, and are justified because the independence of the states of America never having been acknowledged by Spain, she had a right to prohibit trade with them under her old colonial laws. This ground of defence was contradictory, not only to those which had been formerly alleged, but to the uniform practice and established laws of nations; and had been abandoned by Spain herself in the convention which granted indemnity to British subjects for captures made at the same time, under the same circumstances, and for the same allegations with those of which we complain.

“I, however, indulge the hope that further reflection will lead to other views, and feel confident, that when his Catholic Majesty shall be convinced of the justice of the claim, his desire to preserve friendly relations between the two countries, which it is my earnest endeavor to maintain, will induce him to accede to our demand. I have therefore dispatched a special messenger, with instructions to our minister to bring the case once more to his

consideration; to the end that if, which I cannot bring myself to believe, the same decision, that cannot but be deemed an unfriendly denial of justice, should be persisted in, the matter may, before your adjournment, be laid before you, the constitutional judges of what is proper to be done when negotiation for redress of injury fails.

"The conclusion of a treaty for indemnity with France, seemed to present a favorable opportunity to renew our claims of a similar nature on other powers, and particularly in the case of those upon Naples; more especially as, in the course of former negotiations with that power, our failure to induce France to render us justice was used as an argument against us. The desires of the merchants who were the principal sufferers, have therefore been acceded to, and a mission has been instituted for the special purpose of obtaining for them a reparation already too long delayed. This measure having been resolved on, it was put in execution without waiting for the meeting of Congress, because the state of Europe created an apprehension of events that might have rendered our application ineffectual.

"Our demands upon the government of the Two Sicilies are of a peculiar nature. The injuries on which they are founded are not denied, nor are the atrocity and perfidy under which those injuries were perpetrated attempted to be extenuated. The sole ground on which indemnity has been refused is the alleged illegality of the tenure by which the monarch who made the seizures held his crown. This defence, always unfounded in any principle of the law of nations—now universally abandoned, even by those powers upon whom the responsibility for acts of past rulers bore the most heavily, will unquestionably be given up by his Sicilian Majesty, whose counsels will receive an impulse from that high sense of honor and regard to justice which are said to characterize him; and I feel the fullest confidence that the talents of the citizen commissioned for that purpose will place before him the just claims of our injured citizens in such a light as will enable me, before your adjournment, to announce that they have been adjusted and secured. Precise instructions, to the effect of bringing the negotiation to a speedy issue, have been given, and will be obeyed.

"In the late blockade of Terceira, some of the Portuguese fleet captured several of our vessels, and committed other excesses, for which reparation was demanded; and I was on the point of dispatching an armed force, to prevent any recurrence of a similar violence, and protect our citizens in the prosecution of their lawful commerce, when official assurances, on which I relied, made the sailing of the ships unnecessary. Since that period, frequent promises have been made that full indemnity shall be given for the injuries inflicted and the losses sustained. In the performance there has been some, perhaps unavoidable, delay; but I have the fullest confidence that my earnest desire that this business may at once be closed, which our minister has been instructed strongly to express, will very soon be gratified. I have the better ground for this hope, from the evidence of a friendly disposition which that government has shown by an actual reduction in the duty on rice, the produce of our Southern States, authorizing the anticipation that this important article of our export will soon be admitted on the same footing with that produced by the most favored nation.

"With the other powers of Europe, we have fortunately had no cause of discussions for the redress of injuries. With the Empire of the Russias, our political connection is of the most friendly, and our commercial of the most liberal kind. We enjoy the advantages of navigation and trade, given to the most favored nation; but it has not yet suited their policy, or perhaps has not been found convenient from other considerations, to give stability and reciprocity to those privileges, by a commercial treaty. The ill-health of the minister last year charged with making a proposition for that arrangement, did not permit him to remain at St. Petersburg; and the attention of that government, during the whole of the period since his departure, having been occupied by the war in which it was engaged, we have been assured that nothing

could have been effected by his presence. A minister will soon be nominated, as well to effect this important object, as to keep up the relations of amity and good understanding of which we have received so many assurances and proofs from his Imperial Majesty and the Emperor his predecessor.

“The treaty with Austria is opening to us an important trade with the hereditary dominions of the Emperor, the value of which has been hitherto little known, and of course not sufficiently appreciated. While our commerce finds an entrance into the south of Germany by means of this treaty, those we have formed with the Hanseatic towns and Prussia, and others now in negotiation, will open that vast country to the enterprising spirit of our merchants on the north; a country abounding in all the materials for a mutually beneficial commerce, filled with enlightened and industrious inhabitants, holding an important place in the politics of Europe, and to which we owe so many valuable citizens. The ratification of the treaty with the Porte was sent to be exchanged by the gentleman appointed our chargé d’affaires to that court. Some difficulties occurred on his arrival; but at the date of his last official dispatch, he supposed they had been obviated, and that there was every prospect of the exchange being speedily effected.

“This finishes the connected view I have thought it proper to give of our political and commercial relations in Europe. Every effort in my power will be continued to strengthen and extend them by treaties founded on principles of the most perfect reciprocity of interest, neither asking nor conceding any exclusive advantage, but liberating, as far as it lies in my power, the activity and industry of our fellow-citizens from the shackles which foreign restrictions may impose.

“To China and the East Indies, our commerce continues in its usual extent, and with increased facilities, which the credit and capital of our merchants afford, by substituting bills for payments in specie. A daring outrage having been committed in those seas by the plunder of one of our merchantmen engaged in the pepper trade at a port in Sumatra, and the piratical perpetrators belonging to tribes in such a state of society that the usual course of proceeding between civilized nations could not be pursued, I forthwith dispatched a frigate with orders to require immediate satisfaction for the injury, and indemnity to the sufferers.

“Few changes have taken place in our connections with the independent States of America since my last communication to Congress. The ratification of a commercial treaty with the United Republics of Mexico has been for some time under deliberation in their Congress, but was still undecided at the date of our last dispatches. The unhappy civil commotions that have prevailed there, were undoubtedly the cause of the delay; but as the government is now said to be tranquillized, we may hope soon to receive the ratification of the treaty, and an arrangement for the demarcation of the boundaries between us. In the mean time, an important trade has been opened, with mutual benefit, from St. Louis, in the State of Missouri, by caravans, to the interior provinces of Mexico. This commerce is protected in its progress through the Indian countries by the troops of the United States, which have been permitted to escort the caravans beyond our boundaries to the settled part of the Mexican territory.

“From Central America I have received assurances of the most friendly kind, and a gratifying application for our good offices to remove a supposed indisposition towards that government in a neighboring state: this application was immediately and successfully complied with. They gave us also the pleasing intelligence, that differences which had prevailed in their internal affairs had been peaceably adjusted. Our treaty with this republic continues to be faithfully observed, and promises a great and beneficial commerce between the two countries; a commerce of the greatest importance, if the magnificent project of a ship canal

through the dominions of that state, from the Atlantic to the Pacific Ocean, now in serious contemplation, shall be executed.

“I have great satisfaction in communicating the success which has attended the exertions of our minister in Colombia to procure a very considerable reduction in the duties on our flour in that republic. Indemnity, also, has been stipulated for injuries received by our merchants from illegal seizures; and renewed assurances are given that the treaty between the two countries shall be faithfully observed.

“Chili and Peru seem to be still threatened with civil commotions; and, until they shall be settled, disorders may naturally be apprehended, requiring the constant presence of a naval force in the Pacific Ocean, to protect our fisheries and guard our commerce.

“The disturbances that took place in the Empire of Brazil, previously to, and immediately consequent upon, the abdication of the late Emperor, necessarily suspended any effectual application for the redress of some past injuries suffered by our citizens from that government, while they have been the cause of others, in which all foreigners seem to have participated. Instructions have been given to our minister there, to press for indemnity due for losses occasioned by these irregularities, and to take care that our fellow-citizens shall enjoy all the privileges stipulated in their favor, by the treaty lately made between the two powers; all which, the good intelligence that prevails between our minister at Rio Janeiro and the regency gives us the best reason to expect.

“I should have placed Buenos Ayres on the list of South American powers, in respect to which nothing of importance affecting us was to be communicated, but for occurrences which have lately taken place at the Falkland Islands, in which the name of that republic has been used to cover with a show of authority acts injurious to our commerce, and to the property and liberty of our fellow-citizens. In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the government of Buenos Ayres. I have therefore given orders for the dispatch of an armed vessel, to join our squadron in those seas, and aid in affording all lawful protection to our trade which shall be necessary; and shall, without delay, send a minister to inquire into the nature of the circumstances, and also of the claim, if any, that is set up by that government to those islands. In the mean time, I submit the case to the consideration of Congress, to the end that they may clothe the Executive with such authority and means as they may deem necessary for providing a force adequate to the complete protection of our fellow-citizens fishing and trading in those seas.

“This rapid sketch of our foreign relations, it is hoped, fellow-citizens, may be of some use in so much of your legislation as may bear on that important subject; while it affords to the country at large a source of high gratification in the contemplation of our political and commercial connection with the rest of the world. At peace with all—having subjects of future difference with few, and those susceptible of easy adjustment—extending our commerce gradually on all sides, and on none by any but the most liberal and mutually beneficial means—we may, by the blessing of Providence, hope for all that national prosperity which can be derived from an intercourse with foreign nations, guided by those eternal principles of justice and reciprocal good will which are binding as well upon States as the individuals of whom they are composed.

“I have great satisfaction in making this statement of our affairs, because the course of our national policy enables me to do it without any indiscreet exposure of what in other governments is usually concealed from the people. Having none but a straightforward, open

course to pursue—guided by a single principle that will bear the strongest light—we have happily no political combinations to form, no alliances to entangle us, no complicated interests to consult; and in subjecting all we have done to the consideration of our citizens, and to the inspection of the world, we give no advantage to other nations, and lay ourselves open to no injury."

This clear and succinct account of the state of our foreign relations makes us fully acquainted with these affairs as they then stood, and presents a view of questions to be settled with several powers which were to receive their solution from the firm and friendly spirit in which they would be urged. Turning to our domestic concerns, the message thus speaks of the finances; showing a gradual increase, the rapid extinction of the public debt, and that a revenue of 27¾ millions was about double the amount of all expenditures, exclusive of what that extinction absorbed:

"The state of the public finances will be fully shown by the Secretary of the Treasury, in the report which he will presently lay before you. I will here, however, congratulate you upon their prosperous condition. The revenue received in the present year will not fall short of twenty-seven million seven hundred thousand dollars; and the expenditures for all objects other than the public debt will not exceed fourteen million seven hundred thousand. The payment on account of the principal and interest of the debt, during the year, will exceed sixteen millions and a half of dollars: a greater sum than has been applied to that object, out of the revenue, in any year since the enlargement of the sinking fund, except the two years following immediately thereafter. The amount which will have been applied to the public debt from the 4th of March, 1829, to the 1st of January next, which is less than three years since the administration has been placed in my hands, will exceed forty millions of dollars."

On the subject of government insolvent debtors, the message said:

"In my annual message of December, 1829, I had the honor to recommend the adoption of a more liberal policy than that which then prevailed towards unfortunate debtors to the government; and I deem it my duty again to invite your attention to this subject. Actuated by similar views, Congress at their last session passed an act for the relief of certain insolvent debtors of the United States: but the provisions of that law have not been deemed such as were adequate to that relief to this unfortunate class of our fellow-citizens, which may be safely extended to them. The points in which the law appears to be defective will be particularly communicated by the Secretary of the Treasury: and I take pleasure in recommending such an extension of its provisions as will unfetter the enterprise of a valuable portion of our citizens, and restore to them the means of usefulness to themselves and the community."

Recurring to his previous recommendation in favor of giving the election of President and Vice-President to the direct vote of the people, the message says:

"I have heretofore recommended amendments of the federal constitution giving the election of President and Vice-President to the people, and limiting the service of the former to a single term. So important do I consider these changes in our fundamental law, that I cannot, in accordance with my sense of duty, omit to press them upon the consideration of a new Congress. For my views more at large, as well in relation to these points as to the disqualification of members of Congress to receive an office from a President in whose election they have had an official agency, which I proposed as a substitute, I refer you to my former messages."

And concludes thus in relation to the Bank of the United States:

“Entertaining the opinions heretofore expressed in relation to the Bank of the United States, as at present organized, I felt it my duty, in my former messages, frankly to disclose them, in order that the attention of the legislature and the people should be seasonably directed to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the constitution, and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper, on this occasion, without a more particular reference to the views of the subject then expressed, to leave it for the present to the investigation of an enlightened people and their representatives.”

59. Rejection Of Mr. Van Buren, Minister To England

At the period of the election of General Jackson to the Presidency, four gentlemen stood prominent in the political ranks, each indicated by his friends for the succession, and each willing to be the General's successor. They were Messrs. Clay and Webster, and Messrs. Calhoun and Van Buren; the two former classing politically against General Jackson—the two latter with him. But an event soon occurred to override all political distinction, and to bring discordant and rival elements to work together for a common object. That event was the appointment of Mr. Van Buren to be Secretary of State—a post then looked upon as a stepping-stone to the Presidency—and the imputed predilection of General Jackson for him. This presented him as an obstacle in the path of the other three, and which the interest of each required to be got out of the way. The strife first, and soon, began in the cabinet, where Mr. Calhoun had several friends; and Mr. Van Buren, seeing that General Jackson's administration was likely to be embarrassed on his account, determined to resign his post—having first seen the triumph of the new administration in the recovery of the British West India trade, and the successful commencement of other negotiations, which settled all outstanding difficulties with other nations, and shed such lustre upon Jackson's diplomacy. He made known his design to the President, and his wish to retire from the cabinet—did so—received the appointment of minister to London, and immediately left the United States; and the cabinet, having been from the beginning without harmony or cohesion, was dissolved—some resigning voluntarily, the rest under requisition—as already related in the chapter on the dissolution of the cabinet. The voluntary resigning members were classed as friends to Mr. Van Buren, the involuntary as opposed to him, and two of them (Messrs. Ingham and Branch) as friends to Mr. Calhoun; and became, of course, alienated from General Jackson. I was particularly grieved at this breach between Mr. Branch and the President, having known him from boyhood—been school-fellows together, and being well acquainted with his inviolable honor and long and faithful attachment to General Jackson. It was the complete extinction of the cabinet, and a new one was formed.

Mr. Van Buren had nothing to do with this dissolution, of which General Jackson has borne voluntary and written testimony, to be used in this chapter; and also left behind him a written account of the true cause, now first published in this Thirty Years' View, fully exonerating Mr. Van Buren from all concern in that event, and showing his regret that it had occurred. But the whole catastrophe was charged upon him by his political opponents, and for the unworthy purpose of ousting the friends of Mr. Calhoun, and procuring a new set of members entirely devoted to his interest. This imputation was negatived by his immediate departure from the country, setting out at once upon his mission, without awaiting the action of the Senate on his nomination. This was in the summer of 1831. Early in the ensuing session—at its very commencement, in fact—his nomination was sent in, and it was quickly perceptible that there was to be an attack upon him—a combined one; the three rival statesmen acting in concert, and each backed by all his friends. No one outside of the combination, myself alone excepted, could believe it would be successful. I saw they were masters of the nomination from the first day, and would reject it when they were ready to exhibit a case of justification to the country: and so informed General Jackson from an early period in the session. The numbers were sufficient: the difficulty was to make up a case to satisfy the people; and that was found to be a tedious business.

Fifty days were consumed in these preliminaries—to be precise, fifty-one; and that in addition to months of preparation before the Senate met. The preparation was long, but the attack vigorous; and when commenced, the business was finished in two days. There were about a dozen set speeches against him, from as many different speakers—about double the number that spoke against Warren Hastings—and but four off-hand replies for him; and it was evident that the three chiefs had brought up all their friends to the work. It was an unprecedented array of numbers and talent against one individual, and he absent,—and of such amenity of manners as usually to disarm political opposition of all its virulence. The causes of objection were supposed to be found in four different heads of accusation; each of which was elaborately urged:

1. The instructions drawn up and signed by Mr. Van Buren as Secretary of State, under the direction of the President, and furnished to Mr. McLane, for his guidance in endeavoring to reopen the negotiation for the West India trade.

2. Making a breach of friendship between the first and second officers of the government—President Jackson and Vice-President Calhoun—for the purpose of thwarting the latter, and helping himself to the Presidency.

3. Breaking up the cabinet for the same purpose.

4. Introducing the system of "proscription" (removal from office for opinion's sake), for the same purpose.

A formal motion was made by Mr. Holmes, of Maine, to raise a committee with power to send for persons and papers, administer oaths, receive sworn testimony, and report it, with the committee's opinion, to the Senate; but this looked so much like preferring an impeachment, as well as trying it, that the procedure was dropped; and all reliance was placed upon the numerous and elaborate speeches to be delivered, all carefully prepared, and intended for publication, though delivered in secret session. Rejection of the nomination was not enough—a killing off in the public mind was intended; and therefore the unusual process of the elaborate preparation and intended publication of the speeches. All the speakers went through an excusatory formula, repeated with equal precision and gravity; abjuring all sinister motives; declaring themselves to be wholly governed by a sense of public duty; describing the pain which they felt at arraigning a gentleman whose manners and deportment were so urbane; and protesting that nothing but a sense of duty to the country could force them to the reluctant performance of such a painful task. The accomplished Forsyth complimented, in a way to be perfectly understood, this excess of patriotism, which could voluntarily inflict so much self-distress for the sake of the public good; and I, most unwittingly, brought the misery of one of the gentlemen to a sudden and ridiculous conclusion by a chance remark. It was Mr. Gabriel Moore, of Alabama, who sat near me, and to whom I said, when the vote was declared, "You have broken a minister, and elected a Vice-President." He asked how? and I told him the people would see nothing in it but a combination of rivals against a competitor, and would pull them all down, and set him up. "Good God!" said he, "why didn't you tell me that before I voted, and I would have voted the other way." It was only twenty minutes before, for he was the very last speaker, that Mr. Moore had delivered himself thus, on this very interesting point of public duty against private feeling:

"Under all the circumstances of the case, notwithstanding the able views which have been presented, and the impatience of the Senate, I feel it a duty incumbent upon me, not only in justification of myself, and of the motives which govern me in the vote which I am about to give, but, also, in justice to the free and independent people whom I have the honor in part to represent, that I should set forth the reasons which have reluctantly compelled me to oppose

the confirmation of the present nominee. Sir, it is proper that I should declare that the evidence adduced against the character and conduct of the late Secretary of State, and the sources from which this evidence emanates, have made an impression on my mind that will require of me, in the conscientious though painful discharge of my duty, to record my vote against his nomination."

The famous Madame Roland, when mounting the scaffold, apostrophized the mock statue upon it with this exclamation: "Oh Liberty! how many crimes are committed in thy name!" After what I have seen during my thirty years of inside and outside views in the Congress of the United States, I feel qualified to paraphrase the apostrophe, and exclaim: "Oh Politics! how much bamboozling is practised in thy game!"

The speakers against the nomination were Messrs. Clay, Webster, John M. Clayton, Ewing of Ohio, John Holmes, Frelinghuysen, Poindexter, Chambers of Maryland, Foot of Connecticut, Governor Miller, and Colonel Hayne of South Carolina, and Governor Moore of Alabama—just a dozen, and equal to a full jury. Mr. Calhoun, as Vice-President, presiding in the Senate, could not speak; but he was understood to be personated by his friends, and twice gave the casting vote, one interlocutory, against the nominee—a tie being contrived for that purpose, and the combined plan requiring him to be upon the record. Only four spoke on the side of the nomination; General Smith of Maryland, Mr. Forsyth, Mr. Bedford Brown, and Mr. Marcy. Messrs. Clay and Webster, and their friends, chiefly confined themselves to the instructions on the West India trade; the friends of Mr. Calhoun paid most attention to the cabinet rupture, the separation of old friends, and the system of proscription. Against the instructions it was alleged, that they begged as a favor what was due as a right; that they took the side of Great Britain against our own country; and carried our party contests, and the issue of our party elections, into diplomatic negotiations with foreign countries; and the following clause from the instructions to Mr. McLane was quoted to sustain these allegations:

"In reviewing the causes which have preceded and more or less contributed to a result so much regretted, there will be found three grounds upon which we are most assailable: 1. In our too long and too tenaciously resisting the right of Great Britain to impose protecting duties in her colonies. 2. In not relieving her vessels from the restriction of returning direct from the United States to the colonies after permission had been given by Great Britain to our vessels to clear out from the colonies to any other than a British port. And, 3. In omitting to accept the terms offered by the act of Parliament of July, 1825, after the subject had been brought before Congress and deliberately acted upon by our government. It is, without doubt, to the combined operation of these (three) causes that we are to attribute the British interdict; you will therefore see the propriety of possessing yourself fully of all the explanatory and mitigating circumstances connected with them, that you may be able to obviate, as far as practicable, the unfavorable impression which they have produced."

This was the clause relied upon to sustain the allegation of putting his own country in the wrong, and taking the part of Great Britain, and truckling to her to obtain as a favor what was due as a right, and mixing up our party contests with our foreign negotiations. The fallacy of all these allegations was well shown in the replies of the four senators, and especially by General Smith, of Maryland; and has been further shown in the course of this work, in the chapter on the recovery of the British West India trade. But there was a document at that time in the Department of State, unknown to the friends of Mr. Van Buren in the Senate, which would not only have exculpated him, but turned the attacks of his assailants against themselves. The facts were these: Mr. Gallatin, while minister at London, on the subject of this trade, of course sent home dispatches, addressed to the Secretary of State (Mr. Clay), in which he gave an account of his progress, or rather of the obstacles which prevented any

progress, in the attempted negotiation. There were two of these dispatches, one dated September 22, 1826, the other November the 14th, 1827. The latter had been communicated to Congress in full, and printed among the papers of the case; of the former only an extract had been communicated, and that relating to a mere formal point. It so happened that the part of this dispatch of September, 1826, not communicated, contained Mr. Gallatin's report of the causes which led to the refusal of the British to treat—their refusal to permit us to accept the terms of their act of 1825, after the year limited for acceptance had expired—and which led to the order in council, cutting us off from the trade; and it so happened that this report of these causes, so made by Mr. Gallatin, was the original from which Mr. Van Buren copied his instructions to Mr. McLane! and which were the subject of so much censure in the Senate. I have been permitted by Mr. Everett, Secretary of State under President Fillmore—(Mr. Webster would have given me the same permission if I had applied during his time, for he did so in every case that I ever asked)—to examine this dispatch in the Department of State, and to copy from it whatever I wanted; I accordingly copied the following:

"On three points we were perhaps vulnerable.

"1. The delay of renewing the negotiation.

"2. The omission of having revoked the restriction on the indirect intercourse when that of Great Britain had ceased.

"3. Too long an adherence to the opposition to her right of laying protecting duties. This might have been given up as soon as the act of 1825 passed. These are the causes assigned for the late measure adopted towards the United States on that subject; and they have, undoubtedly, had a decisive effect as far as relates to the order in council, assisted as they were by the belief that our object was to compel this country to regulate the trade upon our own terms."

This was a passage in the unpublished part of that dispatch, and it shows itself to be the original from which Mr. Van Buren copied, substituting the milder term of "assailable" where Mr. Gallatin had applied that of "vulnerable" to Mr. Adams's administration. Doubtless the contents of that dispatch, in this particular, were entirely forgotten by Mr. Clay at the time he spoke against Mr. Van Buren, having been received by him above four years before that time. They were probably as little known to the rest of the opposition senators as to ourselves; and the omission to communicate and print them could not have occurred from any design to suppress what was material to the debate in the Senate, as the communication and printing had taken place long before this occasion of using the document had occurred.

The way I came to the knowledge of this omitted paragraph was this: When engaged upon the chapter of his rejection, I wrote to Mr. Van Buren for his view of the case; and he sent me back a manuscript copy of a speech which he had drawn up in London, to be delivered in New-York, at some "public dinner," which his friends could get up for the occasion; but which he never delivered, or published, partly from an indisposition to go into the newspapers for character—much from a real forbearance of temper—and possibly from seeing, on his return to the United States, that he was not at all hurt by his fall. That manuscript speech contained this omitted extract, and I trust that I have used it fairly and beneficially for the right, and without invidiousness to the wrong. It disposes of one point of attack; but the gentlemen were wrong in their whole broad view of this British West India trade question. Jackson took the Washington ground, and he and Washington were both right. The enjoyment of colonial trade is a privilege to be solicited, and not a right to be demanded; and the terms of the enjoyment are questions for the mother country. The assailing senators were wrong again in making the instructions a matter of attack upon Mr. Van Buren. They

were not his instructions, but President Jackson's. By the constitution they were the President's, and the senators derogated from that instrument in treating his secretary as their author. The President alone is the conductor of our foreign relations, and the dispatches signed by the Secretaries of State only have force as coming from him, and are usually authenticated by the formula, "*I am instructed by the President to say*," &c., &c. It was a constitutional blunder, then, in the senators to treat Mr. Van Buren as the author of these instructions; it was also an error in point of fact. General Jackson himself specially directed them; and so authorized General Smith to declare in the Senate—which he did.

Breaking up the cabinet, and making dissension between General Jackson and Mr. Calhoun, was the second of the allegations against Mr. Van Buren. Repulsed as this accusation has been by the character of Mr. Van Buren, and by the narrative of the "Exposition," it has yet to receive a further and most authoritative contradiction, from a source which admits of no cavil—from General Jackson himself—in a voluntary declaration made after that event had passed away, and when justice alone remained the sole object to be accomplished. It was a statement addressed to "Martin Van Buren, President of the United States," dated at the Hermitage, July 31st, 1840, and ran in these words:

"It was my intention as soon as I heard that Mr. Calhoun had expressed his approbation of the leading measures of your administration, and had paid you a visit, to place in your possession the statement which I shall now make; but bad health, and the pressure of other business have constantly led me to postpone it. What I have reference to is the imputation that has been sometimes thrown upon you, that you had an agency in producing the controversy which took place between Mr. Calhoun and myself, in consequence of Mr. Crawford's disclosure of what occurred in the cabinet of Mr. Monroe relative to my military operations in Florida during his administration. Mr. Calhoun is doubtless already satisfied that he did you injustice in holding you in the slightest degree responsible for the course I pursued on that occasion: but as there may be others who may still be disposed to do you injustice, and who may hereafter use the circumstance for the purpose of impairing both your character and his, I think it my duty to place in your possession the following emphatic declaration, viz.: *That I am not aware of your ever saying a word to me relative to Mr. Calhoun, which had a tendency to create an interruption of my friendly relations with him:—that you were not consulted in any stage of the correspondence on the subject of his conduct in the cabinet of Mr. Monroe;—and that, after this correspondence became public, the only sentiment you ever expressed to me about it was that of deep regret that it should have occurred.* You are at liberty to show this letter to Mr. Calhoun and make what other use of it you may think proper for the purpose of correcting the erroneous impressions which have prevailed on this subject."

A testimony more honorable than this in behalf of a public man, was never delivered, nor one more completely disproving a dishonorable imputation, and showing that praise was due where censure had been lavished. Mr. Van Buren was not the cause of breaking up the cabinet, or of making dissension between old friends, or of raking up the buried event in Mr. Monroe's cabinet, or of injuring Mr. Calhoun in any way. Yet this testimony, so honorable to him, was never given to the public, though furnished for the purpose, and now appears for the first time in print.

Equally erroneous was the assumption, taken for granted throughout the debate, and so extensively and deeply impressed upon the public mind, that Mr. Calhoun was the uniform friend of General Jackson in the election—his early supporter in the canvass, and steadfast adherent to the end. This assumption has been rebutted by Mr. Calhoun himself, who, in his pamphlet against General Jackson, shows that he was for *himself* until withdrawn from the contest by Mr. Dallas at a public meeting, in Philadelphia, in the winter of 1823-4; and after

that was *perfectly neutral*. His words are: "*When my name was withdrawn from the list of presidential candidates, I assumed a perfectly neutral position between Gen. Jackson and Mr. Adams.*" This clears Mr. Van Buren again, as he could not make a breach of friendship where none existed, or supplant a supporter where there was no support: and that there was none from Mr. Calhoun to Gen. Jackson, is now authentically declared by Mr. Calhoun himself. Yet this head of accusation, with a bad motive assigned for it, was most perseveringly urged by his friends, and in his presence, throughout the whole debate.

Introducing the "New-York system of proscription" into the federal government, was the last of the accusations on which Mr. Van Buren was arraigned; and was just as unfounded as all the rest. Both his temper and his judgment was against the removal of faithful officers because of difference of political opinion, or even for political conduct against himself—as the whole tenor of his conduct very soon after, and when he became President of the United States, abundantly showed. The departments at Washington, and some part of every State in the Union, gave proofs of his forbearance in this particular.

I have already told that I did not speak in the debate on the nomination of Mr. Van Buren; and this silence on such an occasion may require explanation from a man who does not desire the character of neglecting a friend in a pinch. I had strong reasons for that abstinence, and they were obliged to be strong to produce it. I was opposed to Mr. Van Buren's going to England as minister. He was our intended candidate for the Presidency, and I deemed such a mission to be prejudicial to him and the party, and apt to leave us with a candidate weakened with the people by absence, and by a residence at a foreign court. I was in this state of mind when I saw the combination formed against him, and felt that the success of it would be his and our salvation. Rejection was a bitter medicine, but there was health at the bottom of the draught. Besides, I was not the guardian of Messrs. Clay, Webster, and Calhoun, and was quite willing to see them fall into the pit which they were digging for another. I said nothing in the debate; but as soon as the vote was over I wrote to Mr. Van Buren a very plain letter, only intended for himself, and of which I kept no copy; but having applied for the original for use in this history, he returned it to me, on the condition that I should tell, if I used it, that in a letter to General Jackson, he characterized it as "honest and sensible." Honest, I knew it to be at the time; sensible, I believe the event has proved it to be; and that there was no mistake in writing such a letter to Mr. Van Buren, has been proved by our subsequent intercourse. It was dated January 28, 1832, and I subjoin it in full, as contemporaneous testimony, and as an evidence of the independent manner in which I spoke to my friends—even those I was endeavoring to make President. It ran thus:

"Your faithful correspondents will have informed you of the event of the 25th. Nobody would believe it here until after it happened, but the President can bear me witness that I prepared him to expect it a month ago. The public will only understand it as a political movement against a rival; it is right, however, that you should know that without an auxiliary cause the political movement against you would not have succeeded. There were gentlemen voting against you who would not have done so except for a reason which was strong and clear in their own minds, and which (it would be improper to dissemble) has hurt you in the estimation of many candid and disinterested people. After saying this much, I must also say, that I look upon this head of objection as temporary, dying out of itself, and to be swallowed up in the current and accumulating topics of the day. You doubtless know what is best for yourself, and it does not become me to make suggestions; but for myself, when I find myself on the bridge of Lodi, I neither stop to parley, nor turn back to start again. Forward, is the word. Some say, make you governor of New-York; I say, you have been governor before: that is turning back. Some say, come to the Senate in place of some of your friends; I say, that of itself will be only parleying with the enemy while on the middle of the bridge, and

receiving their fire. The vice-presidency is the only thing, and if a place in the Senate can be coupled with the trial for that, then a place in the Senate might be desirable. The Baltimore Convention will meet in the month of May, and I presume it will be in the discretion of your immediate friends in New-York, and your leading friends here, to have you nominated; and in all that affair I think you ought to be passive. 'For Vice-President,' on the Jackson ticket, will identify you with him; a few cardinal principles of the old democratic school might make you worth contending for on your own account. The dynasty of '98 (the federalists) has the Bank of the United States in its interest; and the Bank of the United States has drawn into its vortex, and wields at its pleasure, the whole high tariff and federal internal improvement party. To set up for yourself, and to raise an interest which can unite the scattered elements of a nation, you will have to take positions which are visible, and represent principles which are felt and understood; you will have to separate yourself from the enemy by partition lines which the people can see. The dynasty of '98 (federalists), the Bank of the United States, the high tariff party, the federal internal improvement party, are against you. Now, if you are not against them, the people, and myself, as one of the people, can see nothing between you and them worth contending for, in a national point of view. This is a very plain letter, and if you don't like it, you will throw it in the fire; consider it as not having been written. For myself, I mean to retire upon my profession, while I have mind and body to pursue it; but I wish to see the right principles prevail, and friends instead of foes in power."

The prominent idea in this letter was, that the people would see the rejection in the same light that I did—as a combination to put down a rival—as a political blunder—and that it would work out the other way. The same idea prevailed in England. On the evening of the day, on the morning of which all the London newspapers heralded the rejection of the American minister, there was a great party at Prince Talleyrand's—then the representative at the British court, of the new King of the French, Louis Phillippe. Mr. Van Buren, always master of himself, and of all the proprieties of his position, was there, as if nothing had happened; and received distinguished attentions, and complimentary allusions. Lord Aukland, grandson to the Mr. Eden who was one of the Commissioners of Conciliation sent to us at the beginning of the revolutionary troubles, said to him, "It is an advantage to a public man to be the subject of an outrage"—a remark, wise in itself, and prophetic in its application to the person to whom it was addressed. He came home—apparently gave himself no trouble about what had happened—was taken up by the people—elected, successively, Vice-President and President—while none of those combined against him ever attained either position.

There was, at the time, some doubt among their friends as to the policy of the rejection, but the three chiefs were positive in their belief that a senatorial condemnation would be political death. I heard Mr. Calhoun say to one of his doubting friends, "It will kill him, sir, kill him dead. He will never kick sir, never kick;" and the alacrity with which he gave the casting votes, on the two occasions, both vital, on which they were put into his hands, attested the sincerity of his belief, and his readiness for the work. How those tie-votes, for there were two of them, came to happen twice, "hand-running," and in a case so important, was matter of marvel and speculation to the public on the outside of the locked-up senatorial door. It was no marvel to those on the inside, who saw how it was done. The combination had a superfluity of votes, and, as Mr. Van Buren's friends were every one known, and would sit fast, it only required the superfluous votes on one side to go out; and thus an equilibrium between the two lines was established. When all was finished, the injunction of secrecy was taken off the proceedings, and the dozen set speeches delivered in secret session immediately published—which shows that they were delivered for effect, not upon the Senate, but upon the public mind. The whole proceeding illustrates the impolicy, as well as peril to themselves, of rival

public men sitting in judgment upon each other, and carries a warning along with it which should not be lost.

As an event affecting the most eminent public men of the day, and connecting itself with the settlement of one of our important foreign commercial questions—as belonging to history, and already carried into it by the senatorial debates—as a key to unlock the meaning of other conduct—I deem this account of the REJECTION of Mr. Van Buren a necessary appendage to the settlement of the British West India trade question—as an act of justice to General Jackson's administration (the whole of which was involved in the censure then cast upon his Secretary of State), and as a sunbeam to illuminate the labyrinth of other less palpable concatenations.

60. Bank Of The United States—Illegal And Vicious Currency

In his first annual message, in the year 1829, President Jackson, besides calling in question the unconstitutionality and general expediency of the Bank, also stated that it had failed in furnishing a uniform currency. That declaration was greatly contested by the Bank and its advocates, and I felt myself bound to make an occasion to show it to be well founded, and to a greater extent than the President had intimated. It had in fact issued an illegal and vicious kind of paper—authorized it to be issued at all the branches—in the shape of drafts or orders payable in Philadelphia, but voluntarily paid where issued, and at all the branches; and so made into a local currency, and constituting the mass of all its paper seen in circulation; and as the greatest quantity was usually issued at the most remote and inaccessible branches, the payment of the drafts were well protected by distance and difficulty; and being of small denominations, loitered and lingered in the hands of the laboring people until the "wear and tear" became a large item of gain to the Bank, and the difficulty of presenting them at Philadelphia an effectual bar to their payment there. The origin of this kind of currency was thus traced by me: It was invented by a Scotch banker of Aberdeen, who issued notes payable in London, always of small denominations, that nobody should take them up to London for redemption. The Bank of Ireland seeing what a pretty way it was to issue notes which they could not practically be compelled to pay, adopted the same trick. Then the English country bankers followed the example. But their career was short. The British parliament took hold of the fraud, and suppressed it in the three kingdoms. That parliament would tolerate no currency issued at one place, and payable at another.

The mode of proceeding to get at the question of this vicious currency was the same as that pursued to get at the question of the non-renewal of the charter—namely, an application for leave to bring in a joint resolution declaring it to be illegal, and ordering it to be suppressed; and in asking that leave to give the reasons for the motion: which was done, in a speech of which the following are some parts:

"Mr. Benton rose to ask leave to bring in his promised resolution on the state of the currency. He said he had given his notice for the leave he was about to ask, without concerting or consulting with any member of the Senate. The object of his resolution was judicial, not political; and he had treated the senators not as counsellors, but as judges. He had conversed with no one, neither friend nor adversary; not through contempt of counsel, or fear of opposition, but from a just and rigorous regard to decorum and propriety. His own opinion had been made up through the cold, unadulterated process of legal research; and he had done nothing, and would do nothing, to prevent, or hinder, any other senator from making up his opinion in the same way. It was a case in which politics, especially partisan politics, could find no place; and in the progress of which every senator would feel himself retiring into the judicial office—becoming one of the *judices selecti*—and searching into the stores of his own legal knowledge, for the judgment, and the reasons of the judgment, which he must give in this great cause, in which a nation is the party on one side, and a great moneyed corporation on the other. He [Mr. B.] believed the currency, against which his resolution was directed, to be illegal and dangerous; and so believing, it had long been his determination to bring the question of its legality before the Senate and the people; and that without regard to the powerful resentment, to the effects of which he might be exposing himself. He had adopted the form of a declaratory resolution, because it was intended to declare the true sense of the charter upon a disputed point. He made his resolution joint in its character, that it might have

the action of both Houses of Congress; and single in its object, that the main design might not be embarrassed with minor propositions. The form of the resolution gave him a right to state his reasons for asking leave to bring it in; the importance of it required those reasons to be clearly stated. The Senate, also, has its rights and its duties. It is the right of the Senate and House of Representatives, as the founder of the bank corporation, to examine into the regularity of its proceedings, and to take cognizance of the infractions of its charter; and this right has become a duty, since the very tribunal selected by the charter to try these infractions had tried this very question, and that without the formality of a *scire facias* or the presence of the adverse party, and had given judgment in favor of the corporation; a decision which he [Mr. B.] was compelled, by the strongest convictions of his judgment, to consider both as extrajudicial and erroneous.

"The resolution, continued Mr. B., which I am asking leave to bring in, expresses its own object. It declares against the legality of these orders, AS A CURRENCY. It is the currency which I arraign. I make no inquiry, for I will not embarrass my subject with irrelevant and immaterial inquiries—I make no inquiry into the modes of contract and payment which are permitted, or not permitted, to the Bank of the United States, in the conduct of its private dealings and individual transactions. My business lies with the currency; for, between public currency and private dealings, the charter of the bank has made a distinction, and that founded in the nature of things, as broad as lines can draw, and as clear as words can express. The currency concerns the public; and the soundness of that currency is taken under the particular guardianship of the charter; a special code of law is enacted for it: private dealings concern individuals: and it is for individuals, in making their bargains, to take care of their own interests. The charter of the Bank of the United States has authorized, but not regulated, certain private dealings of the bank; it is full and explicit upon the regulation of currency. Upon this distinction I take my stand. I establish myself upon the broad and clear distinction which reason makes, and the charter sanctions. I arraign the currency! I eschew all inquiry into the modes of making bargains for the sale or purchase of bills of exchange, buying and selling gold or silver bullion, building houses, hiring officers, clerks, and servants, purchasing necessaries, or laying in supplies of fuel and stationery.

"1. I object to it because it authorizes an issue *of currency upon construction*. The issue of currency, sir, was the great and main business for which the bank was created, and which it is, in the twelfth article, expressly authorized to perform, and I cannot pay so poor a compliment to the understandings of the eminent men who framed that charter, as to suppose that they left the main business of the bank to be found, by construction, in an independent phrase, and that phrase to be found but once in the whole charter. I cannot compliment their understandings with the supposition that, after having authorized and defined a currency, and subjected it to numerous restrictions, they had left open the door to the issue of another sort of currency, upon construction, which should supersede the kind they had prescribed, and be free from every restriction to which the prescribed currency was subject.

"Let us recapitulate. Let us sum up the points of incompatibility between the characteristics of this currency, and the requisites of the charter: let us group and contrast the frightful features of their flagrant illegality. 1. Are they signed by the president of the bank and his principal cashier? They are not! 2. Are they under the corporate seal? Not at all! 3. Are they drawn in the name of the corporation? By no means! 4. Are they subject to the double limitation of time and amount in case of credit? They are not; they may exceed sixty days' time, and be less than one hundred dollars! 5. Are they limited to the minimum size of five dollars? Not at all! 6. Are they subject to the supervision of the Secretary of the Treasury? Not in the least! 7. The prohibition against suspending specie payments? They are not subject to it! 8. The penalty of double interest for delayed payment? Not subject to it! 9. Are they

payable where issued? Not at all, neither by their own terms, nor by any law applicable to them! 10. Are they payable at other branches? So far from it, that they were invented to avoid such payment! 11. Are they transferable by delivery? No; by indorsement! 12. Are they receivable in payment of public dues? So far from it, that they are twice excluded from such payments by positive enactments! 13. Are the directors liable for excessive issues? Not at all! 14. Has the holder a right to sue at the branch which issues the order? No, sir, he has a right to go to Philadelphia, and sue the directors there! a right about equivalent to the privilege of going to Mecca to sue the successors of Mahomet for the bones of the prophet! Fourteen points of contrariety and difference. Not a feature of the charter in the faces of these orders. Every mark a contrast; every lineament a contradiction; all announcing, or rather denouncing, to the world, the positive fact of a spurious progeny; the incontestable evidence of an illegitimate and bastard issue.

"I have now, Mr. President, brought this branch bank currency to the test of several provisions in the charter, not all of them, but a few which are vital and decisive. The currency fails at every test; and upon this failure I predicate an argument of its total illegality. Thus far I have spoken upon the charter, and have proved that if this currency can prevail, that instrument, with all its restrictions and limitations, its jealous, prohibitory constitution, and multiplied enactments for the safety of the public, is nothing but a blank piece of paper in the hands of the bank. I will now have recourse to another class of arguments—a class extrinsic to the charter, but close to the subject—indispensable to fair examination, and directly bearing upon the illegal character of this currency.

"1. In the first place, I must insist that these orders cannot possibly serve for currency, because they are subject to the law of indorsable paper. The law which governs all such paper is too universally known to be enlarged upon here. Presentation for acceptance and payment, notice of default in either, prompt return of the dishonored paper; and all this with rigorous punctuality, and a loss of recourse for the slightest delay at any point, are the leading features of this law. Now it is too obvious that no paper subject to the law of indorsement can answer the purposes of circulation. It will die on the hands of the holders while passing from one to another, instead of going to the place of payment. Now it is incontestable that these orders are instruments negotiable by indorsement, and by indorsement alone. Whether issued under the charter, or under the general laws of the land, they are still subject to the law of indorsable paper. They are the same in either case as if drawn by one citizen upon another. And this is a point which I mean to make clear: for many worthy people believe there is some peculiar law for bank paper, which takes it out of the operation of the general laws of the land. Not so the fact. The twelfth fundamental article of the bank constitution declares that the bills or notes to be issued by the bank shall be negotiable in the same manner as if issued by a *private person*; that is to say, those payable to a named person or his *order*, by *indorsement*, in like manner and with the *like effect* as foreign bills of exchange; and those made payable to *bearer* shall be negotiable by *delivery* alone; in the same manner, we may add, as a silver dollar. So much for these orders, if drawn under the charter; if not drawn under it, they are then issued under the general law of the land, or without any law at all. Taken either under the charter or out of it, it comes to the same point, namely, that these orders are subject to the same law as if drawn by one private person upon another. This is enough to fix their character, and to condemn them as a circulating medium; it is enough for the people to know; for every citizen knows enough of law to estimate the legal value of an *unaccepted order*, drawn upon a man five hundred or one thousand miles off! But it has the word *bearer* on the back! Yes, sir, and why not on the face as easily as on the back? Our school-time acquaintance, Mr. President, the gentleman from Cork, with his coat buttoned behind, had a sensible, and, I will add, a lawful reason for arraying himself in that grotesque habiliment; but what reason can the bank

have for putting bearer on the back of the order, where it has no effect upon its negotiable character, and omitting it on the face, where it would have governed the character, and secured to the holder all the facilities for the prompt and easy recovery of the contents of a paper transferable by mere delivery? The only effect of this preposterous or cunning indorsement must be to bamboozle the ignorant—pardon the low word, sir—to bamboozle the ignorant with the belief that they are handling a currency which may at any time be collected without proof, trouble, or delay; while in reality it is a currency which reserves to the bank all the legal defences which can be set up to prevent the recovery of a parcel of old, unaccepted, unpresented, unauthorized bills of exchange.

"2. I take a second exception to these orders as a currency. It is this, that being once paid, they are done with. A note transferable by delivery, may be reissued, and its payment demanded again, and so on forever. But a bill of exchange, or any paper subject to the same law with a bill of exchange, is incapable of reissue, and is payable but once. The payment once made, extinguishes the debt; the paper which evidenced it is dead in law, and cannot be resuscitated by any act of the parties. That payment can be plead in bar to any future action. This law applies to checks and orders as well as to bills of exchange; it applies to bank checks and orders as well as to those of private persons, and this allegation alone would annihilate every pretension of these branch bank orders to the character of currency.

"The bank went into operation with the beginning of the year 1817; established eighteen branches, half a dozen of which in the South and West; issued its own notes freely, and made large issues of notes payable at all these branches. The course of trade carried the branch notes of the South and West to the Northeast; and nothing in the course of trade brought them back to the West. They were payable in all demands to the federal government; merchants in Philadelphia, New-York, and Boston received them in payment of goods, and gave them—not back again in payment of Southern and Western produce—but to the collectors of the customs. Become the money of the government, the bank had to treat them as cash. The fourteenth section of the charter made them receivable in all payments to the government, and another clause required the bank to transfer the moneys of the government to any point ordered; these two clauses (the transfer clause being harmless without the receiving one contained in the fourteenth section) laid the bank under the obligation to cash all the notes of all the branches wherever presented; for, if she did not do it, she would be ordered to transfer the notes to the place where they were payable, and then to transfer the silver to the place where it was wanted; and both these operations she had to perform at her own expense. The Southern and Western branch notes flowed to the Northeast; the gold and silver of the South and West were ordered to follow them; and, in a little while, the specie of the South and West was transferred to the Northeast; but the notes went faster on horses and in mail stages than the silver could go in wagons; and the parent bank in Philadelphia, and the branches in New-York and Boston, exhausted by the double operation of providing for their own, and for Southern and Western branch notes besides, were on the point of stopping payment at the end of two years. Mr. Cheves then came into the presidency; he stopped the issue of Southern and Western branch paper, and saved the bank from insolvency! Application was then made to Congress to repeal the fourteenth section of the charter, and thus relieve the bank from this obligation to cash its notes every where. *Congress refused to do so.* Application was made at the same time to repeal a part of the twelfth fundamental article of the constitution of the bank, for the purpose of relieving the president and principal cashier of the parent bank from the labor of signing the five and ten dollar notes. *Congress refused that application also.* And here every thing rested while Mr. Cheves continued president. The Southern and Western branches ceased to do business *as banks*; no bank notes or bills were seen but those bearing the signatures of the president and his principal cashier, and none of these payable at

Southern and Western branches. The profits of the stockholders became inconsiderable, and the prospect of a renewed charter was lost in the actual view of the inactivity and uselessness of the bank in the South and West. Mr. Cheves retired. He withdrew from an institution he had saved from bankruptcy, but which he could not render useful to the South and West; and then ensued a set of operations for enabling the bank to do the things which Congress had refused to do for it; that is to say, to avoid the operation of the fourteenth section, and so much of the twelfth fundamental article as related to the signature of the notes and bills of the bank. These operations resulted in the invention of the *branch bank orders*. These orders, now flooding the country, circulating as notes, and considered every where as gold and silver (because they are *voluntarily* cashed at several branches, and *erroneously* received at every land office and custom-house), have given to the bank its present apparent prosperity, its temporary popularity, and its delusive cry of a sound and uniform currency. This is my narrative; an appalling one, it must be admitted; but let it stand for nothing if not sustained by the proof.

"I have now established, Mr. President, as I trust and believe, the truth of the first branch of my proposition, namely, that this currency of branch bank orders is unauthorized by the charter, and illegal. I will now say a few words in support of the second branch of the proposition, namely, that this currency ought to be suppressed.

"The mere fact of the illegality, sir, I should hold to be sufficient to justify this suppression. In a country of laws, the laws should be obeyed. No private individual should be allowed to trample them under foot; much less a public man, or public body; least of all, a great moneyed corporation wielding above one hundred millions of dollars per annum, and boldly contending with the federal government for the sceptre of political power—*money is power!* The Bank of the United States possesses more money than the federal government; and the question of power is now to be decided between them. That question is wrapped up in the case before you. It is a case of clear conviction of a violation of the laws by this great moneyed corporation; and that not of a single statute, and by inadvertence, and in a small matter, which concerns but few, but in one general, sweeping, studied, and systematic infraction of a whole code of laws—of an entire constitution, made for its sole government and restraint—and the pernicious effects of which enter into the revenues of the Union, and extend themselves to every moneyed transaction between man and man. This is the case of violated law which stands before you; and if it goes unpunished, then do I say, the question of political power is decided between the bank and the government. The question of supremacy is at an end. Let there be no more talk of restrictions or limitation in the charter. Grant a new one. Grant it upon the spot. Grant it without words! Grant it in blank! to save the directors from the labor of re-examination! the court from the labor of constructions! and yourselves from the radation of being publicly trampled under foot.

"I do insist, Mr. President, that this currency ought to be suppressed for illegality alone, even if no pernicious consequences could result from its circulation. But pernicious consequences do result. The substituted currency is not the equivalent of the branch bank notes, whose place it has usurped: it is inferior to those notes in vital particulars, and to the manifest danger and loss of the people.

"In the first place, these branch bank orders are *not payable in the States in which they are issued*. Look at them! they are nominally payable in Philadelphia! Look at the law! It gives the holder no right to demand their contents at the branch bank, until the order has been to Philadelphia, and returned. I lay no stress upon the insidious circumstance that these orders are now paid at the branch where issued, and at other branches. That voluntary, delusive payment may satisfy those who are willing to swallow a gilded hook; it may satisfy those

who are willing to hold their property at the will of the bank. For my part, I want law for my rights. I look at the law, to the legal rights of the holder, and say that he has no right to demand payment at the branch which issued the order. The present custom of paying is voluntary, not compulsory; it depends upon the will of the bank, not upon law; and none but tyrants can require, or slaves submit to, a tenure at will. These orders, even admitting them to be legal, are only payable in Philadelphia and to demand payment there, is a delusive and *impracticable right*. For the body of the citizens cannot go to Philadelphia to get the change for the small orders; merchants will not remit them; they would as soon carry up the fires of hell to Philadelphia; for the bank would consign them to ruin if they did. These orders are for the frontiers; and it is made the interest and the policy of merchants to leave them at home, and take a bill of exchange at a nominal premium. Brokers alone will ever carry them, and that as their own, after buying them out of the hands of the people at a discount fixed by themselves.

"This contrivance, Mr. President, of issuing bank paper at one place, payable at another and a distant place, is not a new thing under the sun; but its success, if it succeeds here, will be a new thing in the history of banking. This contrivance, sir, is of European origin. It began in Scotland some years ago, with a banker in *Aberdeen*, who issued promissory notes payable in *London*. Then the Bank of Ireland set her branches in *Sligo*, *Cork*, and *Belfast*, at the same work; and they made their branch notes payable in *Dublin*. The English country bankers took the hint, and put out their notes payable in *London*. The mass of these notes were of the smaller denominations, one or two pounds sterling, corresponding with our five and ten dollar orders; such as were handled by the laboring classes, and who could never carry them to *London* and *Dublin* to demand their contents. At this point the British Imperial Parliament took cognizance of the matter; treated the issue of such notes as a vicious practice, violative of the very first idea of a sound currency, and particularly dangerous to the laboring classes. The parliament suppressed the practice. This all happened in the year 1826; and now this practice, thus suppressed in *England*, *Scotland*, and *Ireland*, is in full operation in our *America!* and the directors of the Bank of the United States are celebrated, as the greatest of financiers, for picking up an illegal practice of Scottish origin, and putting it into operation in the United States, and that, too, in the very year in which it was suppressed in Great Britain!"

Leave was not given to introduce the joint resolution. The friends of the bank being a majority in the Senate, refused the motion, but felt themselves bound to make defence for a currency so illegal and vicious. Further discussion was stopped for that time; but afterwards, on the question of the recharter, the illegality of this kind of currency was fully established, and a clause put into the new charter to suppress it. The veto message put an end to the charter, and for the necessity of the remedy in that quarter; but the practice has been taken up by local institutions and private bankers in the States, and become an abuse which requires extirpation.

61. Error Of Mons. De Tocqueville In Relation To The Bank Of The United States, The President, And The People

The first message of President Jackson, delivered at the commencement of the session of 1829-30, confirmed the hopes which the democracy had placed in him. It was a message of the Jeffersonian school, and re-established the land-marks of party, as parties were when founded on principle. Its salient point was the Bank of the United States, and the non-renewal of its charter. He was opposed to the renewal, both on grounds of constitutionality and expediency; and took this early opportunity of so declaring, both for the information of the people, and of the institution, that each might know what they had to rely upon with respect to him. He said:

"The charter of the Bank of the United States expires in 1836, and its stockholders will probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the legislature and the people. Both the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow-citizens; and it must be admitted by all that it has failed in the great end of establishing a uniform and sound currency."

This passage was the grand feature of the message, rising above precedent and judicial decisions going back to the constitution and the foundation of party on principle; and risking a contest at the commencement of his administration, which a mere politician would have put off to the last. The Supreme Court had decided in favor of the constitutionality of the institution; a democratic Congress, in chartering a second bank, had yielded the question, both of constitutionality and expediency. Mr. Madison, in signing the bank charter in 1816, yielded to the authorities without surrendering his convictions. But the effect was the same in behalf of the institution, and against the constitution, and against the integrity of party founded on principle. It threw down the greatest landmark of party, and yielded a power of construction which nullified the limitations of the constitution, and left Congress at liberty to pass any law which it deemed *necessary* to carry into effect any granted power. The whole argument for the bank turned upon the word "necessary" at the end of the enumerated powers granted to Congress; and gave rise to the first great division of parties in Washington's time—the federal party being for the construction which would authorize a national bank; the democratic party (republican, as then called,) being against it.

It was not merely the bank which the democracy opposed, but the latitudinarian construction which would authorize it, and which would enable Congress to substitute its own will in other cases for the words of the constitution, and do what it pleased under the plea of "necessary"—a plea under which they would be left as much to their own will as under the "general welfare" clause. It was the turning point between a strong and splendid government on one side, doing what it pleased, and a plain economical government on the other, limited by a written constitution. The construction was the main point, because it made a gap in the constitution through which Congress could pass any other measures which it deemed to be "necessary:" still there were great objections to the bank itself. Experience had shown such an institution to be a political machine, adverse to free government, mingling in the elections

and legislation of the country, corrupting the press; and exerting its influence in the only way known to the moneyed power—by corruption. General Jackson's objections reached both heads of the case—the unconstitutionality of the bank, and its inexpediency. It was a return to the Jeffersonian and Hamiltonian times of the early administration of General Washington, and went to the words of the constitution, and not to the interpretations of its administrators, for its meaning.

Such a message, from such a man—a man not apt to look back when he had set his face forward—electrified the democratic spirit of the country. The old democracy felt as if they were to see the constitution restored before they died—the young, as if they were summoned to the reconstruction of the work of their fathers. It was evident that a great contest was coming on, and the odds entirely against the President. On the one side, the undivided phalanx of the federal party (for they had not then taken the name of whig); a large part of the democratic party, yielding to precedent and judicial decision; the bank itself, with its colossal money power—its arms in every State by means of branches—its power over the State banks—its power over the business community—over public men who should become its debtors or retainers—its organization under a single head, issuing its orders in secret, to be obeyed in all places and by all subordinates at the same moment. Such was the formidable array on one side: on the other side a divided democratic party, disheartened by division, with nothing to rely upon but the goodness of their cause, the *prestige* of Jackson's name, and the presidential power;—good against any thing less than two-thirds of Congress on the final question of the re-charter; but the risk to run of his non-election before the final question came on.

Under such circumstances it required a strong sense of duty in the new President to commence his career by risking such a contest; but he believed the institution to be unconstitutional and dangerous, and that it ought to cease to exist; and there was a clause in the constitution—that constitution which he had sworn to support—which commanded him to recommend to Congress, for its consideration, such measures as he should deem expedient and proper. Under this sense of duty, and under the obligation of this oath, President Jackson had recommended to Congress the non-renewal of the bank charter, and the substitution of a different fiscal agent for the operations of the government—if any such agent was required. And with his accustomed frankness, and the fairness of a man who has nothing but the public good in view, and with a disregard of self which permits no personal consideration to stand in the way of a discharge of a public duty, he made the recommendation six years before the expiration of the charter, and in the first message of his first term; thereby taking upon his hands such an enemy as the Bank of the United States, at the very commencement of his administration. That such a recommendation against such an institution should bring upon the President and his supporters, violent attacks, both personal and political, with arraignment of motives as well as of reasons, was naturally to be expected; and that expectation was by no means disappointed. Both he and they, during the seven years that the back contest (in different forms) prevailed, received from it—from the newspaper and periodical press in its interest, and from the public speakers in its favor of every grade—an accumulation of obloquy, and even of accusation, only lavished upon the oppressors and plunderers of nations—a Verres, or a Hastings. This was natural in such an institution. But President Jackson and his friends had a right to expect fair treatment from history—from disinterested history—which should aspire to truth, and which has no right to be ignorant or careless. He and they had a right to expect justice from such history; but this is what they have not received. A writer, whose book takes him out of that class of European travellers who requite the hospitality of Americans by disparagement of their institutions, their country, and their character—one whose general intelligence and candor entitle his errors to the honor of

correction—in brief, M. de Tocqueville—writes thus of President Jackson and the Bank of the United States:

"When the President attacked the bank, the country was excited and parties were formed; the well-informed classes rallied round the bank, the common people round the President. But it must not be imagined that the people had formed a rational opinion upon a question which offers so many difficulties to the most experienced statesman. The bank is a great establishment, which enjoys an independent existence, and the people, accustomed to make and unmake whatever it pleases, is startled to meet with this obstacle to its authority. In the midst of the perpetual fluctuation of society, the community is irritated by so permanent an institution, and is led to attack in order to see whether it can be shaken or controlled, like all other institutions of the country."—(Chapter 10.)

Of this paragraph, so derogatory to President Jackson and the people of the United States, every word is an error. Where a fact is alleged, it is an error; where an opinion is expressed, it is an error; where a theory is invented, it is fanciful and visionary. President Jackson did not attack the bank; the bank attacked him, and for political as well as pecuniary motives; and under the lead of politicians. When General Jackson, in his first message, of December, 1829, expressed his opinion to Congress against the renewal of the bank's charter, he attacked no right or interest which the bank possessed. It was an institution of limited existence, enjoying great privileges,—among others a monopoly of national banking, and had no right to any prolongation of existence or privilege after the termination of its charter—so far from it, if there was to be another bank, the doctrine of equal rights and no monopolies or perpetuities required it to be thrown open to the free competition of all the citizens. The reasons given by the President were no attack upon the bank. He impugned neither the integrity nor the skill of the institution, but repeated the objections of the political school to which he belonged, and which were as old as Mr. Jefferson's cabinet opinion to President Washington, in the year 1791, and Mr. Madison's great speech in the House of Representatives in the same year. He, therefore, made no attack upon the bank, either upon its existence, its character, or any one of its rights. On the other hand, the bank did attack President Jackson, under the lead of politicians, and for the purpose of breaking him down. The facts were these: President Jackson had communicated his opinion to Congress in December, 1829, against the renewal of the charter; near three years afterwards, on the 9th of January, 1832, while the charter had yet above three years to run, and a new Congress to be elected before its expiration, and the presidential election impending—(General Jackson and Mr. Clay the candidates)—the memorial of the president and directors of the bank was suddenly presented in the Senate of the United States, for the renewal of its charter.

Now, how came that memorial to be presented at a time so inopportune? so premature, so inevitably mixing itself with the presidential election, and so encroaching upon the rights of the people, in snatching the question out of their hands, and having it decided by a Congress not elected for the purpose—and to the usurpation of the rights of the Congress elected for the purpose? How came all these anomalies? all these violations of right, decency and propriety? They came thus, the bank and its leading anti-Jackson friends believed that the institution was stronger than the President—that it could beat him in the election—that it could beat him in Congress (as it then stood), and carry the charter,—driving him upon the *veto* power, and rendering him odious if he used it, and disgracing him if (after what he had said) he did not. This was the opinion of the leading politicians friendly to the bank, and inimical to the President. But the bank had a class of friends in Congress also friendly to Gen. Jackson; and between these two classes there was vehement opposition of opinion on the point of moving for the new charter. It was found impossible, in communications between Washington and Philadelphia, then slow and uncertain, in stage coach conveyances, over

miry roads and frozen waters, to come to conclusions on the difficult point. Mr. Biddle and the directors were in doubt, for it would not do to move in the matter, unless all the friends of the bank in Congress acted together. In this state of uncertainty, General Cadwallader, of Philadelphia, friend and confidant of Mr. Biddle, and his usual envoy in all the delicate bank negotiations or troubles, was sent to Washington to obtain a result; and the union of both wings of the bank party in favor of the desired movement. He came, and the mode of operation was through the machinery of *caucus*—that contrivance by which a few govern many. The two wings being of different politics, sat separately, one headed by Mr. Clay, the other by Gen. Samuel Smith, of Maryland. The two caucuses disagreed, but the democratic being the smaller, and Mr. Clay's strong will dominating the other, the resolution was taken to proceed, and all bound to go together.

I had a friend in one of these councils who informed me regularly of the progress made, and eventually that the point was carried for the bank—that General Cadwallader had returned with the news, and with injunctions to have the memorial immediately at Washington, and by a given day. The day arrived, but not the memorial, and my friend came to inform me the reason why; which was, that the stage had got overturned in the bad roads and crippled Gen. Cadwallader in the shoulder, and detained him; but that the delay would only be of two days; and then the memorial would certainly arrive. It did so; and on Monday, the 9th of January, 1832, was presented in the Senate by Mr. Dallas, a senator from Pennsylvania, and resident of Philadelphia, where the bank was established. Mr. Dallas was democratic, and the friend of General Jackson, and on presenting the memorial, as good as told all that I have now written, bating only personal particulars. He said:

"That being requested to present this document to the Senate, praying for a renewal of the existing charter of the bank, he begged to be indulged in making a few explanatory remarks. With unhesitating frankness he wished it to be understood by the Senate, by the good commonwealth which it was alike his duty and his pride to represent with fidelity on that floor, and by the people generally, that this application, at this time, had been discouraged by him. Actuated mainly, if not exclusively, by a desire to preserve to the nation the practical benefits of the institution, the expediency of bringing it forward thus early in the term of its incorporation, during a popular representation in Congress which must cease to exist some years before that term expires, and on the eve of all the excitement incident to a great political movement, struck his mind as more than doubtful. He felt deep solicitude and apprehension lest, in the progress of inquiry, and in the development of views, under present circumstances, it might be drawn into real or imaginary conflict with some higher, some more favorite, some more immediate wish or purpose of the American people; and from such a conflict, what sincere friend of this useful establishment would not strive to save or rescue it, by at least a temporary forbearance or delay?"

This was the language of Mr. Dallas, and it was equivalent to a protest from a well-wisher of the bank against the perils and improprieties of its open plunge into the presidential canvass, for the purpose of defeating General Jackson and electing a friend of its own. The prudential counsels of such men as Mr. Dallas did not prevail; political counsels governed; the bank charter was pushed—was carried through both Houses of Congress—dared the veto of Jackson—received it—roused the people—and the bank and all its friends were crushed. Then it affected to have been attacked by Jackson; and Mons. de Tocqueville has carried that fiction into history, with all the imaginary reasons for a groundless accusation, which the bank had invented.

The remainder of this quotation from Mons. de Tocqueville is profoundly erroneous, and deserves to be exposed, to prevent the mischiefs which his book might do in Europe, and

even in America, among that class of our people who look to European writers for information upon their own country. He speaks of the well-informed classes who rallied round the bank; and the common people who had formed no rational opinion upon the subject, and who joined General Jackson. Certainly the great business community, with few exceptions, comprising wealth, ability and education, went for the bank, and the masses for General Jackson; but which had formed the rational opinion is seen by the event. The "well-informed" classes have bowed not merely to the decision, but to the intelligence of the masses. They have adopted their opinion of the institution—condemned it—repudiated it as an "obsolete idea;" and of all its former advocates, not one exists now. All have yielded to that instinctive sagacity of the people, which is an overmatch for book-learning; and which being the result of common sense, is usually right; and being disinterested, is always honest. I adduce this instance—a grand national one—of the succumbing of the well-informed classes to the instinctive sagacity of the people, not merely to correct Mons. de Tocqueville, but for the higher purpose of showing the capacity of the people for self-government. The rest of the quotation, "the independent existence—the people accustomed to make and unmake—startled at this obstacle—irritated at a permanent institution—attack in order to shake and control;" all this is fancy, or as the old English wrote it, fantasy—enlivened by French vivacity into witty theory, as fallacious as witty.

I could wish I were done with quotations from Mons. de Tocqueville on this subject; but he forces me to make another extract from his book, and it is found in his chapter 18, thus:

"The slightest observation enables us to appreciate the advantages which the country derives from the bank. Its notes are taken on the borders of the desert for the same value as in Philadelphia. It is nevertheless the object of great animosity. Its directors have proclaimed their hostility to the President, and are accused, not without some show of probability, of having abused their influence to thwart his election. The President, therefore, attacks the establishment with all the warmth of personal enmity; and he is encouraged in the pursuit of his revenge by the conviction that he is supported by the secret propensities of the majority. It always holds a great number of the notes issued by the provincial banks, which it can at any time oblige them to convert into cash. It has itself nothing to fear from a similar demand, as the extent of its resources enables it to meet all claims. But the existence of the provincial banks is thus threatened, and their operations are restricted, since they are only able to issue a quantity of notes duly proportioned to their capital. They submit with impatience to this salutary control. The newspapers which they have bought over, and the President, whose interest renders him their instrument, attack the bank with the greatest vehemence. They rouse the local passions and the blind democratic instinct of the country to aid in their cause; and they assert that the bank directors form a permanent aristocratic body, whose influence must ultimately be felt in the government, and must affect those principles of equality—upon which society rests in America."

Now, while Mons. de Tocqueville was arranging all this fine encomium upon the bank, and all this censure upon its adversaries, the whole of which is nothing but a French translation of the bank publications of the day, for itself and against President Jackson—during all this time there was a process going on in the Congress of the United States, by which it was proved that the bank was then insolvent, and living from day to day upon expedients; and getting hold of property and money by contrivances which the law would qualify as swindling—plundering its own stockholders—and bribing individuals, institutions, and members of legislative bodies, wherever it could be done. Those fine notes, of which he speaks, were then without solid value. The salutary restraint attributed to its control over local banks was soon exemplified in its forcing many of them into complicity in its crimes, and all into two general suspensions of specie payments, headed by itself. Its solidity and its honor were soon shown

in open bankruptcy—in the dishonor of its notes—the violation of sacred deposits—the disappearance of its capital—the destruction of institutions connected with it—the extinction of fifty-six millions of capital (its own, and that of others drawn into its vortex);—and the ruin or damage of families, both foreign and American, who had been induced by its name, and by its delusive exhibitions of credit, to invest their money in its stock. Placing the opposition of President Jackson to such an institution to the account of base and personal motives—to feelings of revenge because he had been unable to seduce it into his support—is an error of fact manifested by all the history of the case; to say nothing of his own personal character. He was a senator in Congress during the existence of the first national bank, and was against it; and on the same grounds of unconstitutionality and of inexpediency. He delivered his opinion against this second one before it had manifested any hostility to him. His first opposition was abstract—against the institution—without reference to its conduct; he knew nothing against it then, and neither said, or insinuated any thing against it. Subsequently, when misconduct was discovered, he charged it; and openly and responsibly. Equally unfounded is the insinuation in another place, of subserviency to local banks. He, the instrument of local banks! he who could not be made the friend, even, of the great bank itself; who was all his life a hard money man—an opposer of all banks—the denouncer of delinquent banks in his own State; who, with one stroke of his pen, in the recess of Congress, and against its will, in the summer of 1836, struck all their notes from the list of land-office payments! and whose last message to Congress, and in his farewell address to the people, admonished them earnestly and affectionately against the whole system of paper money—the evils of which he feelingly described as falling heaviest upon the most meritorious part of the community, and the part least able to bear them—the productive classes.

The object of this chapter is to correct this error of Mons. de Tocqueville, and to vindicate history, and to do justice to General Jackson and the democracy: and my task is easy. Events have done it for me—have answered every question on which the bank controversy depended, and have nullified every argument in favor of the bank—and that both with, and without reference to its misconduct. As an institution, it has been proved to be “unnecessary,” and the country is found to do infinitely better without it than with it. During the twenty years of its existence there was pecuniary distress in the country—periodical returns of expansion and contraction, deranged currency, ruined exchanges, panics and convulsions in the money market. In the almost twenty years which have elapsed since, these calamitous words have never been heard: and the contrast of the two periods will make the condemnation of one, and the eulogy of the other. There was no gold during the existence of the bank: there has been an ample gold currency ever since, and that before we got California. There were general suspensions of specie payments during its time; and none since. Exchanges were deranged during its existence: they have been regular since its death. Labor and property lived the life of “up and down”—high price one day, no price another day—while the bank ruled: both have been “up” all the time, since it has been gone. We have had a war since—a foreign war—which tries the strength of financial systems in all countries; and have gone through this war not only without a financial crisis, but with a financial triumph—the public securities remaining above par the whole time; and the government paying to its war debt creditors a reward of twenty dollars upon the hundred to get them to accept their pay before it is due; and in this shining side of the contrast, experience has invalidated the decision of the Supreme Court, by expunging the sole argument upon which the decision rested. “Necessity,” “necessary to carry into effect the granted powers,” was the decision of the court. Not so, the voice of experience. That has proved such an institution to be unnecessary. Every granted power, and some not granted, have been carried into effect since the extinction of the national bank, and since the substitution of the gold currency and the independent treasury; and all with triumphant success—the war power above all, and most successfully exercised of all.

And this sole foundation for the court's decision in favor of the constitutionality of the bank being removed, the decision itself vanishes—disappears—"like the baseless fabric of a vision, leaving not a wreck behind." But there will be a time hereafter for the celebration of this victory of the constitution over the Supreme Court—the only object of this chapter being to vindicate General Jackson and the people from the errors of Mons. de Tocqueville in relation to them and the bank: which is done.

62. Expenses Of The Government

Economy in the government expenditures was a cardinal feature in the democratic policy, and every increase of expense was closely scrutinized by them, and brought to the test of the clearest necessity. Some increase was incident to the growing condition of the country; but every item beyond the exigencies of that growth was subjected to severe investigation and determined opposition. In the execution of this policy the expenses proper of the government—those incident to working its machinery—were, immediately after my entrance into the Senate, and after the army and other reductions of 1820 and '21 had taken effect—just about eight millions of dollars. The same expenditure up to the beginning of the year 1832—a period of about ten years—had risen to thirteen and a half millions: and, adverting to this increase in some current debate, and with a view to fix attention upon the growing evil, I stated to the Senate that these expenses had nearly doubled since I had been a member of the Senate. This statement drew a reply from the veteran chairman of the Senate's committee on finance (General Smith, of Maryland), in opposition to my statement; which, of course, drew further remarks from me. Both sets of remarks are valuable at this day—instructive in the picture they present between 1822—1832—and 1850. Gen. Smith's estimate of about ten millions instead of eight—though predicated on the wrong basis of beginning to count before the expenses of the army reduction had taken effect, and counting in the purchase of Florida, and some other items of a nature foreign to the support of government—even his estimate presents a startling point of comparison with the same expenditure of the present day; and calls for the revival of that spirit of economy which distinguished the democracy in the earlier periods of the government. Some passages from the speech of each senator (General Smith and Mr. Benton) will present this brief, but important inquiry, in its proper point of view. Gen. Smith said:

"I will now come, Mr. President, to my principal object. It is the assertion, 'that, since the year 1821, the expenses of the government had nearly doubled;' and I trust I shall be able to show that the senator from Missouri [Mr. Benton] had been under some misapprehension. The Senate are aware of the effect which such an assertion, coming from such high authority, must have upon the public mind. It certainly had its effect even upon this enlightened body. I mentioned to an honorable senator a few days since, that the average ordinary expenditure of the government for the last nine years did not exceed the sum of twelve and a half millions. But, said the senator, the expenditures have greatly increased during that period. I told him I thought they had not; and I now proceed to prove, that, with the exception of four years, viz., 1821, 1822, 1823, and 1824, the expenditures of the government have not increased. I shall endeavor to show the causes of the reduction of expenses during those years, and that they afford no criteria by which to judge of the necessary expenses of government, and that they are exceptions to the general rate of expenditures, arising from particular causes. But even they exhibit an expenditure far above the one half of the present annual ordinary expenses.

"In the year 1822, which was the period when the senator from Missouri [Mr. Benton] took his seat in the Senate, the ordinary expenses of the government amounted to the sum of $9,827,643. The expenses of the year 1823, amounted to $9,784,154. I proceed, Mr. President, to show the cause which thus reduced the ordinary expenses during these years. I speak in the presence of gentlemen, some of whom were then in the House of Representatives, and will correct me if my recollection should lead me into error. During the session of the year 1819-'20 the President asked a loan, I think, of five millions, to defray the expenses of the government, which he had deemed necessary, and for which estimates had, as

usual, been laid before Congress. A loan of three millions only was granted; and, in the next session, another loan of, I think, seven millions was asked, in order to enable the Executive to meet the amount of expenses estimated for, as necessary for the year 1821. A loan of five millions was granted, and in the succeeding year another loan of five hundred thousand dollars was asked, and refused. Congress were dissatisfied that loans should be required in time of profound peace, to meet the common expenses of the nation; and they refused to grant the amount asked for in the estimates, although this amount would have been granted if there had been money in the treasury to meet them, without resorting to loans. The Committee of Ways and Means (and it was supported by the House) lessened some of the items estimated for, and refused others. No item, except such as was indispensably necessary, was granted. By the adoption of this course, the expenditures were reduced, in 1821, to $10,723,479, and to the sums already mentioned for the two years, 1822 and 1823, and the current expenses of 1824. $10,330,144. The consequence was, that the treasury was restored to a sound state, so that Congress was enabled, in the year 1825, to appropriate the full amount of the estimate. The expenditures of 1824 amounted to $15,330,144. This large expenditure is to be attributed to the payment made to Spain in that year, of $5,000,000 for the purchase of Florida. I entertained doubts whether I ought to include this sum in the expenditures; but, on full consideration, I deemed it proper to include it. It may be said that it was an extraordinary payment, and such as could not again occur. So is the payment on account of awards under the Treaty of Ghent, in 1827 and 1828, amounting to $1,188,716. Of the same character, too, are the payments made for the purchase of lands from the Indians; for the removal of the Indians; for payments to the several States for moneys advanced during the late war; and a variety of other extraordinary charges on the treasury."

The error of this statement was in the basis of the calculation, and in the inclusion of items which did not belong to the expenses proper of the government, and in beginning to count before the year of reduction—the whole of which, in a period of ten years made an excess of twenty-two millions above the ordinary expenses. I answered thus:

"Mr. Benton rose in reply to the senator from Maryland. Mr. B. said that a remark of his, in a former debate, seemed to have been the occasion of the elaborate financial statements which the senator from Maryland had just gone through. Mr. B. said he had made the remark, in debate; it was a general one, and not to be treated as an account stated by an accounting officer. His remark was, that the public expenditure had nearly doubled since he had been a member of the Senate. Neither the words used, nor the mode of the expression, implied the accuracy of an account; it was a remark to signify a great and inordinate increase in a comparatively short time. He had not come to the Senate this day with the least expectation of being called to justify that remark, or to hear a long arraignment of it argued; but he was ready at all times to justify, and he would quickly do it. Mr. B. said that when he made the remark, he had no statement of accounts in his eye, but he had two great and broad facts before him, which all the figures and calculations upon earth, and all the compound and comparative statements of arithmeticians, could not shake or alter; which were—first, that when he came into the Senate the machinery of this government was worked for between eight and nine millions of dollars; and, secondly, the actual payments for the last year, in the President's message, were about fourteen millions and three-quarters. The sum estimated for the future expenditures, by the Secretary of the Treasury, was thirteen and a half millions; but fifteen millions were recommended by him to be levied to meet increased expenditures. Mr. B. said these were two great facts which he had in his eye, and which he would justify. He would produce no proofs as to the second of his facts, because the President's message and the Secretary's report were so recently sent in, and so universally reprinted, that every person could recollect, or turn to their contents, and verify his statement upon their own examination

or recollection. He would verify his first statement only by proofs, and for that purpose would refer to the detailed statements of the public expenditures, compiled by Van Zandt and Watterston, and for which he had just sent to the room of the Secretary of the Senate. Mr. B. would take the years 1822-'3; for he was not simple enough to take the years before the reduction of the army, when he was looking for the lowest expenditure. Four thousand men were disbanded, and had remained disbanded ever since; they were disbanded since he came into the Senate; he would therefore date from that reduction. This would bring him to the years 1822-'3, when you, sir (the Vice-President), was Secretary of War. What was the whole expenditure of the government for each of those years? It stood thus:

1822,

$17,676,592 63

1823,

15,314,171 00

"These two sums include every head of expenditure—they include public debt, revolutionary and invalid pensions; three heads of temporary expenditure. The payments on account of the public debt in those two years, were—

In 1822,

$7,848,919 12

1823,

5,530,016 41

"Deduct these two sums from the total expenditure of the years to which they refer, and you will have—

For 1822,

$9,727,673 41

1823,

9,784,155 59

"The pensions for those years were—

Revolutionary.

Invalid.

Aggregate.

1822,

$1,642,590 94

$305,608 46

$1,947,199 40

1823,

1,449,097 04

331,491 48

1,730,588 52

“Now, deduct these pensions from the years to which they refer, and you will have just about $8,000,000 as the expense of working the machinery of government at the period which I had in my eye. But the pensions have not yet totally ceased; they are much diminished since 1822, 1823, and in a few years must cease. The revolutionary pensioners must now average seventy years of age; their stipends will soon cease. I hold myself well justified, then, in saying, as I did, that the expenditures of the government have nearly doubled in my time. The remark had no reference to administrations. There was nothing comparative in it; nothing intended to put up, or put down, any body. The burdens of the people is the only thing I wish to put down. My service in the Senate has extended under three administrations, and my periods of calculation extend to all three. My opinion now is, that the machinery of this government, after the payment of the public debt, should be worked for ten millions or less, and two millions more for extraordinaries; in all twelve millions; but this is a point for future discussion. My present object is to show a great increase in a short time; and to show that, not to affect individuals, but to show the necessity of practising what we all profess—economy. I am against keeping up a revenue, after the debt and pensions are paid, as large, or nearly as large, as the expenditure was in 1822, 1823, with these items included. I am for throwing down my load, when I get to the end of my journey. I am for throwing off the burden of the debt, when I get to the end of the debt. The burden of the debt is the taxes levied on account of it. I am for abolishing these taxes; and this is the great question upon which parties now go to trial before the American people. One word more, and I am done for the present. The senator for Maryland, to make up a goodly average for 1822, and 1823, adds the expenditure of 1824, which includes, besides sixteen millions and a half for the public debt, and a million and a half for pensions, the sum of five millions for the purchase of Florida. Sir, he must deduct twenty-two millions from that computation; and that deduction will bring his average for those years to agree very closely with my statement.”

It was something at the time this inquiry took place to know which was right—General Smith, or myself. Two millions, more or less, per annum in the public expenditures, was then something—a thing to be talked about, and accounted for, among the economical men of that day. It seems to be nothing now, when the increases are many millions per annum—when personal and job legislation have become the frequent practice—when contracts are legislated to adventurers and speculators—when the halls of Congress have come to be considered the proper place to lay the foundations, or to repair the dilapidations of millionary fortunes: and when the public fisc, and the national domain may consider themselves fortunate sometimes in getting off with a loss of two millions in a single operation.

63. Bank Of The United States—Recharter Commencement Of The Proceedings

In the month of December 1831, the “National Republicans” (as the party was then called which afterwards took the name of “whig”), assembled in convention at Baltimore to nominate candidates of their party for the presidential, and vice-presidential election, which was to take place in the autumn of the ensuing year. The nominations were made—Henry Clay of Kentucky, for President; and John Sergeant of Pennsylvania for Vice-President: and the nominations accepted by them respectively. Afterwards, and according to what was usual on such occasions, the convention issued an address to the people of the United States, setting forth the merits of their own, and the demerits of the opposite candidate; and presenting the party issues which were to be tried in the ensuing elections. So far as these issues were political, they were legitimate subjects to place before the people: so far as they were not political, they were illegitimate, and wrongfully dragged into the political arena, to be made subservient to party elevation. Of this character were the topics of the tariff, of internal improvement, the removal of the Cherokee Indians, and the renewal of the United States Bank charter. Of these four subjects, all of them in their nature unconnected with politics, and requiring for their own good to remain so unconnected, I now notice but one—that of the renewal of the charter of the existing national bank;—and which was now presented as a party object, and as an issue in the election, and under all the exaggerated aspects which party tactics consider lawful in the prosecution of their aims. The address said:

“Next to the great measures of policy which protect and encourage domestic industry, the most important question, connected with the economical policy of the country, is that of the bank. This great and beneficial institution, by facilitating exchanges between different parts of the Union, and maintaining a sound, ample, and healthy state of the currency, may be said to supply the body politic, economically viewed, with a continual stream of life-blood, without which it must inevitably languish, and sink into exhaustion. It was first conceived and organized by the powerful mind of Hamilton. After having been temporarily shaken by the honest though groundless scruples of other statesmen, it has been recalled to existence by the general consent of all parties, and with the universal approbation of the people. Under the ablest and most faithful management it has been for many years past pursuing a course of steady and constantly increasing influence. Such is the institution which the President has gone out of his way in several successive messages, without a pretence of necessity or plausible motive, in the first instance six years before his suggestion could with any propriety be acted upon, to denounce to Congress as a sort of nuisance, and consign, as far as his influence extends, to immediate destruction.

“For this denunciation no pretext of any adequate motive is assigned. At a time when the institution is known to all to be in the most efficient and prosperous state—to be doing all that any bank ever did or can do, we are briefly told in ten words, that it has not effected the objects for which it was instituted, and must be abolished. Another institution is recommended as a substitute, which, so far as the description given of it can be understood, would be no better than a machine in the hands of the government for fabricating and issuing paper money without check or responsibility. In his recent message to Congress, the President declares, for the third time, his opinion on these subjects, in the same concise and authoritative style as before, and intimates that he shall consider his re-election as an expression of the opinion of the people that they ought to be acted on. If, therefore, the

President be re-elected, it may be considered certain that the bank will be abolished, and the institution which he has recommended, or something like it, substituted in its place.

"Are the people of the United States prepared for this? Are they ready to destroy one of their most valuable establishments to gratify the caprice of a chief magistrate, who reasons, and advises upon a subject, with the details of which he is evidently unacquainted, in direct contradiction to the opinion of his own official counsellors? Are the enterprising, liberal, high-minded, and intelligent *merchants* of the Union willing to countenance such a measure? Are the cultivators of the West, who find in the Bank of the United States a never-failing source of that *capital*, which is so essential to their prosperity, and which they can get nowhere else, prepared to lend their aid in drying up the fountain of their own prosperity? Is there any class of the people or section of the Union so lost to every sentiment of common prudence, so regardless of all the principles of republican government, as to place in the hands of the executive department the means of an irresponsible and unlimited issue of paper money—in other words, the means of corruption without check or bounds? If such be, in fact, the wishes of the people, they will act with consistency and propriety in voting for General Jackson, as President of the United States; for, by his re-election, all these disastrous effects will certainly be produced. He is fully and three times over pledged to the people to negative any bill that may be passed for re-chartering the bank, and there is little doubt that the additional influence which he would acquire by a re-election, would be employed to carry through Congress the extraordinary substitute which he has repeatedly proposed."

Thus the bank question was fully presented as an issue in the election by that part of its friends which classed politically against President Jackson; but it had also democratic friends, without whose aid the recharter could not be got through Congress; and the result produced which was contemplated with hope and pleasure—responsibility of a veto thrown upon the President. The consent of this wing was necessary: and it was obtained as related in a previous chapter, through the instrumentality of a caucus—that contrivance of modern invention by which a few govern many—by which the many are not only led by the few, but subjugated by them, and turned against themselves and after having performed at the caucus as a *figurante* (to make up a majority), become real actors in doing what they condemn. The two wings of the bank friends were brought together by this machinery, as already related in chapter lxi.; and operations for the new charter immediately commenced, in conformity to the decision. On the 9th day of January the memorial of the President, Directors & Company of the Bank was presented in each House—by Mr. Dallas in the Senate, and Mr. McDuffie in the House of Representatives; and while condemning the time of bringing forward the question of the recharter, Mr. Dallas, in further intimation of his previously signified opinion of its then dangerous introduction, said: "He became a willing, as he was virtually an instructed agent, in promoting to the extent of his humble ability, an object which, *however dangerously timed its introduction might seem*, was in itself as he conceived, entitled to every consideration and favor." Mr. Dallas then moved for a select committee to revise, consider, and report upon the memorial—which motion was granted, and Messrs. Dallas, Webster, Ewing of Ohio, Hayne of South Carolina, and Johnston of Louisiana, were appointed the committee—elected for that purpose by a vote of the Senate—and all except one favorable to the recharter.

In the House of Representatives Mr. McDuffie did not ask for the same reference—a select committee—but to the standing committee of Ways and Means, of which he was chairman, and which was mainly composed of the same members as at the previous session when it reported so elaborately in favor of the bank. The reason of this difference on the point of the reference was understood to be this: that in the Senate the committee being elective, and the majority of the body favorable to the bank, a favorable committee was certain to be had

on ballot—while in the House the appointment of the committee being in the hands of the Speaker (Mr. Stevenson), and he adverse to the institution, the same favorable result could not be safely counted on; and, therefore, the select committee was avoided, and the one known to be favorable was preferred. This led to an adverse motion to refer to a select committee—in support of which motion Mr. Wayne of Georgia, since appointed one of the justices of the Supreme Court, said:

"That he had on a former occasion expressed his objection to the reference of this subject to the Committee of Ways and Means; and he should not trouble the House by repeating now what he had advanced at the commencement of the session in favor of the appointment of a select committee; but he called upon gentlemen to consider what was the attitude of the Committee of Ways and Means in reference to the bank question, and to compare it with the attitude in which that question had been presented to the House by the President of the United States; and he would ask, whether it was not manifestly proper to submit the memorial to a committee entirely uncommitted upon the subject. But this was not the object for which he had risen; the present question had not come upon him unexpectedly; he had been aware before he entered the House that a memorial of this kind would this morning be presented; and when he looked back upon the occurrences of the last four weeks, and remembered what had taken place at a late convention in Baltimore, and the motives which had been avowed for bringing forward the subject at this time, he must say that gentlemen ought not to permit a petition of this kind to receive the attention of the House. Who could doubt that the presentation of that memorial was in fact a party measure, intended to have an important operation on persons occupying the highest offices of the government? If, however, it should be considered necessary to enter upon the subject at the present time, Mr. Wayne said he was prepared to meet it. But when gentlemen saw distinctly before their eyes the motive of such a proceeding, he hoped that, notwithstanding there might be a majority in the House in favor of the bank, gentlemen would not lend themselves to that kind of action. Could it be necessary to take up the question of rechartering the bank at the present session? Gentlemen all knew that four years must pass before its charter would expire, and that Congress had power to extend the period, if further time was necessary to wind up its affairs. It was known that other subjects of an exciting character must come up during the present session and could there be any necessity or propriety in throwing additional matter into the House, calculated to raise that excitement yet higher?"

Mr. McDuffie absolved himself from all connection with the Baltimore national republican convention, and claimed like absolution for the directory of the bank; and intimated that a caucus consultation to which democratic members were party, had led to the presentation of the memorial at this time;—an intimation entirely true, only it should have comprehended all the friends of the bank of both political parties. A running debate took place on these motions, in which many members engaged. Admitting that the parliamentary law required a friendly committee for the application, it was yet urged that that committee should be a select one, charged with the single subject, and with leisure to make investigations;—which leisure the Committee of Ways did not possess—and could merely report as formerly, and without giving any additional information to the House. Mr. Archer of Virginia, said:

"As regarded the disposal of the memorial, it appeared clear to him that a select committee would be the proper one. This had been the disposal adopted with all former memorials. Why vary the mode now? The subject was of a magnitude to entitle it to a special committee. As regarded the Committee of Ways and Means, with its important functions, were not its hands to be regarded as too full for the great attention which this matter must demand? It was to be remarked, too, that this committee, at a former session, with little variety in its composition, had, in the most formal manner, expressed its opinion on the great question involved. We

ought not, as had been said, to put the memorial to a nurse which would strangle it. Neither would it be proper to send it to an inquest in which its fate had been prejudged. Let it go to either the Committee of Ways and Means, or a select committee; the chairman of that committee would stand as he ought, in the same relation to it. If the last disposal were adopted, too, the majority of the committee would consist, under the usage in that respect, of friends of the measure. The recommendation of this mode was, that it would present the nearest approach to equality in the contest, of which the case admitted.

"Mr. Mitchell, of South Carolina, said that he concurred entirely in the views of his friend from Georgia [Mr. Wayne]. He did not think that the bank question ought to be taken up at all this session; but if it were, it ought most unquestionably to be referred to a select committee. He saw no reason, however, for its being referred at all. The member from South Carolina [Mr. McDuffie] tells us, said Mr. M., that it involves the vast amount of fifty millions of dollars; that this is dispersed to every class of people in our widely extended country; and if the question of rechartering were not decided now, it would hazard these great and complicated interests. Mr. M. said he attached no importance to this argument. The stockholders who met lately at Philadelphia thought differently, for, by a solemn resolution, they left it discretionary with the president of the bank to propose the question to Congress when he saw fit. If they had thought that a postponement would have endangered their interests, would they not have said so? This fact does away the argument of the member from South Carolina. The bank question was decided by the strongest party question which could be put to this or any House. It has been twice discussed within a few years. It was rejected once in the Senate by the vote of the Vice-President, and it afterwards passed this House with a majority of two. It would divide the whole country, and excite on that floor, feelings of the most exasperated bitterness. Not a party question? Does not the member from South Carolina [Mr. McDuffie] remember that this question divided the country into federalists and republicans? It was a great constitutional question, and he hoped all those who thought with him, would rally against it in all their strength. But why refer it to the Committee of Ways and Means? It was committed before to a select committee on national currency. If this question was merely financial, as whether we should sell our stock, and, if we did, whether we should sell it to the bank, he would not object to its being referred to the Committee of Ways and Means. But it was not a question of revenue. It was one of policy and the constitution—one of vast magnitude and of the greatest complexity—requiring a committee of the most distinguished abilities on that floor. It was a party question in reference to men and things out of doors. Those who deny this, must be blind to every thing around them—we hear it every where—we see it in all which we read. Sir, we have now on hand a topic which must engross every thought and feeling—a topic which perhaps involves the destinies of this nation—a topic of such magnitude as to occupy us the remainder of the session; I mean the tariff. I hope, therefore, this memorial will be laid on the table, and, if not, that it will be referred to a select committee."

Mr. Charles Johnston, of Virginia, said:

"The bank has been of late distinctly and repeatedly charged with using its funds, and the funds of the people of these States, in operating upon and controlling public opinion. He did not mean to express any opinion as to the truth or falsehood of this accusation, but it was of sufficient consequence to demand an accurate inquiry. The bank was further charged with violating its charter, in the issue of a great number of small drafts to a large amount, and payable, in the language of the honorable member from New-York [Mr. Cambreleng], "nowhere;" this charge, also, deserved inquiry. There were other charges of maladministration which equally deserved inquiry; and it was his [Mr. J.'s] intention, at a future day, unless some other gentleman more versed in the business of the House anticipated

him, to press these inquiries by a series of instructions to the committee intrusted with the subject. Mr. J. urged as an objection to referring this inquiry to the Committee of Ways and Means, that so much of their time would be occupied with the regular and important business connected with the fiscal operations of the government, that they could not spare labor enough to accomplish the minute investigations wanted at their hands. We had been further told that all the members of that committee were friendly to the project of rechartering the bank, and the honorable gentleman [Mr. Mercer] had relied upon the fact, as a fair exponent of public opinion in favor of the bank. He [Mr. J.] added, that although he could by no means assent to the force of this remark, yet that it furnished strong reason for those who wished a close scrutiny of the administration of the bank, to wish some gentlemen placed on the committee of inquiry, who would be actuated by the zeal of fair opposition to the bank; he conceded that a majority of the committee should be composed of its friends. He concluded, by hoping that the memorial would be referred to a select committee."

Finally the vote was taken, and the memorial referred to the Committee of Ways and Means, but by a slender majority—100 against 90—and 24 members absent, or not voting. The members of the committee were: Messrs. McDuffie, of South Carolina; Verplanck of New-York; Ingersoll, of Connecticut; Gilmore, of Pennsylvania; Mark Alexander, of Virginia; Wilde, of Georgia; and Gaither, of Kentucky.

64. Bank Of The United States—Committee Of Investigation Ordered

Seeing the state of parties in Congress, and the tactics of the bank—that there was a majority in each House for the institution, and no intention to lose time in arguing for it—our course of action became obvious, which was—to attack incessantly, assail at all points, display the evil of the institution, rouse the people—and prepare them to sustain the veto. It was seen to be the policy of the bank leaders to carry the charter first, and quietly through the Senate; and afterwards, in the same way in the House. We determined to have a contest in both places; and to force the bank into defences which would engage it in a general combat, and lay it open to side-blow, as well as direct attacks. With this view a great many amendments and inquiries were prepared to be offered in the Senate, all of them proper, or plausible, recommendable in themselves, and supported by acceptable reasons; which the friends of the bank must either answer, or reject without answer; and so incur odium. In the House it was determined to make a move, which, whether resisted or admitted by the bank majority, would be certain to have an effect against the institution—namely, an investigation by a committee of the House, as provided for in the charter. If the investigation was denied, it would be guilt shrinking from detection; if admitted, it was well known that misconduct would he found. I conceived this movement, and had charge of its direction. I preferred the House for the theatre of investigation, as most appropriate, being the grand inquest of the nation; and, besides, wished a contest to be going on there while the Senate was engaged in passing the charter; and the right to raise the committee was complete, in either House. Besides the right reserved in the charter, there was a natural right, when the corporation was asked for a renewed lease, to inquire how it had acted under the previous one. I got Mr. Clayton, a new member from Georgia (who had written a pamphlet against the bank in his own State), to take charge of the movement; and gave him a memorandum of seven alleged breaches of the charter, and fifteen instances of imputed misconduct, to inquire into, if he got his committee; or to allege on the floor, if he encountered resistance.

On Thursday, the 23d of February, Mr. Clayton made his motion—”That a select committee be appointed to examine into the affairs of the Bank of the United States, with power to send for persons and papers, and to report the result of their inquiries to the House.” This motion was objected to, and its consideration postponed until the ensuing Monday. Called up on that day, an attempt was made to repulse it from the consideration of the House. Mr. Watmough, a representative from Pennsylvania, and from the city, a friend to the bank, and from his locality and friendship supposed to be familiar with its wishes, raised the question of consideration—that is, called on the House to decide whether they would consider Mr. Clayton’s motion; a question which is only raised under the parliamentary law where the motion is too frivolous, or flagrantly improper, to receive the attention of the House. It was a false move on the part of the institution; and the more so as it seemed to be the result of deliberation, and came from its immediate representative. Mr. Polk, of Tennessee, saw the advantage presented; and as the question of consideration was not debatable, he demanded, as the only mode of holding the movement to its responsibility, the yeas and nays on Mr. Watmough’s question. But it went off on a different point—a point of order—the question of consideration not lying after the House has taken action on the subject; and in this case that had been done—very little action to be sure—only postponing the consideration from one day to another; but enough to satisfy the rule; and so the motion of Mr. Watmough was disallowed; and the question of consideration let in. Another movement was then made to cut

off discussion, and get rid of the resolution, by a motion to lay it on the table, also made by a friend of the bank [Mr. Lewis Williams, of North Carolina]. This motion was withdrawn at the instance of Mr. McDuffie, who began to see the effect of these motions to suppress, not only investigation, but congressional discussion; and, besides, Mr. McDuffie was a bold man, and an able debater, and had examined the subject, and reported in favor of the bank, and fully believed in its purity; and was, therefore, the less averse to debate. But resistance to investigation was continued by others, and was severely animadverted upon by several speakers—among others, by Mr. Polk, of Tennessee, who said:

"The bank asks a renewal of its charter; and ought its friends to object to the inquiry? He must say that he had been not a little surprised at the unexpected resistance which had been offered to the resolution under consideration, by the friends and admirers of this institution—by those who, no doubt, sincerely believed its continued existence for another term of twenty years to be essential to the prosperity of the country. He repeated his surprise that its friends should be found shrinking from the investigation proposed. He would not say that such resistance afforded any fair grounds of inference that there might be something "rotten in the state of Denmark." He would not say this; for he did not feel himself authorized to do so; but was it not perceived that such an inference might, and probably would, be drawn by the public? On what ground was the inquiry opposed? Was it that it was improper? Was it that it was unusual? The charter of the bank itself authorized a committee of either House of Congress to examine its books, and report upon its condition, whenever either House may choose to institute an examination. A committee of this House, upon a former occasion, did make such an examination, and he would refer to their report before he sat down. Upon the presentation of the bank memorial to the other branch of the legislature, a select committee had been invested with power to send for persons and papers, if they chose to do so. When the same memorial was presented to that House, what had been the course pursued by the friends of the bank? A motion to refer it to a select committee was opposed. It was committed to their favorite Committee of Ways and Means. He meant no disrespect to that committee, when he said that the question of rechartering the bank was known to have been prejudged by that committee. When the President of the United States brought the subject of the bank to the notice of Congress in December, 1829, a select committee was refused by the friends of the bank, and that portion of the message was referred to the Committee of Ways and Means. Precisely the same thing occurred at the commencement of the last and at the present session of Congress, in the reference which was made of that part of the messages of the President upon the subject of the bank. The friends of this institution have been careful always to commit it to the same committee, a committee whose opinions were known. Upon the occasion first referred to, that committee made a report favorable to the bank, which was sent forth to the public,—not a report of facts, not a report founded upon an examination into the affairs of the bank. At the present session, we were modestly asked to extend this bank monopoly for twenty years, without any such examination having taken place. The committee had reported a bill to that effect, but had given us no facts in relation to the present condition of the bank. They had not even deemed it necessary to ask to be invested with power to examine either into its present condition, or into the manner in which its affairs have been conducted.

"He would now call the attention of the House to the examination of the bank, made by a committee of this House in the year 1819, and under the order of the House. He then held the report of that committee in his hand. That committee visited the bank at Philadelphia; they examined its books, and scrutinized its conduct. They examined on oath the president, a part of the directors and officers of the bank. And what was the result? They discovered many and flagrant abuses. They found that the charter had been violated in divers particulars, and they

so reported to this House. He would not detain the House, however, with the details of that document. Gentlemen could refer to it, and satisfy themselves. It contained much valuable information, as bearing upon the proposition now before the House. It was sufficient to say that at that period, within three years after the bank had gone into existence, it was upon the very verge of bankruptcy. This the gentleman from South Carolina would not deny. The report of the committee to which he had alluded authorized him to say that there had been gross mismanagement, he would not use any stronger term, and in the opinion of that committee (an opinion never reversed by Congress) a palpable violation of the charter. Now sir, this was the condition of the bank in 1819. The indulgence of Congress induced them not to revoke the charter. The bank had gone on in its operations. Since that period no investigation or examination had taken place. All we knew of its doings, since that period, was from the ex parte reports of its own officers. These may all be correct, but, if they be so, it could do no harm to ascertain the fact."

Mr. Clayton then justified his motion for the committee, *first* upon the provisions of the charter (article 23) which gave to either House of Congress the right at all times to appoint a committee to inspect the books, and to examine in to the proceedings of the bank; and to report whether the provisions of the charter had been violated; and be treated as a revolt against this provision of the charter, as well as a sign of guilt, this resistance to an absolute right on the part of Congress, and most proper to be exercised when the institution was soliciting the continuation of its privileges; and which right had been exercised by the House in 1819, when its committee found various violations of the charter, and proposed a *scire facias* to vacate it:—which was only refused by Congress, not for the sake of the bank, but for the community—whose distresses the closing of the bank might aggravate. Next, he justified his motion on the ground of misconduct in the bank in seven instances of violated charter, involving forfeiture; and fifteen instances of abuse, which required correction, though not amounting to forfeiture of the charter. All these he read to the House, one by one, from a narrow slip of paper, which he continued rolling round his finger all the time. The memorandum was mine—in my handwriting—given to him to copy, and amplify, as they were brief memoranda. He had not copied them; and having to justify suddenly, he used the slip I had given him—rolling it on his finger, as on a cylinder, to prevent my handwriting from being seen: so he afterwards told me himself. The reading of these twenty-two heads of accusation, like so many counts in an indictment, sprung the friends of the bank to their feet—and its foes also—each finding in it something to rouse them—one to the defence, the other to the attack. The accusatory list was as follows:

"First: *Violations of charter amounting to forfeiture*:

"1. The issue of seven millions, and more, of branch bank orders as a currency.

"2. Usury on broken bank notes in Ohio and Kentucky: nine hundred thousand dollars in Ohio, and nearly as much in Kentucky. See 2 Peters' Reports, p. 527, as to the nature of the case.

"3. Domestic bills of exchange, disguised loans to take more than at the rate of six per cent. Sixteen millions of these bills for December last. See monthly statements.

"4. Non-user of the charter. In this, that from 1819 to 1826, a period of seven years, the South and West branches issued no currency of any kind. See the doctrine on non-user of charter and duty of corporations to act up to the end of their institution, and forfeiture for neglect.

"5. Building houses to rent. See limitation in their charter on the right to hold real property.

"6. In the capital stock, not having due proportion of coin.

"7. Foreigners voting for directors, through their trustees.

"Second: *Abuses worthy of inquiry, not amounting to forfeiture, but going, if true, clearly to show the inexpediency of renewing the charter.*

"1. Not cashing its own notes, or receiving in deposit at each branch, and at the parent bank, the notes of each other. By reason of this practice, notes of the mother bank are at a discount at many, if not all, of her branches, and completely negatives the assertion of 'sound and uniform currency.'

"2. Making a difference in receiving notes from the federal government and the citizens of the States. This is admitted as to all notes above five dollars.

"3. Making a difference between members of Congress and the citizens generally, in both granting loans and selling bills of exchange. It is believed it can be made to appear that members can obtain bills of exchange without, citizens with a premium; the first give nominal endorsers, the other must give two sufficient resident endorsers.

"4. The undue accumulation of proxies in the hands of a few to control the election for directors.

"5. A strong suspicion of secret understanding between the bank and brokers to job in stocks, contrary to the charter. For example, to buy up three per cent. stock at this day; and force the government to pay at par for that stock; and whether the government deposits may not be used to enhance its own debts.

"6. Subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank.

"7. Distinction in favor of merchants in selling bills of exchange.

"8. Practices upon local banks and debtors to make them petition Congress for a renewal of its charter, and thus impose upon Congress by false clamor.

"9. The actual management of the bank, whether safely and prudently conducted. See monthly statements to the contrary.

"10. The actual condition of the bank, her debts and credits; how much she has increased debts and diminished her means to pay in the last year; how much she has increased her credits and multiplied her debtors, since the President's message in 1829, without ability to take up the notes she has issued, and pay her deposits.

"11. Excessive issues, all on public deposits.

"12. Whether the account of the bank's prosperity be real or delusive.

"13. The amount of gold and silver coin and bullion sent from Western and Southern branches of the parent bank since its establishment in 1817. The amount is supposed to be fifteen or twenty millions, and, with bank interest on bank debts, constitutes a system of the most intolerable oppression of the South and West. The gold and silver of the South and West have been drawn to the mother bank, mostly by the agency of that unlawful currency created by branch bank orders, as will be made fully to appear.

"14. The establishment of agencies in different States, under the direction and management of one person only, to deal in bills of exchange, and to transact other business properly belonging to branch banks, contrary to the charter.

"15. Giving authority to State banks to discount their bills without authority from the Secretary of the Treasury."

Upon the reading of these charges a heated and prolonged discussion took place, in which more than thirty members engaged (and about an equal number on each side); in which the friends of the bank lost so much ground in the public estimation, in making direct opposition to investigation, that it became necessary to give up that species of opposition—declare in favor of examination—but so conducted as to be nugatory, and worse than useless. One proposition was to have the investigation made by the Committee of Ways and Means—a proposition which involved many departures from parliamentary law—from propriety—and from the respect which the bank owed to itself, if it was innocent. By all parliamentary law such a committee must be composed of members friendly to the inquiry—hearty in the cause—and the mover always to be its chairman: here, on the contrary, the mover was to be excluded: the very champion of the Bank defence was to be the investigating chairman; and the committee to whom it was to go, was the same that had just reported so warmly for the Bank. But this proposition had so bad a look that the chairman of the Committee of Ways and Means (Mr. McDuffie) objected to it himself, utterly refusing to take the office of prosecutor against an institution of which he was the public defender. Propositions were then made to have the committee appointed by ballot, so as to take the appointment of the committee out of the hands of the Speaker (who, following the parliamentary rule, would select a majority of members favorable to inquiry); and in the vote by ballot, the bank having a majority in the House, could reverse the parliamentary rule, and give to the institution a committee to shield, instead of to probe it. Unbecoming, and even suspicious to the institution itself as this proposition was, it came within a tie vote of passing, and was only lost by the casting vote of the Speaker. Investigation of some kind, and by a select committee, becoming then inevitable, the only thing that could be done in favor of the bank was to restrict its scope; and this was done both as to time and matter; and also as to the part of the institution to be examined. Mr. Adams introduced a resolution to limit the inquiry to the operations of the mother bank, thereby skipping the twenty-seven branches, though some of them were nearer than the parent bank; also limiting the points of inquiry to breaches of the charter, so as to cut off the abuses; also limiting the time to a short day (the 21st of April)—March then being far advanced; so as to subject full investigation to be baffled for the want of time. The reason given for these restrictions was to bring the investigation within the compass of the session—so as to insure action on the application before the adjournment of Congress—thereby openly admitting its connection with the presidential election. On seeing his proposed inquiry thus restricted, Mr. Clayton thus gave vent to his feelings:

“I hope I may be permitted to take a parting leave of my resolution, as I very plainly perceive that it is going the way of all flesh. I discover the bank has a complying majority at present in this House, and at this late hour of the night are determined to carry things in their own way; but, sir, I view with astonishment the conduct of that majority. When a speaker rises in favor of the bank, he is listened to with great attention; but when one opposed to it attempts to address the House, such is the intentional noise and confusion, he cannot be heard; and, sir, the gentleman who last spoke but one in favor of an inquiry, had to take his seat in a scene little short of a riot. I do not understand such conduct. When I introduced my resolution, I predicated it upon the presumption that every thing in this House would, when respectfully presented, receive a respectful consideration, and would be treated precisely as all other questions similarly situated are treated. I expected the same courtesy that other gentlemen received in the propositions submitted by them, that it would go to a committee appointed in the usual form, and that they would have the usual time to make their report. I believed, for I had no right to believe otherwise, that all committees of this House were honest, and that they had too much respect for themselves, as well as for the House, to trifle with any matter confided to their investigation. Believing this, I did expect my resolution would be submitted in the accustomed way; and if this House had thought proper to trust me, in part, with the

examination of the subject to which it refers, I would have proceeded to the business in good faith, and reported as early as was practicable with the important interests at stake. It has been opposed in every shape; vote upon vote has been taken upon it, all evidently tending to evade inquiry; and now it is determined to compel the committee to report in a limited time, a thing unheard of before in this House, and our inquiries are to be confined entirely to the mother bank; whereas her branches, at which more than half the frauds and oppressions complained of have been committed, are to go unexamined, and we are to be limited to breaches of the charter when the abuses charged are numerous and flagrant, and equally injurious to the community. We are only to examine the books of the parent bank, the greatest part of which may be accidentally from home, at some of the branches. If the bank can reconcile it to herself to meet no other kind of investigation but this, she is welcome to all the advantages which such an insincere and shuffling course is calculated to confer; the people of this country are too intelligent not to understand exactly her object."

Among the abuses cut off from examinations by these restrictions, were two modes of extorting double and treble compensation for the use of money, one by turning a loan note into a bill of exchange, and the other by forcing the borrower to take his money upon a domestic bill instead of on a note—both systematically practised upon in the West, and converting nearly all the Western loans into enormously usurious transactions. Mr. Clayton gave the following description of the first of these modes of extorting usury:

"I will now make a fuller statement; and I think I am authorized to say that there are gentlemen in this House from the West, and under my eye at present, who will confirm every word I say. A person has a note in one of the Western branch banks, and if the bank determines to extend no further credit, its custom is, when it sends out the usual notice of the time the note falls due, to write across the notice, in red ink, these three fatal words—well understood in that country—'Payment is expected.' This notice, thus rubricated, becomes a death-warrant to the credit of that customer, unless he can raise the wind, as it is called, to pay it off, or can discount a domestic bill of exchange. This last is done in one of two ways. If he has a factor in New Orleans who is in the habit of receiving and selling his produce, he draws upon him to pay it off at maturity. The bank charges two per centum for two months, the factor two and a half, and thus, if the draft is at sixty days, he pays at the rate of twenty-seven per centum. If, however, he has no factor, he is obliged to get some friend who has one to make the arrangement to get his draft accepted. For this accommodation he pays his friend one and a half per cent., besides the two per cent. to the bank, and the two and a half per cent. to the acceptor; making, in this mode of arrangement, thirty-six per cent. which he pays before he can get out of the clutches of the bank for that time, twelve per cent. of which, in either case, goes to the bank; and so little conscience have they, in order to make this, they will subject a poor and unfortunate debtor to the other enormous burdens, and consequently to absolute beggary. For it must be obvious to every one that such a per cent. for money, under the melancholy depreciation of produce every where in the South and West, will soon wind up the affairs of such a borrower. No people under the heavens can bear it; and unless a stop is put to it, in some way or other, I predict the Western people will be in the most deplorable situation it is possible to conceive. There is another great hardship to which this debtor is liable, if he should not be able to furnish the produce; or, which is sometimes the case, if it is sacrificed in the sale of it at the time the draft becomes due, whereby it is protested for want of funds, it returns upon him with the additional cost of ten per cent. for non-payment. Now, sir, that is what is meant by domestic bills of exchange, disguised as loans, to take more than six per cent.; for, mark, Mr. Speaker, the bank does not purchase a bill of exchange by paying out cash for it, and receiving the usual rate of exchange, which varies from one-quarter to one per cent.; but it merely delivers up the poor debtor's note

which was previously in bank, and, what is worse, just as well secured as the domestic bill of exchange which they thus extort from him in lieu thereof. And while they are thus exacting this per cent. from him, they are discounting bills for others not in debt to them at the usual premium of one per cent. The whole scene seems to present the picture of a helpless sufferer in the hands of a ruffian, who claims the merit of charity for discharging his victim alive, after having torn away half his limbs from his body."

The second mode was to make the loan take the form of a domestic bill from the beginning; and this soon came to be the most general practice. The borrowers finding that their notes were to be metamorphosed into bills payable in a distant city, readily fell into the more convenient mode of giving a bill in the first instance payable in some village hard by, where they could go to redeem it without giving commissions to intermediate agents in the shape of endorsers and brokers. The profit to the bank in this operation was to get six per centum interest, and two per cent. exchange; which, on a sixty days' bill, was twelve per cent. per annum; and, added to the interest, eighteen per cent. per annum; with the addition of ten per centum damages if the bill was protested; and of this character were the mass of the loans in the West—a most scandalous abuse, but cut off, with a multitude of others, from investigation from the restrictions placed upon the powers of the committee.

The supporters of the institution carried their point in the House, and had the investigation in their own way; but with the country it was different. The bank stood condemned upon its own conduct, and badly crippled by the attacks upon her. More than a dozen speakers assailed her: Clayton, Wayne, Foster of Georgia; J. M. Patton, Archer, and Mark Alexander of Virginia; James K. Polk of Tennessee; Cambreleng, Beardsley, Hoffman and Angel of New-York; Mitchell and Blair of South Carolina; Carson of North Carolina; Leavitt of Ohio. The speakers on the other side were: McDuffie and Drayton of South Carolina; Denny, Crawford, Coulter, Watmough, of Pennsylvania; Daniel of Kentucky; Jenifer of Maryland; Huntington of Connecticut; Root and Collins of New-York; Evans of Maine; Mercer of Virginia; Wilde of Georgia. Pretty equally matched both in numbers and ability; but the difference between attack and defence—between bold accusation and shrinking palliation—the conduct of the bank friends, first in resisting all investigation, then in trying to put it into the hands of friends, then restricting the examination, and the noise and confusion with which many of the anti-bank speeches were saluted—gave to the assailants the appearance of right, and the tone of victory throughout the contest; and created a strong suspicion against the bank. Certainly its conduct was injudicious, except upon the hypothesis of a guilt, the worst suspicion of which would be preferable to open detection and such, eventually, was found to be the fact. In justice to Mr. McDuffie, the leading advocate of the bank, it must be remembered that the attempts to stifle, or evade inquiry, did not come from him but from the immediate representative of the bank neighborhood—that he twice discountenanced and stopped such attempts, requesting them to be withdrawn; and no doubt all the defenders of the bank at the time believed in its integrity and utility, and only followed the lead of its immediate friends in the course which they pursued. For myself I became convinced that the bank was insolvent, as well as criminal; and that, to her, examination was death; and therefore she could not face it.

The committee appointed were: Messrs. Clayton, Richard M. Johnson of Kentucky, Francis Thomas of Maryland, and Mr. Cambreleng of New-York, opposed to the recharter of the Bank; Messrs. McDuffie, John Quincy Adams, and Watmough, in favor of it. The committee was composed according to the parliamentary rule—the majority in favor of the object—but one of them (Colonel Johnson of Kentucky), was disqualified by his charitable and indulgent disposition for the invidious task of criminal inquisition; and who frankly told the House, after he returned, that he had never looked at a bank-book, or asked a question while he was

at Philadelphia; and, Mr. Adams in invalidating the report of the majority against the bank, disputed the reality of the majority, saying that the good nature of Colonel Johnson had merely licensed it. On the other hand, the committee was as favorably composed for the bank—Mr. Adams and Mr. McDuffie both able writers and speakers, of national reputation, investigating minds, ardent temperaments, firm believers in the integrity and usefulness of the corporation; and of character and position to be friendly to the institution without the imputation of an undue motive. Mr. Watmough was a new member, but acceptable to the bank as its immediate representative, as the member that had made the motions to baffle investigation; and as being from his personal as well as political and social relations, in the category to form, if necessary, its channel of confidential communication with the committee.

The committee made three reports—one by the majority, one by the minority, and one by Mr. Adams alone. The first was a severe recrimination of the bank on many points—usury, issuing branch bank orders as a currency, selling coin, selling stock obtained from government under special acts of Congress, donations for roads and canals, building houses to rent or sell, loans unduly made to editors, brokers, and members of Congress. The adversary reports were a defence of the bank on all these points, and the highest encomiums upon the excellence of its management, and the universality of its utility; but too much in the spirit of the advocate to retain the character of legislative reports—which admit of nothing but facts stated, inductions drawn, and opinions expressed. Both, or rather all three sets of reports, were received as veracious, and lauded as victorious, by the respective parties which they favored; and quoted, as settling for ever the bank question, each way. But, alas, for the effect of the progress of events! In a few brief years all this attack and defence—all this elaboration of accusation, and refinement of vindication—all this zeal and animosity, for and against the bank—the whole contest—was eclipsed and superseded by the actualities of the times the majority report, as being behind the facts: the minority, as resting upon vanished illusions. And the great bank itself, antagonist of Jackson, called imperial by its friends, and actually constituting a power in the State—prostrate in dust and ashes—and invoking from the community, through the mouth of the greatest of its advocates (Mr. Webster), the oblivion and amnesty of an “obsolete idea.”

It is not the design of this View to explore these reports for the names of persons implicated (some perhaps unjustly), in the criminating statements of the majority. The object proposed in this work does not require that interference with individuals. The conduct of the institution is the point of inquiry; and in that conduct will be found the warning voice against the dangers and abuses of such an establishment in all time to come.

65. The Three Per Cent. Debt, And Loss In Not Paying It When The Rate Was Low, And The Money In The Bank Of The United States Without Interest

There was a part of the revolutionary debt, incurred by the States and assumed by Congress, amounting to thirteen and a quarter millions of dollars, on which an interest of only three per centum was allowed. Of course, the stock of this debt could be but little over fifty cents in the dollar in a country where legal interest was six per centum, and actual interest often more. In 1817, when the Bank of the United States went into operation, the price of that stock was sixty-four per centum—the money was in bank, more than enough to pay it—a gratuitous deposit, bringing no interest—and which was contained in her vaults—her situation soon requiring the aid of the federal government to enable her to keep her doors open. I had submitted a resolve early in my term of service to have this stock purchased at its market value; and for that purpose to enlarge the power of the commissioners of the sinking fund, then limited to a price a little below the current rate: a motion which was resisted and defeated by the friends of the bank. I then moved a resolve that the bank pay interest on the deposits: which was opposed and defeated in like manner. Eventually, and when the rest of the public debt should be paid off, and the payment of these thirteen and a quarter millions would become obligatory under a policy which eschewed all debt—a consummation then rapidly approaching, under General Jackson's administration—it was clear that the treasury would pay one hundred cents on the dollar on what could be then purchased for sixty-odd, losing in the mean time the interest on the money with which it could be paid. It made a case against the bank, which it felt itself bound to answer, and did so through senator Johnson, of Louisiana: who showed that the bank paid the debt which the commissioners of the sinking fund required. This was true; but it was not the point in the case. The point was that the money was kept in deposit to sustain the bank, and the enlargement of the powers of the commissioners resisted to prevent them from purchasing this stock at a low rate, in view of its rise to par: which soon took place; and made palpable the loss to the United States. At the time of the solicited renewal of the charter, this non-payment of the three per cents was brought up as an instance of loss incurred on account of the bank; and gave rise to the defence from Mr. Johnson; to which I replied:

"Mr. Benton had not intended, he said, to say a word in relation to this question, nor should he now rise to speak upon it, but from what had fallen from the senator from New Jersey. That gentleman had gone from the resolution to the bank, and from the bank he had gone to statements respecting his resolutions on alum salt, which were erroneous. Day by day, memorials were poured in upon us by command of the bank, all representing, in the same terms, the necessity of renewing its charter. These memorials, the tone of which, and the time of their presentation, showed their common origin, were daily ordered to be printed. These papers, forming a larger mass than we ever had on our tables before, and all singing, to the same tune, the praises of the bank, were ordered to be printed without hesitation. The report which he had moved to have printed for the benefit of the farmers, was struck at by the senator of New Jersey. In the first place, the senator was in error as to the cost of printing the report. He had stated it to be one thousand nine hundred dollars, whereas it was only one thousand one hundred dollars. A few days ago, two thousand copies of a report of the British House of Commons on the subject of railroads was ordered to be printed. Following the

language of that resolution, he had moved the printing of another report of that body, which would interest a thousand of our citizens, where that report would interest one. There was not a farmer in America who would not deem it a treasure. It covered the whole saline kingdom; and those unacquainted with its nature had no more idea of it than a blind man had of the solar rays. It was of the highest value to the farmer and the grazier. It showed the effect of the mineral kingdom upon the animal kingdom; and its views were the results of the wisdom, experience, and first talents of Great Britain. The assertion of the senator, that the bank aided in producing a sound currency, he would disprove by facts and dates. In 1817 the bank went into operation. In three or four years after, forty-four banks were chartered in Kentucky, and forty in Ohio; and the United States Bank, so far from being able to put them down, was on the verge of bankruptcy. With the use of eight millions of public money, it was hardly able, from day to day to sustain itself. Eleven millions of dollars, as he could demonstrate, the people had lost by maintaining the bank during this crisis. But for a waggon load of specie from the mint, as Mr. Cheves informs us, it would have become bankrupt. In addition to this, the use of government deposits, to the extent of eight millions, was necessary to sustain it; and the country lost eleven millions by the diversion of those deposits to this purpose. Congress authorized the purchase of the thirteen millions of three per cents,—at that time, they could have been purchased at sixty-five cents, now they were at ninety-six per cent. This was one item of the amount lost, and the other was the interest on the stock from that time to the present, amounting to six millions more. It was shown by Mr. Cheves that the United States Bank owed its existence to the local banks—to the indulgence and forbearance of the banks of Philadelphia and Boston, notwithstanding its receipt of the silver from Ohio and Kentucky, which drained that country, destroyed its local banks, and threw down the value of every description of its property. The United States Bank currency was called by the senator the poor man’s friend. The orders on the branches—these drafts issued in Dan and made payable in Beersheba—had their origin with a Scotchman; and, when their character was discovered, they were stopped as oppressive to the poor; and this bank, which was cried up as the poor man’s friend, issued those same orders, in paper so similar to that of the bank notes, that the people could not readily discern the difference between them. It was thought that the people might mistake the signature of the little cashier and the little president for the great cashier and the great president. The stockholders were foreigners, to a great extent—they were lords and ladies—reverend clergymen and military officers. The widows, in whose behalf our sympathy was required, were countess dowagers, and the Barings, some of whom owned more of the stock than was possessed in sixteen States of this Union.”

66. Bank Of The United States—Bill For The Recharter Reported In The Senate—And Passed That Body

The first bank of the United States, chartered in 1791, was a federal measure, conducted under the lead of General Hamilton—opposed by Mr. Jefferson, Mr. Madison and the republican party; and became a great landmark of party, not merely for the bank itself, but for the latitudinarian construction of the constitution in which it was founded, and the great door which it opened to the discretion of Congress to do what it pleased, under the plea of being "*necessary*" to carry into effect some granted power. The non-renewal of the charter in 1811, was the act of the republican party, then in possession of the government, and taking the opportunity to terminate, upon its own limitation, the existence of an institution, whose creation they had not been able to prevent. The charter of the second bank, in 1816, was the act of the republican party, and to aid them in the administration of the government, and, as such, was opposed by the federal party—not seeming then to understand that, by its instincts, a great moneyed corporation was in sympathy with their own party, and would soon be with it in action—which this bank soon was—and now struggled for a continuation of its existence under the lead of those who had opposed its birth, and against the party which created it. Mr. Webster was a federal leader on both occasions—against the charter, in 1816; for the recharter, in 1832—and in his opening speech in favor of the renewal, according to the bill reported by the Senate's select committee, and in allusion to these reversals of positions, and in justification of his own, he spoke thus, addressing him self to the Vice-President, Mr. Calhoun:

"A considerable portion of the active part of life has elapsed, said Mr. W., since you and I, Mr. President, and three or four other gentlemen, now in the Senate, acted our respective parts in the passage of the bill creating the present Bank of the United States. We have lived to little purpose, as public men, if the experience of this period has not enlightened our judgments, and enabled us to revise our opinions; and to correct any errors into which we may have fallen, if such errors there were, either in regard to the general utility of a national bank, or the details of its constitution. I trust it will not be unbecoming the occasion, if I allude to your own important agency in that transaction. The bill incorporating the bank, and giving it a constitution, proceeded from a committee of the House of Representatives, of which you were chairman, and was conducted through that House under your distinguished lead. Having recently looked back to the proceedings of that day, I must be permitted to say that I have perused the speech by which the subject was introduced to the consideration of the House, with a revival of the feeling of approbation and pleasure with which I heard it; and I will add, that it would not, perhaps, now, be easy to find a better brief synopsis of those principles of currency and of banking, which, since they spring from the nature of money and of commerce, must be essentially the same, at all times, in all commercial communities, than that speech contains. The other gentlemen now with us in the Senate, all of them, I believe, concurred with the chairman of the committee, and voted for the bill. My own vote was against it. This is a matter of little importance; but it is connected with other circumstances, to which I will, for a moment, advert. The gentlemen with whom I acted on that occasion, had no doubts of the constitutional power of Congress to establish a national bank; nor had we any doubts of the general utility of an institution of that kind. We had, indeed, most of us, voted for a bank, at a preceding session. But the object of our regard was not whatever might

be called a bank. We required that it should be established on certain principles, which alone we deemed safe and useful, made subject to curtain fixed liabilities, and so guarded that it could neither move voluntarily, nor be moved by others out of its proper sphere of action. The bill, when first introduced, contained features, to which we should never have assented, and we set ourselves accordingly to work with a good deal of zeal, in order to effect sundry amendments. In some of those proposed amendments, the chairman, and those who acted with him, finally concurred. Others they opposed. The result was, that several most important amendments, as I thought, prevailed. But there still remained, in my opinion, objections to the bill, which justified a persevering opposition till they should be removed."

He spoke forcibly and justly against the evils of paper money, and a depreciated currency, meaning the debased issues of the local banks, for the cure of which the national bank was to be the instrument—not foreseeing that this great bank was itself to be the most striking exemplification of all the evils which he depicted. He said:

"A disordered currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy; and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field, by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with fraudulent currencies, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well disposed, of a degraded paper currency, authorized by law, or any way countenanced by government."

He also spoke truly on the subject of the small quantity of silver currency in the United States—only some twenty-two millions—and not a particle of gold; and deprecated the small bank note currency as the cause of that evil. He said:

"The paper circulation of the country is, at this time, probably seventy-five or eighty millions of dollars. Of specie we may have twenty or twenty-two millions: and this, principally, in masses in the vaults of the banks. Now, sir, this is a state of things which, in my judgment, leads constantly to overtrading, and to the consequent excesses and revulsions which so often disturb the regular course of commercial affairs.

"Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it by the great amount of small bank notes. In most of the States the banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed in Parliament to authorize the Bank of England to issue one pound notes, Mr. Burke lay sick at Bath of an illness from which he never recovered; and he is said to have written to the late Mr. Canning, 'Tell Mr. Pitt that if he consents to the issuing of one pound notes, he must never expect to see guinea again.'"

The bill provided that a bonus of $500,000 in three equal annual instalments should be paid by the bank to the United States for its exclusive privileges: Mr. Webster moved to modify the section, so as to spread the payment over the entire term of the bank's proposed

existence—$150,000 a year for fifteen years. I was opposed both to the bonus, and the exclusive privilege, and said:

"The proper compensation for the bank to make, provided this exclusive privilege was sold to it, would be to reduce the rate of interest on loans and discounts. A reduction of interest would be felt by the people; the payment of a bonus would not be felt by them. It would come into the treasury, and probably be lavished immediately on some scheme, possibly unconstitutional in its nature, and sectional in its application. He was not in favor of any scheme for getting money into the treasury at present. The difficulty lay the other way. The struggle now was to keep money out of the treasury,—to prevent the accumulation of a surplus; and the reception of this bonus would go to aggravate that difficulty, by increasing that surplus. Kings might receive bonuses for selling exclusive privileges to monopolizing companies. In that case his subjects would bear the loss, and he would receive the profit; but, in a republic, it was incomprehensible that the people should sell to a company the privilege of making money out of themselves. He was opposed to the grant of an exclusive privilege; he was opposed to the sale of privileges; but if granted, or sold, he was in favor of receiving the price in the way that would be most beneficial to the whole body of the people; and, in this case, a reduction of interest would best accomplish that object. A bank, which had the benefit of the credit and revenue of the United States to bank upon, could well afford to make loans and discounts for less than six per centum. Five per centum would be high interest for such a bank; and he had no doubt, if time was allowed for the application, that applications enough would be made to take the charter upon these terms."

I opposed action on the subject at this session. The bank charter had yet four years to run, and two years after that to remain in force for winding up its affairs; in all, six years before the dissolution of the corporation: and this would remit the final decision to the Congress which would sit between 1836 and 1838, and there was not only to be a new Congress elected before that time, but a new Congress under a new apportionment of the representation, in which there would be a great augmentation of members, and especially in the West, where the operation of the present bank was most injurious. The stockholders had not applied for the recharter at this session: that was the act of the directors and politicians, or rather of the politicians and directors; for the former governed the decision. The stockholders in their meeting last September only authorized the president and directors to apply at any time before the next triennial meeting—at any time within three years; and that would carry the application to the right time. I, therefore, inveighed against the present application, and insisted that:

"Many reasons oppose the final action of Congress upon this subject at the present time. We are exhausted with the tedium, if not with the labors of a six months' session. Our hearts and minds must be at home, though our bodies are here. Mentally and bodily we are unable to give the attention and consideration to this question, which the magnitude of its principles, the extent and variety of its details, demand from us. Other subjects of more immediate and pressing interest must be thrown aside, to make way for it. The reduction of the price of the public lands, for which the new States have been petitioning for so many years, and the modification of the tariff, the continuance of which seems to be weakening the cement which binds this Union together, must be postponed, and possibly lost for the session, if we go on with the bank question. Why has the tariff been dropped in the Senate? Every one recollects the haste with which that subject was taken up in this chamber; how it was pushed to a certain point; and how suddenly and gently it has given way to the bank bill! Is there any union of interest—any conjunction of forces—any combined plan of action—any alliance, offensive or defensive, between the United States Bank and the American system? Certainly they enter the field together, one here, the other yonder (pointing to the House of Representatives), and

leaving a clear stage to each other, they press at once upon both wings, and announce a perfect non-interference, if not mutual aid, in the double victory which is to be achieved. Why have the two bills reported by the Committee on Manufactures, and for taking up which notices have been given: why are they so suddenly, so easily, so gently, abandoned? Why is the land bill, reported by the same committee, and a pledge given to call it up when the Committee on Public Lands had made their counter report, also suffered to sleep on the table? The counter report is made; it is printed; it lies on every table; why not go on with the lands, when the settlement of the question of the amount of revenue to be derived from that source precedes the tariff question, and must be settled before we can know how much revenue should be raised from imports.

"An unfinished investigation presented another reason for delaying the final action of Congress on this subject. The House of Representatives had appointed a committee to investigate the affairs of the bank; they had proceeded to the limit of the time allotted them—had reported adversely to the bank—and especially against the renewal of the charter at this session; and had argued the necessity of further examinations. Would the Senate proceed while this unfinished investigation was depending in the other end of the building? Would they act so as to limit the investigation to the few weeks which were allowed to the committee, when we have from four to six years on hand within which to make it? The reports of this committee, to the amount of some 15,000 copies had been ordered to be printed by the two Houses, to be distributed among the people. For what purpose? Certainly that the people might read them—make up their minds upon their contents—and communicate their sentiments to their representatives. But these reports are not yet distributed; they are not yet read by the people; and why order this distribution without waiting for its effect, when there is so much time on hand? Why treat the people with this mockery of a pretended consultation—this illusive reference to their judgment—while proceeding to act before they can read what we have sent to them? Nay, more; the very documents upon which the reports are founded are yet unprinted! The Senate is actually pushed into this discussion without having seen the evidence which has been collected by the investigating committee, and which the Senate itself has ordered to be printed for the information of its members.

"The decision of this question does not belong to this Congress, but to the Congress to be elected under the new census of 1830. It looked to him like usurpation for this Congress to seize upon a question of this magnitude, which required no decision until the new and full representation of the people shall come in; and which, if decided now, though prematurely and by usurpation, is irrevocable, although it cannot take effect until 1836;—that is to say, until three years after the new and full representation would be in power. What Congress is this? It is the apportionment of 1820, formed on a population of ten millions. It is just going out of existence. A new Congress, apportioned upon a representation of thirteen millions, is already provided for by law; and after the 4th of March next—within nine months from this day—will be in power, and entitled to the seats in which we sit. That Congress will contain thirty members more than the present one. Three millions of people—a number equal to that which made the revolution—are now unrepresented, who will be then represented. The West alone—that section of the Union which suffers most from the depredations of the bank—loses twenty votes! In that section alone a million of people lose their voice in the decision of this great question. And why? What excuse? What necessity? What plea for this sudden haste which interrupts an unfinished investigation—sets aside the immediate business of the people—and usurps the rights of our successors? No plea in the world, except that a gigantic moneyed institution refuses to wait, and must have her imperial wishes immediately gratified. If a charter was to be granted, it should be done with as little invasion of the rights of

posterity—with as little encroachment upon the privileges of our successors—as possible. Once in ten years, and that at the commencement of each full representation under a new census, would be the most appropriate time; and then charters should be for ten, and not twenty years.

"Mr. B. had nothing to do with motives. He neither preferred accusations, nor pronounced absolutions: but it was impossible to shut his eyes upon facts, and to close up his reason against the induction of inevitable inferences. The presidental election was at hand;—it would come in four months;—and here was a question which, in the opinion of all, must affect that election—in the opinion of some, may decide it—which is pressed on for decision four years before it is necessary to decide it, and six years before it ought to be decided. Why this sudden pressure? Is it to throw the bank bill into the hands of the President, to solve, by a practical reference, the disputed problem of the executive veto, and to place the President under a cross fire from the opposite banks of the Potomac River? He [Mr. B.] knew nothing about that veto, but he knew something of human nature, and something of the rights of the people under our representative form of government; and he would be free to say that a veto which would stop the encroachment of a minority of Congress upon the rights of its successors—which would arrest a frightful act of legislative usurpation—which would retrieve for the people the right of deliberation, and of action—which would arrest the overwhelming progress of a gigantic moneyed institution—which would prevent Ohio from being deprived of five votes, Indiana from losing four, Tennessee four, Illinois two, Alabama two, Kentucky, Mississippi and Missouri one each—which would lose six votes to New-York and two to Pennsylvania; a veto, in short, which would protect the rights of three millions of people, now unrepresented in Congress, would be an act of constitutional justice to the people, which ought to raise the President, and certainly would raise him, to a higher degree of favor in the estimation of every republican citizen of the community than he now enjoyed. By passing on the charter now, Congress would lose all check and control over the institution for the four years it had yet to run. The pendency of the question was a rod over its head for these four years; to decide the question now, is to free it from all restraint, and turn it loose to play what part it pleased in all our affairs—elections, State, federal, presidential.

"Mr. B. turned to the example of England, and begged the republican Senate of the United States to take a lesson from the monarchial parliament of Great Britain. We copied their evil ways; why not their good ones? We copied our bank charter from theirs; why not imitate them in their improvements upon their own work? At first the bank had a monopoly resulting from an exclusive privilege: that is now denied. Formerly the charter was renewed several years before it was out: it now has less than a year to run, and is not yet rechartered."

A motion was made by Mr. Moore of Alabama, declaratory of the right of the States to admit, or deny the establishment of branches of the mother bank within their limits, and to tax their loans and issues, if she chose to admit them: and in support of that motion Mr. Benton made this speech:

"The amendment offered by the senator from Alabama [Mr. Moore] was declaratory of the rights of the States, both to refuse admission of these branch banks into their limits, and to tax them, like other property, if admitted: if this amendment was struck out, it was tantamount to a legislative declaration that no such rights existed, and would operate as a confirmation of the decision of the Supreme Court to that effect. It is to no purpose to say that the rejection of the amendment will leave the charter silent upon the subject; and the rights of the States, whatsoever they may be, will remain in full force. That is the state of the existing charter. It is silent upon the subject of State taxation; and in that silence the Supreme Court has spoken, and nullified the rights of the States. That court has decided that the Bank of the United States

is independent of State legislation! consequently, that she may send branches into the States in defiance of their laws, and keep them there without the payment of tax. This is the decision; and the decision of the court is the law of the land; so that, if no declaratory clause is put into the charter, it cannot be said that the new charter will be silent, as the old one was. The voice of the Supreme Court is now heard in that silence, proclaiming the supremacy of the bank, and the degradation of the States; and, unless we interpose now to countervail that voice by a legislative declaration, it will be impossible for the States to resit it, except by measures which no one wishes to contemplate.

"Mr. B. regretted that he had not seen in the papers any report of the argument of the senator from Virginia [Mr. Tazewell] in vindication of the right of the States to tax these branches. It was an argument brief, powerful, and conclusive—lucid as a sunbeam, direct as an arrow, and mortal as the stroke of fate to the adversary speakers. Since the delivery of that argument, they had sat in dumb show, silent as the grave, mute as the dead, and presenting to our imaginations the realization of the Abbé Sieyes's famous conception of a dumb legislature. Before the States surrendered a portion of their sovereignity to create this federal government, they possessed the unlimited power of taxation; in the act of the surrender, which is the constitution, they abridged this unlimited right but in two particulars—exports and imports—which they agreed no longer to tax, and therefore retained the taxing power entire over all other subjects. This was the substance of the argument which dumbfounded the adversary; and the distinction which was attempted to be set up between tangible and intangible, visible and invisible, objects of taxation; between franchises and privileges on one side, and material substances on the other, was so completely blasted and annihilated by one additional stroke of lightning, that the fathers of the distinction really believed that they had never made it! and sung their palinodes in the face of the House.

"The argument that these branches are necessary to enable the federal government to carry on its fiscal operations, and, therefore, ought to be independent of State legislation, is answered and expunged by a matter of fact, namely, that Congress itself has determined otherwise, and that in the very charter of the bank. The charter limits the right of the federal government to the establishment of a single branch, and that one in the District of Columbia! The branch at this place, and the parent bank at Philadelphia, are all that the federal government has stipulated for. All beyond that, is left to the bank itself; to establish branches in the States or not, as it suited its own interest; or to employ State banks, with the approbation of the Secretary of the Treasury, to do the business of the branches for the United States. Congress is contented with State banks to do the business of the branches in the States; and, therefore, authorizes the very case which gentlemen apprehend and so loudly deprecate, that New-York may refuse her assent to the continuance of the branches within her limits, and send the public deposits to the State banks. This is what the charter contemplates. Look at the charter; see the fourteenth article of the constitution of the bank; it makes it optionary with the directors of the bank to establish branches in such States as they shall think fit, with the alternative of using State banks as their substitutes in States in which they do not choose to establish branches. This brings the establishment of branches to a private affair, a mere question of profit and loss to the bank itself; and cuts up by the roots the whole argument of the necessity of these branches to the fiscal operations of the federal government. The establishment of branches in the States is, then, a private concern, and presents this question: Shall non-residents and aliens—even alien enemies, for such they may be—have a right to carry on the trade of banking within the limits of the States, without their consent, without liability to taxation, and without amenability to State legislation? The suggestion that the United States owns an interest in this bank, is of no avail. If she owned it all, it would still be subject to taxation, like all other property is which she holds in the States. The lands which

she had obtained from individuals in satisfaction of debts, were all subject to taxation; the public lands which she held by grants from the States, or purchases from foreign powers, were only exempted from taxation by virtue of compacts, and the payment of five per centum on the proceeds of the sales for that exemption."

The motion of Mr. Moore was rejected, and by the usual majority.

Mr. Benton then moved to strike out so much of the bill as gave to the bank exclusive privileges, and to insert a provision making the stockholders liable for the debts of the institution; and in support of his motion quoted the case of the three Scottish banks which had no exclusive privilege, and in which the stockholders were liable, and the superior excellence of which over the Bank of England was admitted and declared by English statesmen. He said:

"The three Scottish banks had held each other in check, had proceeded moderately in all their operations, conducted their business regularly and prudently, and always kept themselves in a condition to face their creditors; while the single English bank, having no check from rival institutions, ran riot in the wantonness of its own unbridled power, deluging the country, when it pleased, with paper, and filling it with speculation and extravagance; drawing in again when it pleased, and filling it with bankruptcy and pauperism; often transcending its limits, and twice stopping payment, and once for a period of twenty years. There can be no question of the incomparable superiority of the Scottish banking system over the English banking system, even in a monarchy; and this has been officially announced to the Bank of England by the British ministry, as far back as the year 1826, with the authentic declaration that the English system of banking must be assimilated to the Scottish system, and that her exclusive privilege could never be renewed. This was done in a correspondence between the Earl of Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on one side, and the Governor and Deputy Governor of the Bank of England on the other. In their letter of the 18th January, 1826, the two ministers, adverting to the fact of the stoppage of payment, and repeated convulsions of the Bank of England, while the Scottish banks had been wholly free from such calamities, declared their conviction that there existed an unsound and delusive system of banking in England, and a sound and solid system in Scotland! And they gave the official assurance of the British government, that neither His Majesty's ministers, nor parliament, would ever agree to renew the charter of the Bank of England with their exclusive privileges! Exclusive privileges, they said, were out of fashion! Nor is it renewed to this day, though the charter is within nine months of its expiration!

"In the peculiar excellence of the Scottish plan, lies a few plain and obvious principles, closely related to republican ideas. First. No exclusive privileges. Secondly. Three independent banks to check and control each other, and diffuse their benefits, instead of one to do as it pleased, and monopolize the moneyed power. Thirdly. The liability of each stockholder for the amount of his stock, on the failure of the bank to redeem its notes in specie. Fourthly. The payment of a moderate interest to depositors. Upon these few plain principles, all of them founded in republican notions, equal rights, and equal justice, the Scottish banks have advanced themselves to the first rank in Europe, have eclipsed the Bank of England, and caused it to be condemned in its own country, and have made themselves the model of all future banking institutions in Great Britain. And now, it would be a curious political phenomenon, and might give rise to some interesting speculations on the advance of free principles in England, and their decline in America, if the Scottish republican plan of banking should be rejected here, while preferred there; and the British monarchial plan, which is condemned there, should be perpetuated here! and this double incongruity committed without necessity, without excuse, without giving the people time to consider, and

to communicate their sentiments to their constituents, when there is four, if not six years, for them to consider the subject before final decision is required!"

The clause for continuing the exclusive privilege of the bank, was warmly contested in the Senate, and arguments against it drawn from the nature of our government, as well as from the example of the British parliament, which had granted the monopoly to the Bank of England in her previous charters, and denied it on the last renewal. It owed its origin in England to the high tory times of Queen Anne, and its extinction to the liberal spirit of the present century. Mr. Benton was the chief speaker on this point; and—

"Pointed out the clauses in the charter which granted the exclusive privilege, and imposed the restriction, which it was the object of his motion to abolish; and read a part of the 21st section, which enacted that no other bank should be established by any future law of the United States, during the continuance of that charter, and which pledged the faith of the United States to the observance of the monopoly thereby created. He said the privilege of banking, here granted, was an exclusive privilege, a monopoly, and an invasion of the rights of all future Congresses, as well as of the rights of all citizens of the Union, for the term the charter had to run, and which might be considered perpetual; as this was the last time that the people could ever make head against the new political power which raised itself in the form of the bank to overbalance every other power in the government. This exclusive privilege is contrary to the genius of our government, which is a government of equal rights, and not of exclusive privileges; and it is clearly unauthorized by the constitution, which only admits of exclusive privileges in two solitary, specified cases, and each of these founded upon a natural right, the case of authors and inventors; to whom Congress is authorized to grant, for a limited time, the exclusive privilege of selling their own writings and discoveries. But in the case of this charter there is no natural right, and it may be well said there is no limited time; and the monopoly is far more glaring and indefensible now than when first granted; for then the charter was not granted to any particular set of individuals, but lay open to all to subscribe to it; but now it is to be continued to a particular set, and many of them foreigners, and all of whom, or their assignees, had already enjoyed the privilege for twenty years. If this company succeeds now in getting their monopoly continued for fifteen years, they will so intrench themselves in wealth and power, that they will be enabled to perpetuate their charter, and transmit it as a private inheritance to their posterity. Our government delights in rotation of office; all officers, from the highest to the lowest, are amenable to that principle; no one is suffered to remain in power thirty-five years; and why should one company have the command of the moneyed power of America for that long period? Can it be the wish of any person to establish an oligarchy with unbounded wealth and perpetual existence, to lay the foundation for a nobility and monarchy in this America!

"The restriction upon future Congresses is at war with every principle of constitutional right and legislative equality. If the constitution has given to one Congress the right to charter banks, it has given it to every one. If this Congress has a right to establish a bank, every other Congress has. The power to tie the hands of our successors is nowhere given to us; what we can do our successors can; a legislative body is always equal to itself. To make, and to amend; to do, and to undo; is the prerogative of each. But here the attempt is to do what we ourselves cannot amend—what our successors cannot amend—and what our successors are forbidden to imitate, or to do in any form. This shows the danger of assuming implied powers. If the power to establish a national bank had been expressly granted, then the exercise of that power, being once exerted, would be exhausted, and no further legislation would remain to be done; but this power is now assumed upon construction, after having been twice rejected, in the convention which framed the constitution, and is, therefore, without limitation as to number or character. Mr. Madison was express in his opinions in the

year 1791, that, if there was one bank chartered, there ought to be several! The genius of the British monarchy, he said, favored the concentration of wealth and power. In America the genius of the government required the diffusion of wealth and power. The establishment of branches did not satisfy the principle of diffusion. Several independent banks alone could do it. The branches, instead of lessening the wealth and power of the single institution, greatly increased both, by giving to the great central parent bank an organization and ramification which pervaded the whole Union, drawing wealth from every part, and subjecting every part to the operations, political and pecuniary, of the central institution. But this restriction ties up the hands of Congress from granting other charters. Behave as it may—plunge into all elections—convulse the country with expansions and contractions of paper currency—fail in its ability to help the merchants to pay their bonds—stop payment, and leave the government no option but to receive its dishonored notes in revenue payments—and still it would be secure of its monopoly; the hands of all future Congresses would be tied up; and no rival or additional banks could be established, to hold it in check, or to supply its place.

"Is this the Congress to do these things? Is this the Congress to impose restrictions upon the power of their successors? Is this the Congress to tie the hands of all Congresses till the year 1851? In nine months this Congress is defunct! A new and full representation of the people will come into power. Thirty additional members will be in the House of Representatives; three millions of additional people will be represented. The renewed charter is not to take effect till three years after this full representation is in power! And are we to forestall and anticipate them? Take their proper business out of their hands—snatch the sceptre of legislation from them—do an act which we cannot amend—which they cannot amend—which is irrevocable and intangible; and, to crown this act of usurpation, deliberately set about tying the hands, and imposing a restriction upon a Congress equal to us in constitutional power, superior to us in representative numbers, and better entitled to act upon the subject, because the present charter is not to expire, nor the new one to take effect, until three years after the new Congress shall be in power! It is in vain to say that this reasoning would apply to other legislative measures, and require the postponement of the land bill and the tariff bill. Both these bills require immediate decision, and therein differ from the bank bill, which requires no decision for three years to come. But the difference is greater still; for the land bill and tariff bill are ordinary acts of legislation, open to amendment, or repeal, by ourselves and successors; but the charter is to be irrevocable, unamendable, binding upon all Congresses till the year 1851. This is rank usurpation; and if perpetrated by Congress, and afterwards arrested by an Executive veto, the President will become the true representative of the people, the faithful defender of their rights, and the defender of the rights of the new Congress which will assemble under the new census.

"Mr. B. concluded his remarks by showing the origin, and also the extinction, of the doctrine in England. A tory parliament in the reign of Queen Anne had first granted an exclusive privilege to the Bank of England, and imposed a restriction upon the right of future parliaments to establish another bank; and the ministry of 1826 had condemned this doctrine, and proscribed its continuance in England. The charter granted to the old Bank of the United States and to the existing bank had copied those obnoxious clauses; but now that they were condemned in England as too unjust and odious for that monarchial country, they ought certainly to be discarded in this republic, where equal rights was the vital principle and ruling feature of all our institutions."

All the amendments proposed by the opponents of the bank being inexorably voted down, after a debate which, with some cessations, continued from January to June, the final vote was taken, several senators first taking occasion to show they had no interest in the institution. Mr. Benton had seen the names of some members in the list of stockholders; and

early in the debate had required that the rule of parliamentary law should be read; which excludes the interested member from voting, and expunges his vote if he does, and his interest is afterwards discovered. Mr. Dallas said that he had sold his stock in the institution as soon as it was known that the question of the recharter would come before him: Mr. Silsbee said that he had disposed of his interest before the question came before Congress: Mr. Webster said that the insertion of his name in the list of stockholders was a mistake in a clerk of the bank. The vote was then taken on the passage of the bill, and Stood: YEAS: Messrs. Bell, of New Hampshire; Buckner, of Missouri; Chambers, of Maryland; Clay, of Kentucky; Clayton, of Delaware; Dallas of Pennsylvania; Ewing, of Ohio; Foot, of Connecticut; Frelinghuysen, of New Jersey; Hendricks, of Indiana; Holmes, of Maine; Josiah S. Johnston, of Louisiana; Knight, of Rhode Island; Naudain, of Delaware; Poindexter, of Mississippi; Prentiss, of Vermont; Robbins, of Rhode Island; Robinson, of Illinois; Ruggles, of Ohio; Seymour, of Vermont; Silsbee, of Massachusetts; Smith (Gen. Samuel), of Maryland; Sprague, of Maine; Tipton, of Indiana; Tomlinson, of Connecticut; Waggaman, of Louisiana; Webster, of Massachusetts; and Wilkins, of Pennsylvania: 28. Nays: Messrs. Benton, of Missouri; Bibb, of Kentucky; Brown, of North Carolina; Dickerson, of New Jersey; Dudley, of New-York; Ellis, of Mississippi; Forsyth, of Georgia; Grundy, of Tennessee; Hayne, of South Carolina; Hill, of New Hampshire; Kane, of Illinois; King, of Alabama; Mangum, of North Carolina; Marcy, of New-York; Miller, of South Carolina; Moore, of Alabama; Tazewell, of Virginia; Troup, of Georgia; Tyler, of Virginia; Hugh L. White, of Tennessee: 20.

67. Bank Of The United States—Bill For The Renewed Charter Passed In The House Of Representatives

The bill which had passed the Senate, after a long and arduous contest, quickly passed the House, with little or no contest at all. The session was near its end; members were wearied; the result foreseen by every body—that the bill would pass—the veto be applied—and the whole question of charter or no charter go before the people in the question of the presidential election. Some attempts were made by the adversaries of the bill to amend it, by offering amendments, similar to those which had been offered in the Senate; but with the same result in one House as in the other. They were all voted down by an inexorable majority; and it was evident that the contest was political, and relied upon by one party to bring them into power; and deprecated by the other as the flagrant prostitution of a great moneyed corporation to partisan and election purposes. The question was soon put; and decided by the following votes:

Yeas.—Messrs. Adams, C. Allan, H. Allen, Allison, Appleton, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, J. S. Barbour, Barringer, Barstow, I. C. Bates, Briggs, Bucher, Bullard, Burd, Burges, Choate, Collier, L. Condict, S. Condit, E. Cooke, B. Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, J. Davis, Dearborn, Denny, Dewart, Doddridge, Drayton, Ellsworth, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Hodges, Heister, Horn, Hughes, Huntington, Ihrie, Ingersoll, Irvin, Isacks, Jenifer, Kendall, H. King, Kerr, Letcher, Mann, Marshall, Maxwell, McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, J. Reed, Root, Russel, Semmes, W. B. Shepard, A. H. Shepperd, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Williams, Young—106.

Nays.—Messrs. Adair, Alexander, Anderson, Archer, J. Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Branch, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, W. R. Davis, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Howard, Hubbard, Jarvis, Cave Johnson, Kavanagh, Kennon, A. King, J. King, Lamar, Leavitt, Lecompte, Lewis, Lyon, Mardis, Mason, McCarty, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Wilde, Worthington.—84.

68. The Veto

The act which had passed the two Houses for the renewal of the bank charter, was presented to the President on the 4th day of July, and returned by him to the House in which it originated, on the 10th, with his objections. His first objection was to the exclusive privileges which it granted to corporators who had already enjoyed them, the great value of these privileges, and the inadequacy of the sum to be paid for them. He said:

“Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank, must come directly or indirectly out of the earnings of the American people. It is due to them, therefore, if their government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of fifty per cent., and command, in market, at least forty-two millions of dollars, subject to the payment of the present loans. The present value of the monopoly, therefore, is seventeen millions of dollars, and this the act proposes to sell for three millions, payable in fifteen annual instalments of $200,000 each.

“It is not conceivable how the present stockholders can have any claim to the special favor of the government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not Congress create and sell the twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the treasury?

“But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right, not only to the favor, but to the bounty of the government. It appears that more than a fourth part of the stock is held by foreigners, and the residue is held by a few hundred of our citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly, and dispose of it for many millions less than it is worth. This seems the less excusable, because some of our citizens, not now stockholders, petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the government and country.

“But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the existing bank, has been set aside, and the bounty of our government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock, and at this moment wield the power of the existing institution. I cannot perceive the justice or policy of this course. If our government must sell monopolies, it would seem to be its duty to take nothing less than their full value; and if gratuities must be made once in fifteen or twenty years, let them not be bestowed on the subjects of a foreign government, nor upon a designated or favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow-citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the bearings of the act before me upon these points, I find ample reasons why it should not become a law.”

The President objected to the constitutionality of the bank, and argued against the force of precedents in this case, and against the applicability and the decision of the Supreme Court in its favor. That decision was in the case of the Maryland branch, and sustained it upon an argument which carries error, in point of fact, upon its face. The ground of the decision was, that the bank was "necessary" to the successful conducting of the "fiscal operations" of the government; and that Congress was the judge of that necessity. Upon this ground the Maryland branch, and every branch except the one in the District of Columbia, was without the constitutional warrant which the court required. Congress had given no judgment in favor of its necessity—but the contrary—a judgment against it: for after providing for the mother bank at Philadelphia, and one branch at Washington City, the establishment of all other branches was referred to the judgment of the bank itself, or to circumstances over which Congress had no control, as the request of a State legislature founded upon a subscription of 2000 shares within the State—with a dispensation in favor of substituting local banks in places where the Secretary of the Treasury, and the directors of the national bank should agree. All this was contained in the fourteenth fundamental article of the constitution of the corporation—which says:

"The directors of said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment: also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the legislature of such State, Congress may, by law, require the same: *Provided*, the directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall be paid up. And it shall be lawful for the directors of the corporation to establish offices of discount and deposit where they think fit, within the United States or the territories thereof, and to commit the management of the said, and the business thereof, respectively to such persons, and under such regulations, as they shall deem proper, not being contrary to the laws or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed aforesaid, other than for the purposes of discount; to be managed and transacted by such offices, under such agreements, and subject to such regulations as they shall deem just and proper."

These are the words of the fourteenth fundamental article of the constitution of the bank, and the conduct of the corporation in establishing its branches was in accordance with this article. They placed them where they pleased—at first, governed wholly by the question of profit and loss to itself—afterwards, and when it was seen that the renewed charter was to be resisted by the members from some States, governed by the political consideration of creating an interest to defeat the election, or control the action of the dissenting members. Thus it was in my own case. A branch in St. Louis was refused to the application of the business community—established afterwards to govern me. And thus, it is seen the Supreme Court was in error—that the judgment of Congress in favor of the "necessity" of branches only extended to one in the District of Columbia; and as for the bank itself, the argument in its favor and upon which the Supreme Court made its decision, was an argument which made the constitutionality of a measure dependent, not upon the words of the constitution, but upon the opinion of Congress for the time being upon the question of the "necessity" of a particular measure—a question subject to receive different decisions from Congress at different times—which actually received different decisions in 1791, 1811, and 1816: and, we may now add the decision of experience since 1836—during which term we have had no national bank; and the fiscal business of the government, as well as the commercial and trading business of the country,

has been carried on with a degree of success never equalled in the time of the existence of the national bank. I, therefore, believe that the President was well warranted in challenging both the validity of the decision of the Supreme Court, and the obligatory force of precedents: which he did, as follows:

"It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedence is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we report to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

"If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this government. The Congress, the Executive, and the court, must each for itself be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges, when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress, or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

"But in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress. But taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the general government, therefore the law incorporating it is in accordance with that provision of the constitution which declares that Congress shall have power 'to make all laws which shall be necessary and proper for carrying those powers into execution.' Having satisfied themselves that the word 'necessary,' in the constitution, means 'needful,' 'requisite,' 'essential,' 'conducive to,' and that 'a bank' is a convenient, a useful, and essential instrument in the prosecution of the government's 'fiscal operations,' they conclude that to 'use one must be within the discretion of Congress;' and that 'the act to incorporate the Bank of the United States, is a law made in pursuance of the constitution.' 'But,' say they, 'where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground.'

"The principle, here affirmed, is, that the 'degree of its necessity,' involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is

constitutional; but it is the province of the legislature to determine whether this or that particular power, privilege, or exemption, is 'necessary and proper' to enable the bank to discharge its duties to the government; and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are 'necessary and proper,' in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore constitutional; or unnecessary and improper, and therefore unconstitutional."

With regard to the misconduct of the institution, both in conducting its business and in resisting investigation, the message spoke the general sentiment of the disinterested country when it said:

"Suspicions are entertained, and charges are made, of gross abuses and violations of its charter. An investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm. In the practices of the principal bank, partially unveiled in the absence of important witnesses, and in numerous charges confidently made, and as yet wholly uninvestigated, there was enough to induce a majority of the committee of investigation, a committee which was selected from the most able and honorable members of the House of Representatives, to recommend a suspension of further action upon the bill, and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity, and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why the functionaries of the government should proceed with less haste, and more caution, in the renewal of their monopoly."

The appearance of the veto message was the signal for the delivery of the great speeches of the advocates of the bank. Thus far they had held back, refraining from general debate, and limiting themselves to brief answers to current objections. Now they came forth in all their strength, in speeches elaborate and studied, and covering the whole ground of constitutionality and expediency; and delivered with unusual warmth and vehemence. Mr. Webster, Mr. Clay, Mr. Clayton of Delaware, and Mr. Ewing of Ohio, thus entered the lists for the bank. And why these speeches, at this time, when it was certain that speaking would have no effect in overcoming the veto—that the constitutional majority of two thirds of each House to carry it, so far from being attainable, would but little exceed a bare majority? The reason was told by the speakers themselves—fully told, as an appeal to the people—as a transfer of the question to the political arena—to the election fields, and especially to the presidential election, then impending, and within four months of its consummation—and a refusal on the part of the corporation to submit to the decision of the constituted authorities. This was plainly told by Mr. Webster in the opening of his argument; frightful distress was predicted: and the change of the chief magistrate was presented as the only means of averting an immense calamity on one hand, or of securing an immense benefit on the other. He said:

"It is now certain that, without a change in our public councils, this bank will not be continued, nor will any other be established, which, according to the general sense and language of mankind, can be entitled to the name. In three years and nine months from the present moment, the charter of the bank expires; within that period, therefore, it must wind up its concerns. It must call in its debts, withdraw its bills from circulation, and cease from all its ordinary operations. All this is to be done in three years and nine months; because, although there is a provision in the charter rendering it lawful to use the corporate name for two years

after the expiration of the charter, yet this is allowed only for the purpose of suits, and for the sale of the estate belonging to the bank, and for no other purpose whatever. The whole active business of the bank, its custody of public deposits, its transfers of public moneys, its dealing in exchange, all its loans and discounts, and all its issues of bills for circulation, must cease and determine on or before the 3d day of March, 1836; and, within the same period, its debts must be collected, as no new contract can be made with it, as a corporation, for the renewal of loans, or discount of notes or bills, after that time."

Mr. Senator White of Tennessee, seizing upon this open entrance into the political arena by the bank, thanked Mr. Webster for his candor, and summoned the people to the combat of the great moneyed power, now openly at the head of a great political party, and carrying the fortunes of that party in the question of its own continued existence. He said:

"I thank the senator for the candid avowal that unless the President will sign such a charter as will suit the directors, they intend to interfere in the election, and endeavor to displace him. With the same candor I state that, after this declaration, this charter shall never be renewed with my consent.

"Let us look at this matter as it is. Immediately before the election, the directors apply for a charter, which they think the President at any other time will not sign, for the express purpose of compelling him to sign contrary to his judgment, or of encountering all their hostility in the canvass, and at the polls. Suppose this attempt to have succeeded, and the President, through fear of his election, had signed this charter, although he conscientiously believes it will be destructive of the liberty of the people who have elected him to preside over them, and preserve their liberties, so far as in his power. What next? Why, whenever the charter is likely to expire hereafter, they will come, as they do now, on the eve of the election, and compel the chief magistrate to sign such a charter as they may dictate, on pain of being turned out and disgraced. Would it not be far better to gratify this moneyed aristocracy, to the whole extent at once, and renew their charter for ever? The temptation to a periodical interference in our elections would then be taken away.

"Sir, if, under these circumstances, the charter is renewed, the elective franchise is destroyed, and the liberties and prosperity of the people are delivered over to this moneyed institution, to be disposed of at their discretion. Against this I enter my solemn protest."

The distress to be brought upon the country by the sudden winding up of the bank, the sudden calling in of all its debts, the sudden withdrawal of all its capital, was pathetically dwelt upon by all the speakers, and the alarming picture thus presented by Mr. Clayton:

"I ask, what is to be done for the country? All thinking men must now admit that, as the present bank must close its concerns in less than four years, the pecuniary distress, the commercial embarrassments, consequent upon its destruction, must exceed any thing which has ever been known in our history, unless some other bank can be established to relieve us. Eight and a half millions of the bank capital, belonging to foreigners, must be drawn from us to Europe. Seven millions of the capital must be paid to the government, not to be loaned again, but to remain, as the President proposes, deposited in a branch of the treasury, to check the issues of the local banks. The immense available resources of the present institution, amounting, as appears by the report in the other House, to $82,057,483, are to be used for banking no longer, and nearly fifty millions of dollars in notes discounted, on personal and other security, must be paid to the bank. The State banks must pay over all their debts to the expiring institution, and curtail their discounts to do so, or resort, for the relief of their debtors, to the old plan of emitting more paper, to be bought up by speculators at a heavy discount."

This was an alarming picture to present, and especially as the corporation had it in its power to create the distress which it foretold—a consummation frightfully realized three years later—but a picture equally unjustifiable and gratuitous. Two years was the extent of the time, after the expiration of its charter, that the corporation had accepted in its charter for winding up its business; and there were now four years to run before these two years would commence. The section 21, of the charter, provided for the contingency thus:

"And notwithstanding the expiration of the term for which the said corporation is created, it shall be lawful to use the corporate name, style and capacity, for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate real, personal and mixed: but not for any other purpose, or in any other manner whatever, nor for a period exceeding two years after the expiration of said term of incorporation."

Besides the two years given to the institution after the expiration of its charter, it was perfectly well known, and has since been done in its own case, and was done by the first national bank, and may be by any expiring corporation, that the directors may appoint trustees to wind up their concerns; and who will not be subject to any limited time. The first national bank—that which was created in 1791, and expired in 1811—had no two years, or any time whatever, allowed for winding up its affairs after the expiration of its charter—and the question of the renewal was not decided until within the last days of the existence of its charter—yet there was no distress, and no pressure upon its debtors. A trust was created; and the collection of debts conducted so gently that it is not yet finished. The trustees are still at work: and within this year, and while this application for a renewed charter to the second bank is going on, they announce a dividend of some cents on the share out of the last annual collections; and intimate no time within which they will finish; so that this menace of distress from the second bank, if denied a renewal four years before the expiration of its charter, and four years before the commencement of the two years to which it is entitled, was entirely gratuitous, and would have been wicked if executed.

Mr. Clay concluded the debate on the side of the bank application, and spoke with great ardor and vehemence, and with much latitude of style and topic—though as a rival candidate for the Presidency, it was considered by some, that a greater degree of reserve might have been commendable. The veto, and its imputed undue exercise, was the theme of his vehement declamation. Besides discrediting its use, and denouncing it as of monarchial origin, he alluded to the popular odium brought upon Louis the 16th by its exercise, and the nickname which it caused to be fastened upon him. He said:

"The veto is hardly reconcilable with the genius of representative government. It is totally irreconcilable with it, if it is to be frequently employed in respect to the expediency of measures, as well as their constitutionality. It is a feature of our government borrowed from a prerogative of the British King. And it is remarkable that in England it has grown obsolete, not having been used for upwards of a century. At the commencement of the French Revolution, in discussing the principles of their constitution, in the national convention, the veto held a conspicuous figure. The gay, laughing population of Paris bestowed on the King the appellation of Monsieur Veto, and on the Queen that of Madame Veto."

Mr. Benton saw the advantage which this denunciation and allusion presented, and made relentless use of it. He first vindicated the use and origin of the veto, as derived from the institution of the tribunes of the people among the Romans, and its exercise always intended for the benefit of the people; and, under our constitution, its only effect to refer a measure to the people, for their consideration, and to stay its execution until the people could pass upon it, and to adopt or reject it at an ensuing Congress. It was a power eminently just and proper

in a representative government, and intended for the benefit of the whole people; and, therefore, placed in the hands of the magistrate elected by the whole. On the allusion to the nickname on the King and Queen of France, he said:

"He not only recollected the historical incident to which the senator from Kentucky had alluded, but also the character of the decrees to which the unfortunate Louis the 16th had affixed his vetoes. One was the decree against the emigrants, dooming to death and confiscation of estate every man, woman, and child who should attempt to save their lives by flying from the pike, the guillotine, and the lamp-post. The other was a decree exposing to death the ministers of religion who could not take an oath which their consciences repulsed. To save tottering age, trembling mothers, and affrighted children from massacre—to save the temples and altars of God from being stained by the blood of his ministers—were the sacred objects of those vetoes; and was there any thing to justify a light or reproachful allusion to them in the American Senate? The King put his constitutional vetoes to these decrees; and the *canaille* of Saint Antoine and Marceau—not the gay and laughing Parisians, but the bloody *canaille*, instigated by leaders more ferocious than themselves—began to salute the King as Monsieur Veto, and demand his head for the guillotine. And the Queen, when seen at the windows of her prison, her locks pale with premature white, the effect of an agonized mind at the ruin she witnessed, the *poissardes* saluted her also as Madame Veto; and the Dauphin came in for the epithet of the Little Veto. All this was terrible in France, and in the disorders of a revolution; but why revive their remembrance in this Congress, successor to those which were accustomed to call this king our great ally? and to compliment him on the birth of that child, stigmatized *le petit veto*, and perishing prematurely under the inhumanities of the convention inflicted by the hand of Simon, the jailer? The two elder vetoes, Monsieur and Madame, came to the guillotine in Paris, and the young one to a death, compared to which the guillotine was mercy. And now, why this allusion? what application of its moral? Surely it is not pointless; not devoid of meaning and practical application. We have no bloody guillotines here, but we have political ones: sharp axes falling from high, and cutting off political heads! Is the service of that axe invoked here upon 'General Andrew Veto?' If so, and the invocation should be successful, then Andrew Jackson, like Louis 16th, will cease to be in any body's way in their march to power."

Mr. Clay also introduced a fable, not taken from Æsop—that of the cat and the eagle—the moral of which was attempted to be turned against him. It was in allusion to the President's message in relation to the bank, and the conduct of his friends since in "attacking" the institution; and said:

"They have done so; and their condition now reminds mo of the fable invented by Dr. Franklin, of the Eagle and the Cat, to demonstrate that Æsop had not exhausted invention, in the construction of his memorable fables. The eagle, you know, Mr. President, pounced, from his lofty flight in the air, upon a cat, taking it to be a pig. Having borne off his prize, he quickly felt most painfully the claws of the cat thrust deeply into his sides and body. Whilst flying, he held a parley with the supposed pig, and proposed to let go his hold, if the other would let him alone. No, says puss, you brought me from yonder earth below, and I will hold fast to you until you carry me back; a condition to which the eagle readily assented."

Mr. Benton gave a poetical commencement to this fable; and said:

"An eagle towering in his pride of height was—not by a mousing owl, but by a pig under a jimpson weed—not hawked and killed, but caught and whipt. The opening he thought grand; the conclusion rather bathotic. The mistake of the sharp-eyed bird of Jove, he thought might be attributed to old age dimming the sight, and to his neglect of his spectacles that morning. He was rather surprised at the whim of the cat in not choosing to fall, seeing that a cat (unlike

a politician sometimes), always falls on its legs; but concluded it was a piece of pride in puss, and a wish to assimilate itself still closer to an æronaut; and having gone up pendant to a balloon, it would come down artistically, with a parachute spread over its head. It was a pretty fable, and well told; but the moral—the application? Æsop always had a moral to his fable; and Dr. Franklin, his imputed continuator in this particular, though not yet the rival of his master in fabulous reputation, yet had a large sprinkling of practical sense; and never wrote or spoke without a point and an application. And now, what is the point here? And the senator from Kentucky has not left that to be inferred; he has told it himself. General Jackson is the eagle; the bank is the cat; the parley is the proposition of the bank to the President to sign its charter, and it will support him for the presidency—if not, will keep his claws stuck in his sides. But, Jackson, different from the eagle with his cat, will have no compromise, or bargain with the bank. One or the other shall fall! and be dashed into atoms!

"Having disposed of these preliminary topics Mr. B. came to the matter in hand—the debate on the bank, which had only commenced on the side of the friends of that institution since the return of the veto message. Why debate the bank question now, he exclaimed, and not debate it before? Then was the time to make converts; now, none can be expected. Why are lips unsealed now, which were silent as the grave when this act was on its passage through the Senate? The senator from Kentucky himself, at the end of one of his numerous perorations, declared that he expected to make no converts. Then, why speak three hours? and other gentlemen speak a whole day? Why this *post facto—post mortem*—this *posthumous*—debate?—The deed is done. The bank bill is finished. Speaking cannot change the minds of senators, and make them reverse their votes; still less can it change the President, and make him recall his veto. Then why speak? To whom do they speak? With what object do they speak? Sir! exclaimed Mr. B., this *post facto* debate is not for the Senate, nor the President, nor to alter the fate of the bank bill. It is to rouse the officers of the bank—to direct the efforts of its mercenaries in their designs upon the people—to bring out its stream of corrupting influence, by inspiring hope, and to embody all its recruits at the polls to vote against President Jackson. Without an avowal we would all know this; but we have not been left without an avowal. The senator from Massachusetts (Mr. Webster), who opened yesterday, commenced his speech with showing that Jackson must be put down; that he stood as an impassable barrier between the bank and a new charter; and that the road to success was through the ballot boxes at the presidential election. The object of this debate is then known, confessed, declared, avowed; the bank is in the field; enlisted for the war; a battering ram—the *catapulta*, not of the Romans, but of the National Republicans; not to beat down the walls of hostile cities, but to beat down the citadel of American liberty; to batter down the rights of the people; to destroy a hero and patriot; to command the elections, and to elect a Bank President by dint of bank power.

"The bank is in the field (said Mr. B.), a combatant, and a fearful and tremendous one, in the presidential election. If she succeeds, there is an end of American liberty—an end of the republic. The forms of election may be permitted for a while, as the forms of the consular elections were permitted in Rome, during the last years of the republic; but it will be for a while only. The President of the bank, and the President of the United States, will be cousins, and cousins in the royal sense of the word. They will elect each other. They will elect their successors; they will transmit their thrones to their descendants, and that by legislative construction. The great Napoleon was decreed to be hereditary emperor by virtue of the 22d article of the constitution of the republic. The conservative Senate and the Tribunitial Assembly made him emperor by construction; and the same construction which was put upon the 22d article of the French constitution of the year VIII. may be as easily placed upon the 'general welfare' clause in the constitution of these United States.

“The Bank is in the field, and the West,—the Great West, is the selected theatre of her operations. There her terrors, her seductions, her energies, her rewards and her punishments, are to be directed. The senator from Massachusetts opened yesterday with a picture of the ruin in the West, if the bank were not rechartered; and the senator from Kentucky, Mr. Clay, wound up with a retouch of the same picture to day, with a closeness of coincidence which showed that this part of the battle ground had been reviewed in company by the associate generals and duplicate senators. Both agree that the West is to be ruined if the bank be not rechartered; and rechartered it cannot be, unless the *veto* President is himself *vetoed*. This is certainly candid. But the gentlemen’s candor did not stop there. They went on to show the *modus operandi*; to show how the ruin would be worked, how the country would be devastated,—if Jackson was not put down, and the bank rechartered. The way was this: The West owes thirty millions of dollars to the bank; the bank will sue every debtor within two years after its charter expires; there will be no money in the country to pay the judgments, all property will be sold at auction; the price of all property will fall; even the growing crops, quite up to Boon’s Lick, will sink in value and lose half their price! This is the picture of ruin now drawn by the senator from Massachusetts; these the words of a voice now pleading the cause of the West against Jackson, the sound of which voice never happened to be heard in favor of the West during the late war, when her sons were bleeding under the British and the Indians, and Jackson was perilling life and fortune to save and redeem her.

“This is to be the punishment of the West if she votes for Jackson; and by a plain and natural inference, she is to have her reward for putting him down and putting up another. Thirty millions is the bank debt in the West; and these thirty millions they threaten to collect by writs of execution if Jackson is re-elected; but if he be not elected, and somebody else be elected, then they promise no forced payments shall be exacted,—hardly any payment at all! The thirty millions it is pretended will almost be forgiven; and thus a bribe of thirty millions is deceitfully offered for the Western vote, with a threat of punishment, if it be not taken! But the West, and especially the State of Ohio, is aware that Mr. Clay does not use the bank power, in extending charities—coercion is his mode of appeal—and when President Clay and President Biddle have obtained their double sway, all these fair promises will be forgotten. Mr. B. had read in the Roman history of the empire being put up to sale; he had read of victorious generals, returning from Asiatic conquests, and loaded with oriental spoil, bidding in the market for the consulship, and purchasing their elections with the wealth of conquered kingdoms; but he had never expected to witness a bid for the presidency in this young and free republic. He thought he lived too early,—too near the birth of the republic,—while every thing was yet too young and innocent,—to see the American presidency put up at auction. But he affirmed this to be the case now; and called upon every senator, and every auditor, who had heard the senator from Massachusetts the day before, or the senator from Kentucky on that day, to put any other construction, if they could, upon this seductive offer to the West, of indefinite accommodation for thirty millions of debt, if she would vote for one gentleman, and the threat of a merciless exaction of that debt, if she voted for another?

“Mr. B. demanded how the West came to be selected by these two senators as the theatre for the operation of all the terrors and seductions of the bank debt? Did no other part of the country owe money to the bank? Yes! certainly, fifteen millions in the South, and twenty-five millions north of the Potomac. Why then were not the North and the South included in the fancied fate of the West? Simply because the presidential election could not be affected by the bank debt in those quarters. The South was irrevocably fixed; and the terror, or seduction, of the payment, or non-payment, of her bank debt, would operate nothing there. The North owed but little, compared to its means of payment, and the presidential election would turn upon other points in that region. The bank debt was the argument for the West; and the bank

and the orators had worked hand in hand, to produce, and to use, this argument. Mr. B. then affirmed, that the debt had been created for the very purpose to which it was now applied; an electioneering, political purpose; and this he proved by a reference to authentic documents.

"*First*: He took the total bank debt, as it existed when President Jackson first brought the bank charter before the view of Congress in December, 1829, and showed it to be $40,216,000; then he took the total debt as it stood at present, being $70,428,000; and thus showed an increase of thirty millions in the short space of two years and four months. This great increase had occurred since the President had delivered opinions against the bank, and when as a prudent, and law abiding institution, it ought to have been reducing and curtailing its business, or at all events, keeping it stationary. He then showed the annual progress of this increase, to demonstrate that the increase was faster and faster, as the charter drew nearer and nearer to its termination, and the question of its renewal pressed closer and closer upon the people. He showed that the increase the first year after the message of 1829 was four millions and a quarter; in the second year, which was last year, about nineteen millions, to wit, from $44,052,000, to $63,026,452; and the increase in the four first mouths of the present year was nearly five millions, being at the rate of about one million and a quarter a month since the bank had applied for a renewal of her charter! After having shown this enormous increase in the sum total of the debt, Mr. B. went on to show where it had taken place; and this he proved to be chiefly in the West, and not merely in the West, but principally in those parts of the West in which the presidential election was held to be most doubtful and critical.

"He began with the State of Louisiana, and showed that the increase there, since the delivery of the message of 1829, was $5,061,161; in Kentucky, that the increase was $3,009,838; that in Ohio, it was $2,079,207. Here was an increase of ten millions in three critical and doubtful States. And so on, in others. Having shown this enormous increase of debt in the West, Mr. B. went on to show, from the time and circumstances and subsequent events, that they were created for a political purpose, and had already been used by the bank with that view. He then recurred to the two-and-twenty circulars, or writs of execution, as he called them, issued against the South and West, in January and February last, ordering curtailments of all debts, and the supply of reinforcements to the Northeast. He showed that the reasons assigned by the bank for issuing the orders of curtailments were false; that she was not deprived of public deposits, as she asserted; for she then had twelve millions, and now has twelve millions of these deposits; that she was not in distress for money, as she asserted, for she was then increasing her loans in other quarters, at the rate of a million and a quarter a month, and had actually increased them ten millions and a half from the date of the first order of curtailment, in October, 1831, to the end of May, 1832! Her reasons then assigned for curtailing at the Western branches, were false, infamously false, and were proved to be so by her own returns. The true reasons were political: a foretaste and prelude to what is now threatened. It was a manœuvre to press the debtors—a turn of the screw upon the borrowers—to make them all cry out and join in the clamors and petitions for a renewed charter! This was the reason, this the object; and a most wanton and cruel sporting it was with the property and feelings of the unfortunate debtors. The overflowing of the river at Louisville and Cincinnati, gave the bank an opportunity of showing its gracious condescension in the temporary and slight relaxation of her orders at those places; but there, and every where else in the West, the screw was turned far enough to make the screams of the victims reach their representatives in Congress. In Mobile, alone, half a million was curtailed out of a million and a half; at every other branch, curtailments are going on; and all this for political effect, and to be followed up by the electioneering fabrication that it is the effect of the veto message. Yes! the veto message and President, are to be held up as the cause of these curtailments, which have been going on for half a year past!

“Connected with the creation of this new debt, was the establishment of several new branches, and the promise of many more. Instead of remaining stationary, and awaiting the action of Congress, the bank showed itself determined to spread and extend its business, not only in debts, but in new branches. Nashville, Natchez, St. Louis, were favored with branches at the eleventh hour. New-York had the same favor done her; and, at one of these (the branch at Utica), the Senate could judge of the necessity to the federal government which occasioned it to be established, and which necessity, in the opinion of the Supreme Court, is sufficient to overturn the laws and constitution of a State: the Senate could judge of this necessity, from the fact that twenty-five dollars is rather a large deposit to the credit of the United States Treasurer, and that, at the last returns, the federal deposit was precisely two dollars and fifty cents! This extension of branches and increase of debt, at the approaching termination of the charter, was evidence of the determination of the bank to be rechartered at all hazards. It was done to create an interest to carry her through, in spite of the will of the people. Numerous promises for new branches, is another trick of the same kind. Thirty new branches are said to be in contemplation, and about three hundred villages have been induced each to believe that itself was the favored spot of location; but, always upon the condition, well understood, that Jackson should not be re-elected, and that they should elect a representative to vote for the re-charter.

“Mr. B., having shown when and why this Western debt was created, examined next into the alleged necessity for its prompt and rigorous collection, if the charter was not renewed; he denied the existence of any such necessity in point of law. He affirmed that the bank could take as much time as she pleased to collect her debts, and could be just as gentle with her debtors as she chose. All that she had to do was to convert a few of her directors into trustees, as the old Bank of the United States had done, the affairs of which were wound up so gently that the country did not know when it ended. Mr. B. appealed to what would be admitted to be bank authority on this point: it was the opinion of the senator from Kentucky (Mr. Clay), not in his speech against renewing the bank charter, in 1811, but in his report of that year against allowing it time to wind up its affairs. The bank then asked time to wind up its affairs; a cry was raised that the country would be ruined, if time was not allowed; but the senator from Kentucky then answered that cry, by referring the bank to its common law right to constitute trustees to wind up its affairs. The Congress acted upon the suggestion by refusing the time; the bank acted upon the suggestion by appointing trustees; the debtors hushed their cries, and the public never heard of the subject afterwards. The pretext of an unrenewed charter is not necessary to stimulate the bank to the pressure of Western debtors. Look at Cincinnati! what but a determination to make its power felt and feared occasioned the pressure at that place? And will that disposition ever be wanting to such an institution as that of the Bank of the United States?

“The senator from Kentucky has changed his opinion about the constitutionality of the bank; but has he changed it about the legality of the trust? If he has not, he must surrender his alarms for the ruin of the West; if he has, the law itself is unchanged. The bank may act under it; and if she does not, it is because she will not; and because she chooses to punish the West for refusing to support her candidate for the presidency. What then becomes of all this cry about ruined fortunes, fallen prices, and the loss of growing crops? All imagination or cruel tyranny! The bank debt of the West is thirty millions. She has six years to pay it in; and, at all events, he that cannot pay in six years, can hardly do it at all. Ten millions are in bills of exchange; and, if they are real bills, they will be payable at maturity, in ninety or one hundred and twenty days; if not real hills, but disguised loans, drawing interest as a debt, and premium as a bill of exchange, they are usurious and void, and may be vacated in any upright court.

“But, the great point for the West to fix its attention upon is the fact that, once in every ten years, the capital of this debt is paid in annual interest; and that, after paying the capital many times over in interest, the principal will have to be paid at last. The sooner, then, the capital is paid and interest stopped, the better for the country.

“Mr. Clay and Mr. Webster had dilated largely upon the withdrawal of bank capital from the West. Mr. B. showed, from the bank documents, that they had sent but 938,000 dollars of capital there; that the operation was the other way, a ruinous drain of capital, and that in hard money, from the West. He went over the tables which showed the annual amount of these drains, and demonstrated its ruinous nature upon the South and West. He showed the tendency of all branch bank paper to flow to the Northeast; the necessity to redeem it annually with gold and silver, and bills of exchange, and the inevitable result, that the West would eventually be left without either hard money, or branch bank paper.

“Mr. Clay had attributed all the disasters of the late war, especially the surrender of Detroit, and the Bladensburg rout, to the want of this bank. Mr. B. asked if bank credits, or bank advances, could have inspired courage into the bosom of the unhappy old man who had been the cause of the surrender of Detroit? or, could have made those fight who could not be inspired by the view of their capitol, the presence of their President, and the near proximity of their families and firesides? Andrew Jackson conquered at New Orleans, without money, without arms, without credit—aye, without a bank. He got even his flints from the pirates. He scouted the idea of brave men being produced by the bank. If it had existed, it would have been a burthen upon the hands of the government. It was now, at this hour, a burthen upon the hands of the government, and an obstacle to the payment of the public debt. It had procured a payment of six millions of the public debt to be delayed, from July to October, under the pretext that the merchants could not pay their bonds, when these bonds were now paid, and twelve millions of dollars—twice the amount intended to have been paid—lies in the vaults of the bank to be used by her in beating down the veto message, the author of the message, and all who share his opinions. The bank was not only a burthen upon the hands of the government now, but had been a burthen upon it in three years after it started—when it would have stopped payment, as all America knows, in April 1819, had it not been for the use of eight millions of public deposits, and the seasonable arrival of wagons loaded with specie from Kentucky and Ohio.

“Mr. B. defended the old banks in Kentucky, Ohio, and Tennessee, from the aspersions which had been cast upon them. They had aided the government when the Northern bankers, who now scoff at them, refused to advance a dollar. They had advanced the money which enabled the warriors of the West to go forth to battle. They had crippled themselves to aid their government. After the war they resumed specie payments, which had been suspended with the consent of the legislatures, to enable them to extend all their means in aid of the national struggle. This resumption was made practicable by the Treasury deposit, in the State institutions. They were withdrawn to give capital to the branches of the great monopoly, when first extended to the West. These branches, then, produced again the draining of the local banks, which they had voluntarily suffered for the sake of government during the war. They had sacrificed their interests and credit to sustain the credit of the national treasury—and the treasury surrendered them, as a sacrifice to the national bank. They stopped payment under the pressure and extortion of the new establishments, introduced against the consent of the people and legislatures of the Western States. The paper of the Western banks depreciated—the stock of the States and of individual stockholders was sacrificed—the country was filled with a spurious currency, by the course of an institution which, it was pretended, was established to prevent such a calamity. The Bank of the United States was thus established on the ruins of the banks, and foreigners and non-residents were fattened on

their spoils. They were stripped of their specie to pamper the imperial bank. They fell victims to their patriotism, and to the establishment of the United States bank; and it was unjust and unkind to reproach them with a fate which their patriotism, and the establishment of the federal bank brought upon them.

“Mr. Clay and Mr. Webster had rebuked the President for his allusion to the manner in which the bank charter had been pushed through Congress, pending an unfinished investigation, reluctantly conceded. Mr. B. demanded if that was not true? He asked if it was not wrong to push the charter through in that manner, and if the President had not done right to stop it, to balk this hurried process, and to give the people time for consideration and enable them to act? He had only brought the subject to the notice of the Congress and the people, but had not recommended immediate legislation, before the subject had been canvassed before the nation. It was a gross perversion of his messages to quote them in favor of immediate decision without previous investigation. He was not evading the question. The veto message proved that. He sought time for the people, not for himself, and in that he coincided with a sentiment lately expressed by the senator himself (from Kentucky) at Cincinnati; he was coinciding with the example of the British parliament, which had not yet decided the question of rechartering the Bank of England, and which had just raised an extraordinary committee of thirty-one members to examine the bank through all her departments; and, what was much more material, he had coincided with the spirit of our constitution, and the rights of the people, in preventing an expiring minority Congress from usurping the powers and rights of their successors. The President had not evaded the question. He had met it fully. He might have said nothing about it in his messages of 1829, ‘30, and ‘31. He might have remained silent, and had the support of both parties; but the safety and interest of the country required the people to be awakened to the consideration of the subject. He had waked them up; and now that they are awake, he has secured them time for consideration. Is this evasion?

“Messrs. C. and W. had attacked the President for objecting to foreign stockholders in the Bank of the United States. Mr. B. maintained the solidity of the objection, and exposed the futility of the argument urged by the duplicate senators. They had asked if foreigners did not hold stock in road and canal companies? Mr. B. said, yes! but these road and canal companies did not happen to be the bankers of the United States! The foreign stockholders in this bank were the bankers of the United States. They held its moneys; they collected its revenues; they almost controlled its finances; they were to give or withhold aid in war as well as peace, and, it might be, against their own government. Was the United States to depend upon foreigners in a point so material to our existence? The bank was a national institution. Ought a national institution to be the private property of aliens? It was called the Bank of the United States, and ought it to be the bank of the nobility and gentry of Great Britain? The senator from Kentucky had once objected to foreign stockholders himself. He did this in his speech against the bank in 1811; and although he had revoked the constitutional doctrines of that speech, he [Mr. B.] never understood that he had revoked the sentiments then expressed of the danger of corruption in our councils and elections, if foreigners wielded the moneyed power of our country. He told us then that the power of the purse commanded that of the sword—and would he commit both to the hands of foreigners? All the lessons of history, said Mr. B., admonish us to keep clear of foreign influence. The most dangerous influence from foreigners is through money. The corruption of orators and statesmen, is the ready way to poison the councils, and to betray the interest of a country. Foreigners now own one fourth of this bank; they may own the whole of it! What a temptation to them to engage in our elections! By carrying a President, and a majority of Congress, to suit themselves, they not only become masters of the moneyed power, but also of the political power, of this republic. And can it be supposed that the British stockholders are indifferent to the issue of this

election? that they, and their agents, can see with indifference, the re-election of a man who may disappoint their hopes of fortune, and whose achievement at New Orleans is a continued memento of the most signal defeat the arms of England ever sustained?

“The President, in his message, had characterized the exclusive privilege of the bank as ‘a monopoly.’ To this Mr. Webster had taken exception, and ascended to the Greek root of the word to demonstrate its true signification, and the incorrectness of the President’s application. Mr. B. defended the President’s use of the term, and said that he would give authority too, but not Greek authority. He would ascend, not to the Greek root, but to the English test of the word, and show that a whig baronet had applied the term to the Bank of England with still more offensive epithets than any the President had used. Mr. B. then read, and commented upon several passages of a speech of Sir William Pulteney, in the British House of Commons, against renewing the charter of the Bank of England, in which the term monopoly was repeatedly applied to that bank; and other terms to display its dangerous and odious charter. In one of the passages the whig baronet said: ‘The bank has been supported, and is still supported, by the fear and terror which, by the means of its monopoly, it has had the power to inspire.’ In another, he said: ‘I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave!’ In a third passage he said: ‘Whatever language the private bankers may feel themselves bound to hold, he could not believe they had any satisfaction in remaining subject to a power which might destroy them at any moment.’ In a fourth: ‘No man in France was heard to complain of the Bastile while it existed; yet when it fell, it came down amidst the universal acclamations of the nation!’

“Here, continued Mr. B., is authority, English authority, for calling the British bank in England a monopoly; and the British bank in America is copied from it. Sir Wm. Pulteney goes further than President Jackson. He says, that the Bank of England rules by fear and terror. He calls it a despot, and a corrupt despot. He speaks of the slaves corrupted by the bank; by whom he doubtless means the nominal debtors who have received ostensible loans, real douceurs—never to be repaid, except in dishonorable services. He considers the praises of the country bankers as the unwilling homage of the weak and helpless to the corrupt and powerful. He assimilates the Bank of England, by the terrors which it inspires, to the old Bastile in France, and anticipates the same burst of emancipated joy on the fall of the bank, which was heard in France on the fall of the Bastile. And is he not right? And may not every word of his invective be applied to the British bank in America, and find its appropriate application in well-known, and incontestable facts here? Well has he likened it to the Bastile; well will the term apply in our own country. Great is the fear and terror now inspired by this bank. Silent are millions of tongues, under its terrors which are impatient for the downfall of the monument of despotism, that they may break forth into joy and thanksgiving. The real Bastile was terrible to all France; the figurative Bastile is terrible to all America; but above all to the West, where the duplicate senators of Kentucky and Massachusetts, have pointed to the reign of terror that is approaching, and drawn up the victims for an anticipated immolation. But, exclaimed Mr. B., this is the month of July; a month auspicious to liberty, and fatal to Bastiles. Our dependence on the crown of Great Britain ceased in the month of July; the Bastile in France fell in the month of July; Charles X. was chased from France by the three glorious days of July; and the veto message, which is the Declaration of Independence against the British bank, originated on the fourth of July, and is the signal for the downfall of the American Bastile, and the end of despotism. The time is auspicious; the work will go on; down with the British bank; down with the Bastile; away with the tyrant, will be the patriotic cry of Americans; and down it will go.

“The duplicate senators, said Mr. B., have occupied themselves with criticising the President’s idea of the obligation of his oath in construing the constitution for himself. They also think that the President ought to be bound, the Congress ought to be bound, to take the constitution which the Supreme Court may deal out to them! If so, why take an oath? The oath is to bind the conscience, not to enlighten the head. Every officer takes the oath for himself; the President took the oath for himself; administered by the Chief Justice, but not *to* the Chief Justice. He bound himself to observe the constitution, not the Chief Justice’s interpretation of the constitution; and his message is in conformity to his oath. This is the oath of duty and of right. It is the path of Jefferson, also, who has laid it down in his writings, that each department judges the constitution for itself, and that the President is as independent of the Supreme Court as the Supreme Court is of the President.

“The senators from Kentucky and Massachusetts have not only attacked the President’s idea of his own independence in construing the constitution, but also the construction he has put upon it in reference to this bank. They deny its correctness, and enter into arguments to disprove it, and have even quoted authorities which may be quoted on both sides. One of the senators, the gentleman from Kentucky, might have spared his objection to the President on this point. He happened to think the same way once himself; and while all will accord to him the right of changing for himself, few will allow him the privilege of rebuking others for not keeping up with him in the rigadoon dance of changeable opinions.

“The President is assailed for showing the drain upon the resources of the West, which is made by this bank. How assailed? With any documents to show that he is in error? No! not at all! no such document exists. The President is right, and the fact goes to a far greater extent than is stated in his message. He took the dividend profits of the bank,—the net, and not the gross profits; the latter is the true measure of the burthen upon the people. The annual drain for net dividends from the West, is $1,600,000. This is an enormous tax. But the gross profits are still larger. Then there is the specie drain, which now exceeds three millions of dollars per annum. Then there is the annual mortgage of the growing crop to redeem the fictitious and usurious bills of exchange which are now substituted for ordinary loans, and which sweeps off the staple products of the South and West to the Northeastern cities.—The West is ravaged by this bank. New Orleans, especially, is ravaged by it; and in her impoverishment, the whole West suffers; for she is thereby disabled from giving adequate prices for Western produce. Mr. B. declared that this British bank, in his opinion, had done, and would do, more pecuniary damage to New Orleans, than the British army would have done if they had conquered it in 1815. He verified this opinion by referring to the immense dividend, upwards of half a million a year, drawn from the branch there; the immense amounts of specie drawn from it; the produce carried off to meet the domestic bills of exchange; and the eight and a half millions of debt existing there, of which five millions were created in the last two years to answer electioneering purposes, and the collection of which must paralyze, for years, the growth of the city. From further damage to New Orleans, the veto message would save that great city. Jackson would be her saviour a second time. He would save her from the British bank as he had done from the British army; and if any federal bank must be there, let it be an independent one; a separate and distinct bank, which would save to that city, and to the Valley of the Mississippi, of which it was the great and cherished emporium, the command of their own moneyed system, the regulation of their own commerce and finances, and the accommodation of their own citizens.

“Mr. B. addressed himself to the Jackson bank men, present and absent. They might continue to be for a bank and for Jackson; but they could not be for *this* bank, and for Jackson. This bank is now the open, as it long has been the secret, enemy of Jackson. It is now in the hands of his enemies, wielding all its own money—wielding even the revenues and the credit of the

Union—wielding twelve millions of dollars, half of which were intended to be paid to the public creditors on the first day of July, but which the bank has retained to itself by a false representation in the pretended behalf of the merchants. All this moneyed power, with an organization which pervades the continent, working every where with unseen hands, is now operating against the President; and it is impossible to be in favor of this power and also in favor of him at the same time. Choose ye between them! To those who think a bank to be indispensable, other alternatives present themselves. They are not bound nor wedded to this. New American banks may be created. Read, sir, Henry Parnell. See his invincible reasoning, and indisputable facts, to show that the Bank of England is too powerful for the monarchy of Great Britain! Study his plan for breaking up that gigantic institution, and establishing three or four independent banks in its place, which would be so much less dangerous to liberty, and so much safer and better for the people. In these alternatives, the friends of Jackson, who are in favor of national banks, may find the accomplishment of their wishes without a sacrifice of their principles, and without committing the suicidal solecism of fighting against him while professing to be for him.

"Mr. B. addressed himself to the West—the great, the generous, the brave, the patriotic, the devoted West. It was the selected field of battle. There the combined forces, the national republicans, and the national republican bank, were to work together, and to fight together. The holy allies understand each other. They are able to speak in each other's names, and to promise and threaten in each other's behalf. For this campaign the bank created its debt of thirty millions in the West; in this campaign the associate leaders use that debt for their own purposes. Vote for Jackson! and suits, judgments, and executions shall sweep, like the besom of destruction, throughout the vast region of the West! Vote against him! and indefinite indulgence is basely promised! The debt itself, it is pretended, will, perhaps, be forgiven; or, at all events, hardly ever collected! Thus, an open bribe of thirty millions is virtually offered to the West; and, lest the seductions of the bribe may not be sufficient on one hand, the terrors of destruction are brandished on the other! Wretched, infatuated men, cried Mr. B. Do they think the West is to be bought? Little do they know of the generous sons of that magnificent region! poor, indeed, in point of money, but rich in all the treasures of the heart! rich in all the qualities of freemen and republicans! rich in all the noble feelings which look with equal scorn upon a bribe or a threat. The hunter of the West, with moccasins on his feet, and a hunting shirt drawn around him, would repel with indignation the highest bribe that the bank could offer him. The wretch (said Mr. Benton, with a significant gesture) who dared to offer it, would expiate the insult with his blood.

"Mr. B. rapidly summed up with a view of the dangerous power of the bank, and the present audacity of her conduct. She wielded a debt of seventy millions of dollars, with an organization which extended to every part of the Union, and she was sole mistress of the moneyed power of the republic. She had thrown herself into the political arena, to control and govern the presidential election. If she succeeded in that election, she would wish to consolidate her power by getting control of all other elections. Governors of States, judges of the courts, representatives and senators in Congress, all must belong to her. The Senate especially must belong to her; for, there lay the power to confirm nominations and to try impeachments; and, to get possession of the Senate, the legislatures of a majority of the States would have to be acquired. The war is now upon Jackson, and if he is defeated, all the rest will fall an easy prey. What individual could stand in the States against the power of the bank, and that bank flushed with a victory over the conqueror of the conquerors of Bonaparte? The whole government would fall into the hands of this moneyed power. An oligarchy would be immediately established; and that oligarchy, in a few generations, would ripen into a monarchy. All governments must have their end; in the lapse of time, this

republic must perish; but that time, he now trusted, was far distant; and when it comes, it should come in glory, and not in shame. Rome had her Pharsalia, and Greece her Chæronea; and this republic, more illustrious in her birth than Greece or Rome, was entitled to a death as glorious as theirs. She would not die by poison—perish in corruption—no! A field of arms, and of glory, should be her end. She had a right to a battle—a great, immortal battle—where heroes and patriots could die with the liberty which they scorned to survive, and consecrate, with their blood, the spot which marked a nation's fall.

"After Mr. B. had concluded his remarks, Mr. Clay rose and said:—

"The senator from Missouri expresses dissatisfaction that the speeches of some senators should fill the galleries. He has no ground for uneasiness on this score. For if it be the fortune of some senators to fill the galleries when they speak, it is the fortune of others to empty them, with whatever else they fill the chamber. The senator from Missouri has every reason to be well satisfied with the effect of his performance to-day; for among his auditors is a lady of great literary eminence. [Pointing to Mrs. Royal.] The senator intimates, that in my remarks on the message of the President, I was deficient in a proper degree of courtesy towards that officer. Whether my deportment here be decorous or not, I should not choose to be decided upon by the gentleman from Missouri. I answered the President's arguments, and gave my own views of the facts and inferences introduced by him into his message. The President states that the bank has an injurious operation on the interests of the West, and dwells upon its exhausting effects, its stripping the country of its currency, &c., and upon these views and statements I commented in a manner which the occasion called for. But, if I am to be indoctrinated in the rules of decorum, I shall not look to the gentleman for instruction. I shall not strip him of his Indian blankets to go to Boon's Lick for lessons in deportment, nor yet to the Court of Versailles, which he eulogizes. There are some peculiar reasons why I should not go to that senator for my views of decorum, in regard to my bearing towards the chief magistrate, and why he is not a fit instructor. I never had any personal rencontre with the President of the United States. I never complained of any outrages on my person committed by him. I never published any bulletins respecting his private brawls. The gentleman will understand my allusion. [Mr. B. said: He will understand you, sir, and so will you him.] I never complained, that while a brother of mine was down on the ground, senseless or dead, he received another blow. I have never made any declaration like these relative to the individual who is President. There is also a singular prophecy as to the consequences of the election of this individual, which far surpasses, in evil foreboding, whatever I may have ever said in regard to his election. I never made any prediction so sinister, nor made any declaration so harsh, as that which is contained in the prediction to which I allude. I never declared my apprehension and belief, that if he were elected, we should be obliged to legislate with pistols and dirks by our side. At this last stage of the session I do not rise to renew the discussion of this question. I only rose to give the senator from Missouri a full acquittance, and I trust there will be no further occasion for opening a new account with him.

"Mr. B. replied. It is true, sir, that I had an affray with General Jackson, and that I did complain of his conduct. We fought, sir; and we fought, I hope, like men. When the explosion was over, there remained no ill will, on either side. No vituperation or system of petty persecution was kept up between us. Yes, sir, it is true, that I had the personal difficulty, which the senator from Kentucky has had the delicacy to bring before the Senate. But let me tell the senator from Kentucky there is no 'adjourned question of veracity' between me and General Jackson. All difficulty between us ended with the conflict; and a few months after it, I believe that either party would cheerfully have relieved the other from any peril; and now we shake hands and are friendly when we meet. I repeat, sir, that there is no 'adjourned

question of veracity' between me and General Jackson, standing over for settlement. If there had been, a gulf would have separated us as deep as hell.

"Mr. B. then referred to the prediction alleged by Mr. Clay, to have been made by him. I have seen, he said, a placard, first issued in Missouri, and republished lately. It first appeared in 1825; and stated that I had said, in a public address, that if General Jackson should be elected, we must be guarded with pistols and dirks to defend ourselves while legislating here. This went the rounds of the papers at the time. A gentleman, well acquainted in the State of Missouri (Col. Lawless), published a handbill denying the truth of the statement, and calling upon any person in the State to name the time and place, when and where, any such address had been heard from me, or any such declaration made. Colonel Lawless was perfectly familiar with the campaign, but he could never meet with a single individual, man, woman, or child, in the State, who could recollect to have ever heard any such remarks from me. No one came forward to reply to the call. No one had ever heard me make the declaration which was charged upon me. The same thing has lately been printed here, and, in the night, stuck up in a placard upon the posts and walls of this city. While its author remained concealed, it was impossible for me to hold him to account, nor could I make him responsible, who, in the dark, sticks it to the posts and walls: but since it is in open day introduced into this chamber I am enabled to meet it as it deserves to be met. I see who it is that uses it here, and to his face [pointing to Mr. Clay] I am enabled to pronounce it, as I now do, an atrocious calumny.

"Mr. Clay.—The assertion that there is 'an adjourned question of veracity' between me and Gen. Jackson, is, whether made by man or master absolutely false. The President made a certain charge against me, and he referred to witnesses to prove it. I denied the truth of the charge. He called upon his witness to prove it. I leave it to the country to say, whether that witness sustained the truth of the President's allegation. That witness is now on his passage to St. Petersburg, with a commission in his pocket. [Mr. B. here said aloud, in his place, the Mississippi and the fisheries—Mr. Adams and the fisheries—every body understands it.] Mr. C. said, I do not yet understand the senator. He then remarked upon the 'prediction' which the senator from Missouri had disclaimed. Can he, said Mr. C, look to me, and say that he never used the language attributed to him in the placard which he refers to? He says, Col. Lawless denies that he used the words in the State of Missouri. Can you look me in the face, sir [addressing Mr. B.], and say that you never used that language out of the State of Missouri?

"Mr. B. I look, sir, and repeat that it is an atrocious calumny; and I will pin it to him who repeats it here.

"Mr. Clay. Then I declare before the Senate that you said to me the very words—

"[Mr. B. in his place, while Mr. Clay was yet speaking, several times loudly repeated the word 'false, false, false.']

Mr. Clay said, I fling back the charge of atrocious calumny upon the senator from Missouri.

A call to order was here heard from several senators.

"The President, pro tem., said, the senator from Kentucky is not in order, and must take his seat.

"Mr. Clay. Will the Chair state the point of order?

"The Chair, said Mr. Tazewell (the President pro tem.), can enter in no explanations with the senator.

“Mr. Clay. I shall be heard. I demand to know what point of order can be taken against me, which was not equally applicable to the senator from Missouri.

“The President, pro tem., stated, that he considered the whole discussion as out of order. He would not have permitted it, had he been in the chair at its commencement.

“Mr. Poindexter said, he was in the chair at the commencement of the discussion, and did not then see fit to check it. But he was now of the opinion that it was not in order.

“Mr. B. I apologize to the Senate for the manner in which I have spoken; but not to the senator from Kentucky.

“Mr. Clay. To the Senate I also offer an apology. To the senator from Missouri none.

“The question was here called for, by several senators, and it was taken, as heretofore reported.”

The conclusion of the debate on the side of the bank was in the most impressive form to the fears and apprehensions of the country, and well calculated to alarm and rouse a community.’ Mr. Webster concluded with this peroration, presenting a direful picture of distress if the veto was sustained, and portrayed the death of the constitution before it had attained the fiftieth year of its age. He concluded thus—little foreseeing in how few years he was to invoke the charity of the world’s silence and oblivion for the institution which his rhetoric then exalted into a great and beneficent power, indispensable to the well working of the government, and the well conducting of their affairs by all the people:

“Mr. President, we have arrived at a new epoch. We are entering on experiments with the government and the constitution of the country, hitherto untried, and of fearful and appalling aspect. This message calls us to the contemplation of a future, which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the government has sanctioned. It denies first principles. It contradicts truths heretofore received as indisputable. It denies to the judiciary the interpretation of law, and demands to divide with Congress the origination of statutes. It extends the grasp of Executive pretension over every power of the government. But this is not all. It presents the Chief Magistrate of the Union in the attitude of arguing away the powers of that government over which he has been chosen to preside; and adopting, for this purpose, modes of reasoning which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice which may betray men into a mistaken view of their own interests; and to every passion which may lead them to disobey the impulses of their understanding. It urges all the specious topics of State rights, and national encroachment, against that which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows, in an unsparing manner, the seeds of jealousy and ill-will against that government of which its author is the official head. It raises a cry that liberty is in danger, at the very moment when it puts forth claims to power heretofore unknown and unheard of. It affects alarm for the public freedom, when nothing so much endangers that freedom as its own unparalleled pretences. This, even, is not all. It manifestly seeks to influence the poor against the rich. It wantonly attacks whole classes of the people, for the purpose of turning against them the prejudices and resentments of other classes. It is a state paper which finds no topic too exciting for its use; no passion too inflammable for its address and its solicitation. Such is this message. It remains, now, for the people of the United States to choose between the principles here avowed and their government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the message shall receive general approbation, the constitution will have

perished even earlier than the moment which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year."

On the other hand, Mr. White, of Tennessee, exalted the merit of the veto message above all the acts of General Jackson's life, and claimed for it a more enduring fame, and deeper gratitude than for the greatest of his victories: and concluded his speech thus:

"When the excitement of the time in which we act shall have passed away, and the historian and biographer shall be employed in giving his account of the acts of our most distinguished public men, and comes to the name of Andrew Jackson; when he shall have recounted all the great and good deeds done by this man in the course of a long and eventful life, and the circumstances under which this message was communicated shall have been stated, the conclusion will be, that, in doing this, he has shown a willingness to risk more to promote the happiness of his fellow-men, and to secure their liberties, than by the doing of any other act whatever."

And such, in my opinion, will be the judgment of posterity—the judgment of posterity, if furnished with the material to appreciate the circumstances under which he acted when signing the message which was to decide the question of supremacy between the bank and the government.

69. The Protective System

The cycle had come round which, periodically, and once in four years, brings up a presidential election and a tariff discussion. The two events seemed to be inseparable; and this being the fourth year from the great tariff debate of 1828, and the fourth year from the last presidential election, and being the long session which precedes the election, it was the one in regular course in which the candidates and their friends make the greatest efforts to operate upon public opinion through the measures which they propose, or oppose in Congress. Added to this, the election being one on which not only a change of political parties depended, but also a second trial of the election in the House of Representatives in 1824-'25, in which Mr. Adams and Mr. Clay triumphed over General Jackson, with the advantage on their side now of both being in Congress: for these reasons this session became the most prolific of party topics, and of party contests, of any one ever seen in the annals of our Congress. And certainly there were large subjects to be brought before the people, and great talents to appear in their support and defence. The renewal of the national bank charter—the continuance of the protective system—internal improvement by the federal government—division of the public land money, or of the lands themselves—colonization society—extension of pension list—Georgia and the Cherokees—Georgia and the Supreme Court—imprisoned missionaries—were all brought forward, and pressed with zeal, by the party out of power; and pressed in a way to show their connection with the presidential canvass, and the reliance upon them to govern its result. The party in power were chiefly on the defensive; and it was the complete civil representation of a military attack and defence of a fortified place—a siege—with its open and covert attacks on one side, its repulses and sallies on the other—its sappings and minings, as well as its open thundering assaults. And this continued for seven long months—from December to July; fierce in the beginning, and becoming more so from day to day until the last hour of the last day of the exhausted session. It was the most fiery and eventful session that I had then seen—or since seen, except one—the panic session of 1834-'35.

The two leading measures in this plan of operations—the bank and the tariff—were brought forward simultaneously and quickly—on the same day, and under the same lead. The memorial for the renewal of the bank charter was presented in the Senate on the 9th day of January: on the same day, and as soon as it was referred, Mr. Clay submitted a resolution in relation to the tariff, and delivered a speech of three days' duration in support of the American system. The President, in his message, and in view of the approaching extinction of the public debt—then reduced to an event of certainty within the ensuing year—recommended the abolition of duties on numerous articles of necessity or comfort, not produced at home. Mr. Clay proposed to make the reduction in subordination to the preservation of the "American system" and this opened the whole question of free trade and protection; and occasioned that field to be trod over again with all the vigor of a fresh exploration. Mr. Clay opened his great speech with a retrospect of what the condition of the country was for seven years before the tarriff of 1824, and what it had been since—the first a period of unprecedented calamity, the latter of equally unprecedented prosperity:—and he made the two conditions equally dependent upon the absence and presence of the protective system. He said:

"Eight years ago, it was my painful duty to present to the other House of Congress an unexaggerated picture of the general distress pervading the whole land. We must all yet remember some of its frightful features. We all know that the people were then oppressed and

borne down by an enormous load of debt; that the value of property was at the lowest point of depression; that ruinous sales and sacrifices were every where made of real estate; that stop laws and relief laws and paper money were adopted to save the people from impending destruction; that a deficit in the public revenue existed, which compelled government to seize upon, and divert from its legitimate object, the appropriation to the sinking fund, to redeem the national debt; and that our commerce and navigation were threatened with a complete paralysis. In short, sir, if I were to select any term of seven years since the adoption of the present constitution, which exhibited a scene of the most wide-spread dismay and desolation, it would be exactly the term of seven years which immediately preceded the establishment of the tariff of 1824."

This was a faithful picture of that calamitous period, but the argument derived from it was a two-edged sword, which cut, and deeply, into another measure, also lauded as the cause of the public prosperity. These seven years of national distress which immediately preceded the tariff of 1824, were also the same seven years which immediately followed the establishment of the national bank; and which, at the time it was chartered, was to be the remedy for all the distress under which the country labored: besides, the protective system was actually commenced in the year 1816—contemporaneously with the establishment of the national bank. Before 1816, protection to home industry had been an incident to the levy of revenue; but in 1816 it became an object. Mr. Clay thus deduced the origin and progress of the protective policy:

"It began on the ever memorable 4th day of July—the 4th of July, 1789. The second act which stands recorded in the statute book, bearing the illustrious signature of George Washington, laid the corner stone of the whole system. That there might be no mistake about the matter, it was then solemly proclaimed to the American people and to the world, that it was *necessary* for "the encouragement and *protection* of manufactures," that duties should be laid. It is in vain to urge the small amount of the measure of protection then extended. The great principle was then established by the fathers of the constitution, with the father of his country at their head. And it cannot now be questioned, that, if the government had not then been new and the subject untried, a greater measure of protection would have been applied, if it had been supposed necessary. Shortly after, the master minds of Jefferson and Hamilton were brought to act on this interesting subject. Taking views of it appertaining to the departments of foreign affairs and of the treasury, which they respectively filled, they presented, severally, reports which yet remain monuments of their profound wisdom, and came to the same conclusion of protection to American industry. Mr. Jefferson argued that foreign restrictions, foreign prohibitions, and foreign high duties, ought to be met, at home, by American restrictions, American prohibitions, and American high duties. Mr. Hamilton, surveying the entire ground, and looking at the inherent nature of the subject, treated it with an ability which, if ever equalled, has not been surpassed, and earnestly recommended protection.

"The wars of the French revolution commenced about this period, and streams of gold poured into the United States through a thousand channels, opened or enlarged by the successful commerce which our neutrality enabled us to prosecute. We forgot, or overlooked, in the general prosperity, the necessity of encouraging our domestic manufactures. Then came the edicts of Napoleon, and the British orders in council; and our embargo, non-intercourse, non-importation, and war, followed in rapid succession. These national measures, amounting to a total suspension, for the period of their duration, of our foreign commerce, afforded the most efficacious encouragement to American manufactures; and accordingly, they every where sprung up. Whilst these measures of restriction and this state of war continued the manufacturers were stimulated in their enterprises by every assurance of support, by public

sentiment, and by legislative resolves. It was about that period (1808) that South Carolina bore her high testimony to the wisdom of the policy, in an act of her legislature, the preamble of which, now before me, reads: 'Whereas the establishment and *encouragement* of domestic manufactures is conducive to the interest of a State, by adding new *incentives to industry*, and as being the means of disposing, to advantage, the surplus productions of the *agriculturist*: And whereas, in the present unexampled state of the world, their establishment in our country is not only *expedient*, but politic, in rendering us *independent* of foreign nations.' The legislature, not being competent to afford the most efficacious aid, by imposing duties on foreign rival articles, proceeded to incorporate a company.

"Peace, under the Treaty of Ghent, returned in 1815, but there did not return with it the golden days which preceded the edicts levelled at our commerce by Great Britain and France. It found all Europe tranquilly resuming the arts and the business of civil life. It found Europe no longer the consumer of our surplus, and the employer of our navigation, but excluding, or heavily burdening, almost all the productions of our agriculture and our rivals in manufactures, in navigation, and in commerce. It found our country, in short, in a situation totally different from all the past—new and untried. It became necessary to adapt our laws, and especially our laws of impost, to the new circumstances in which we found ourselves. It has been said that the tariff of 1816 was a measure of mere revenue; and that it only reduced the war duties to a peace standard. It is true that the question then was, how much, and in what way, should the double duties of the war be reduced? Now, also, the question is, on what articles shall the duties be reduced so as to subject the amount of the future revenue to the wants of the government? Then it was deemed an inquiry of the first importance, as it should be now, how the reduction should be made, so as to secure proper encouragement to domestic industry. That this was a leading object in the arrangement of the tariff of 1816, I well remember, and it is demonstrated by the language of Mr. Dallas.

"The subject of the American system was again brought up in 1820, by the bill reported by the chairman of the Committee on Manufactures, now a member of the bench of the Supreme Court of the United States, and the principle was successfully maintained by the representatives of the people; but the bill which they passed was defeated in the Senate. It was revived in 1824, the whole ground carefully and deliberately explored, and the bill then introduced, receiving all the sanctions of the constitution. This act of 1824 needed amendments in some particulars, which were attempted in 1828, but ended in some injuries to the system; and now the whole aim was to save an existing system—not to create a new one."

And he summed up his policy thus:

"1. That the policy which we have been considering ought to continue to be regarded as the genuine American system.

"2. That the free trade system, which is proposed as its substitute, ought really to be considered as the British colonial system.

"3. That the American system is beneficial to all parts of the Union, and absolutely necessary to much the larger portion.

"4. That the price of the great staple of cotton, and of all our chief productions of agriculture, has been sustained and upheld, and a decline averted by the protective system.

"5. That, if the foreign demand for cotton has been at all diminished by the operation of that system, the diminution has been more than compensated in the additional demand created at home.

“6. That the constant tendency of the system, by creating competition among ourselves, and between American and European industry, reciprocally acting upon each other, is to reduce prices of manufactured objects.

“7. That, in point of fact, objects within the scope of the policy of protection have greatly fallen in price.

“8. That if, in a season of peace, these benefits are experienced, in a season of war, when the foreign supply might be cut off, they would be much more extensively felt.

“9. And, finally, that the substitution of the British colonial system for the American system, without benefiting any section of the Union, by subjecting us to a foreign legislation, regulated by foreign interests, would lead to the prostration of our manufactures, general impoverishment, and ultimate ruin.”

Mr. Clay was supported in his general views by many able speakers—among them, Dickerson and Frelinghuysen of New Jersey; Ewing of Ohio; Holmes of Maine; Bell of New Hampshire; Hendricks of Indiana; Webster and Silsbee of Massachusetts; Robbins and Knight of Rhode Island; Wilkins and Dallas of Pennsylvania; Sprague of Maine; Clayton of Delaware; Chambers of Maryland; Foot of Connecticut. On the other hand the speakers in opposition to the protective policy were equally numerous, ardent and able. They were: Messrs. Hayne and Miller of South Carolina; Brown and Mangum of North Carolina; Forsyth and Troup of Georgia; Grundy and White of Tennessee; Hill of New Hampshire; Kane of Illinois; Benton of Missouri; King and Moore of Alabama; Poindexter of Mississippi; Tazewell and Tyler of Virginia; General Samuel Smith of Maryland. I limit the enumeration to the Senate. In the House the subject was still more fully debated, according to its numbers; and like the bank question, gave rise to heat; and was kept alive to the last day.

General Smith of Maryland, took up the question at once as bearing upon the harmony and stability of the Union—as unfit to be pressed on that account as well as for its own demerits—avowed himself a friend to incidental protection, for which he had always voted, and even voted for the act of 1816—which he considered going far enough; and insisted that all “manufacturers” were doing well under it, and did not need the acts of 1824 and 1828, which were made for “capitalists”—to enable them to engage in manufacturing; and who had not the requisite skill and care, and suffered, and called upon Congress for more assistance. He said:

“We have arrived at a crisis. Yes, Mr. President, at a crisis more appalling than a day of battle. I adjure the Committee on Manufactures to pause—to reflect on the dissatisfaction of all the South. South Carolina has expressed itself strongly against the tariff of 1828—stronger than the other States are willing to speak. But, sir, the whole of the South feel deeply the oppression of that tariff. In this respect there is no difference of opinion. The South—the whole Southern States—all, consider it as oppressive. They have not yet spoken; but when they do speak, it will be with a voice that will not implore, but will demand redress. How much better, then, to grant redress? How much better that the Committee on Manufactures heal the wound which has been inflicted? I want nothing that shall injure the manufacturer. I only want justice.

“I am, Mr. President, one of the few survivors of those who fought in the war of the revolution. We then thought we fought for liberty—for equal rights. We fought against taxation, the proceeds of which were for the benefit of others. Where is the difference, if the people are to be taxed by the manufacturers or by any others? I say manufacturers—and why do I say so? When the Senate met, there was a strong disposition with all parties to ameliorate the tariff of 1828; but I now see a change, which makes me almost despair of any thing

effectual being accomplished. Even the small concessions made by the senator from Kentucky [Mr. Clay] have been reprobated by the lobby members, the agents of the manufacturers. I am told they have put their fiat on any change whatever, and hence, as a consequence, the change in the course and language of gentlemen, which almost precludes all hope. Those interested men hang on the Committee on Manufactures like an incubus. I say to that committee, depend upon your own good judgments—survey the whole subject as politicians—discard sectional interests, and study only the common weal—act with these views—and thus relieve the oppressions of the South.

"I have ever, Mr. President, supported the interest of manufactures, as far as it could be done incidentally. I supported the late Mr. Lowndes's bill of 1816. I was a member of his committee, and that bill protected the manufactures sufficiently, except bar iron. Mr. Lowndes had reported fifteen dollars per ton. The House reduced it to nine dollars per ton. That act enabled the manufacturers to exclude importations of certain articles. The hatters carry on their business by their sons and apprentices, and few, if any, hats are now imported. Large quantities are exported, and preferred. All articles of leather, from tanned side to the finest harness or saddle, have been excluded from importation; and why? Because the business is conducted by their own hard hands, their own labor, and they are now heavily taxed by the tariff of 1828, to enable the rich to enter into the manufactures of the country. Yes, sir, I say the rich, who entered into the business after the act of 1824, which proved to be a mushroom affair, and many of them suffered severely. The act of 1816, I repeat, gave all the protection that was necessary or proper, under which the industrious and frugal completely succeeded. But, sir, the capitalist who had invested his capital in manufactures, was not to be satisfied with ordinary profit; and therefore the act of 1828."

Mr. Clay, in his opening speech had adverted to the Southern discontent at the working of the protective tariff, in a way that showed he felt it to be serious, and entitled to enter into the consideration of statesmen; but considered this system an overruling necessity of such want and value to other parts of the Union, that the danger to its existence laid in the abandonment, and not in the continuance of the "American system." On this point he expressed himself thus:

"And now, Mr. President, I have to make a few observations on a delicate subject, which I approach with all the respect that is due to its serious and grave nature. They have not, indeed, been rendered necessary by the speech of the gentleman from South Carolina, whose forbearance to notice the topic was commendable, as his argument throughout was characterized by an ability and dignity worthy of him and of the Senate. The gentleman made one declaration which might possibly be misinterpreted, and I submit to him whether an explanation of it be not proper. The declaration, as reported in his printed speech, is: 'the instinct of self-interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation, on our part than a simple consent to receive them.' [Here Mr. Hayne rose, and remarked that the passages, which immediately preceded and followed the paragraph cited, he thought, plainly indicated his meaning, which related to evasions of the system, by illicit introduction of goods, which they were not disposed to countenance in South Carolina.] I am happy to hear this explanation. But, sir, it is impossible to conceal from our view the fact that there is great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the legislature itself has declared its purpose of resorting to counteracting measures: a suspension of which has only been submitted to, for the purpose of allowing Congress time to retrace its steps. With respect to this Union, Mr. President, the truth cannot be too generally proclaimed, nor too strongly inculcated, that it is necessary to the whole and

to all the parts—necessary to those parts, indeed, in different degrees, but vitally necessary to each; and that, threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper, as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle, which lies at the foundation of all free governments, is, that the majority must govern; from which there is nor can be no appeal but to the sword. That majority ought to govern wisely, equitably, moderately, and constitutionally; but, govern it must, subject only to that terrible appeal. If ever one, or several States, being a minority, can, by menacing a dissolution of the Union, succeed in forcing an abandonment of great measures, deemed essential to the interests and prosperity of the whole, the Union, from that moment, is practically gone. It may linger on, in form and name, but its vital spirit has fled for ever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina—the land of Marion, Sumpter, and Pickens; of Rutledge, Laurens, the Pickneys; and Lowndes; of living and present names, which I would mention if they were not living or present—to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat, may be painful and mortifying to their gallantry and pride; but it is to retreat to the Union, to safety, and to those brethren, with whom, or, with whose ancestors, they, or their ancestors, have won, on the fields of glory, imperishable renown. To advance, is to rush on certain and inevitable disgrace and destruction.

"The danger to our Union does not lie on the side of persistance in the American system, but on that of its abandonment. If, as I have supposed and believe, the inhabitants of all north and east of James River, and all west of the mountains, including Louisiana are deeply interested in the preservation of that system, would they be reconciled to its overthrow? Can it be expected that two thirds, if not three fourths, of the people of the United States would consent to the destruction of a policy believed to be indispensably necessary to their prosperity? When too, this sacrifice is made at the instance of a single interest, which they verily believe will not be promoted by it? In estimating the degree of peril which may be incident to two opposite courses of human policy, the statesman would be short-sighted who should content himself with viewing only the evils, real or imaginary, which belong to that course which is in practical operation. He should lift himself up to the contemplation of those greater and more certain dangers which might inevitably attend the adoption of the alternative course. What would be the condition of this Union, if Pennsylvania and New-York, those mammoth members of our confederacy, were firmly persuaded that their industry was paralyzed, and their prosperity blighted, by the enforcement of the British colonial system, under the delusive name of free trade? They are now tranquil, and happy, and contented, conscious of their welfare and feeling a salutary and rapid circulation of the products of home manufactures and home industry throughout all their great arteries. But let that be checked, let them feel that a foreign system is to predominate, and the sources of their subsistence and comfort dried up; let New England and the West, and the Middle States, all feel that they too are the victims of a mistaken policy, and let these vast portions of our country despair of any favorable change, and then, indeed, might we tremble for the continuance and safety of this Union!"

Here was an appalling picture presented: dissolution of the Union, on either hand, and one or the other of the alternatives obliged to be taken. If persisted in, the opponents to the protective system, in the South, were to make the dissolution; if abandoned, its friends, in the North, were to do it. Two citizens, whose word was law to two great parties, denounced the same event, from opposite causes, and one of which causes was obliged to occur. The crisis required a hero-patriot at the head of the government, and Providence had reserved one for the occasion. There had been a design, in some, to bring Jackson forward for the Presidency,

in 1816, and again, in 1820, when he held back. He was brought forward, in 1824, and defeated. These three successive postponements brought him to the right years, for which Providence seemed to have destined him, and which he would have missed, if elected at either of the three preceding elections. It was a reservation above human wisdom or foresight; and gave to the American people (at the moment they wanted him) the man of head, and heart, and nerve, to do what the crisis required: who possessed the confidence of the people, and who knew no course, in any danger, but that of duty and patriotism; and had no feeling, in any extremity but that God and the people would sustain him. Such a man was wanted, in 1832, and was found—found before, but reserved for use now.

The representatives from the South, generally but especially those from South Carolina, while depicting the distress of their section of the Union, and the reversed aspect which had come upon their affairs, less prosperous now than before the formation of the Union, attributed the whole cause of this change to the action of the federal government, in the levy and distribution of the public revenue; to the protective system, which was now assuming permanency, and increasing its exactions; and to a course of expenditure which carried to the North what was levied on the South. The democratic party generally concurred in the belief that this system was working injuriously upon the South, and that this injury ought to be relieved; that it was a cause of dissatisfaction with the Union, which a regard for the Union required to be redressed; but all did not concur in the cause of Southern eclipse in the race of prosperity which their representatives assigned; and, among them, Mr. Dallas, who thus spoke:

“The impressive and gloomy description of the senator from South Carolina [Mr. Hayne], as to the actual state and wretched prospects of his immediate fellow-citizens, awakens the liveliest sympathy, and should command our attention. It is their right; it is our duty. I cannot feel indifferent to the sufferings of any portion of the American people; and esteem it inconsistent with the scope and purpose of the federal constitution, that any majority, no matter how large, should connive at, or protract the oppression or misery of any minority, no matter how small. I disclaim and detest the idea of making one part subservient to another; of feasting upon the extorted substance of my countrymen; of enriching my own region, by draining the fertility and resources of a neighbor; of becoming wealthy with spoils which leave their legitimate owners impoverished and desolate. But, sir, I want proof of a fact, whose existence, at least as described, it is difficult even to conceive; and, above all, I want the true causes of that fact to be ascertained; to be brought within the reach of legislative remedy, and to have that remedy of a nature which may be applied without producing more mischiefs than those it proposes to cure. The proneness to exaggerate social evils is greatest with the most patriotic. Temporary embarrassment is sensitively apprehended to be permanent. Every day’s experience teaches how apt we are to magnify partial into universal distress, and with what difficulty an excited imagination rescues itself from despondency. It will not do, sir, to act upon the glowing or pathetic delineations of a gifted orator; it will not do to become enlisted, by ardent exhortations, in a crusade against established systems of policy; it will not do to demolish the walls of our citadel to the sounds of plaintiff eloquence, or fire the temple at the call of impassioned enthusiasm.

“What, sir, is the cause of Southern distress? Has any gentleman yet ventured to designate it? Can any one do more than suppose, or argumentatively assume it? I am neither willing nor competent to flatter. To praise the honorable senator from South Carolina, would be

‘To add perfume to the violet—
Wasteful and ridiculous excess.’

But, if he has failed to discover the source of the evils he deplores, who can unfold it? Amid the warm and indiscriminating denunciations with which he has assailed the policy of protecting domestic manufactures and native produce, he frankly avows that he would not 'deny that there are other causes, besides the tariff, which have contributed to produce the evils which he has depicted.' What are those 'other causes?' In what proportion have they acted? How much of this dark shadowing is ascribable to each singly, and to all in combination? Would the tariff be at all felt or denounced, if these other causes were not in operation? Would not, in fact, its influence, its discriminations, its inequalities, its oppressions, but for these 'other causes,' be shaken, by the elasticity and energy, and exhaustless spirit of the South, as 'dew-drops from the lion's mane?' These inquiries, sir, must be satisfactorily answered before we can be justly required to legislate away an entire system. If it be the root of all evil, let it be exposed and demolished. If its poisonous exhalations be but partial, let us preserve such portions as are innoxious. If, as the luminary of day, it be pure and salutary in itself, let us not wish it extinguished, because of the shadows, clouds, and darkness which obscure its brightness or impede its vivifying power.

"That other causes still, Mr. President, for Southern distress, do exist, cannot be doubted. They combine with the one I have indicated, and are equally unconnected with the manufacturing policy. One of these it is peculiarly painful to advert to; and when I mention it, I beg honorable senators not to suppose that I do it in the spirit of taunt, of reproach, or of idle declamation. Regarding it as a misfortune merely, not as a fault; as a disease inherited, not incurred; perhaps to be alleviated, but not eradicated, I should feel self-condemned were I to treat it other than as an existing fact, whose merit or demerit, apart from the question under debate, is shielded from commentary by the highest and most just considerations. I refer, sir, to the character of Southern labor, in itself, and in its influence on others. Incapable of adaptation to the ever-varying charges of human society and existence, it retains the communities in which it is established, in a condition of apparent and comparative inertness. The lights of science, and the improvements of art, which vivify and accelerate elsewhere, cannot penetrate, or, if they do, penetrate with dilatory inefficiency, among its operatives. They are merely instinctive and passive. While the intellectual industry of other parts of this country springs elastically forward at every fresh impulse, and manual labor is propelled and redoubled by countless inventions, machines, and contrivances, instantly understood and at once exercised, the South remains stationary, inaccessible to such encouraging and invigorating aids. Nor is it possible to be wholly blind to the moral effect of this species of labor upon those freemen among whom it exists. A disrelish for humble and hardy occupation; a pride adverse to drudgery and toil; a dread that to partake in the employments allotted to color, may be accompanied also by its degradation, are natural and inevitable. The high and lofty qualities which, in other scenes and for other purposes, characterize and adorn our Southern brethren, are fatal to the enduring patience, the corporal exertion, and the painstaking simplicity, by which only a successful yeomanry can be formed. When, in fact, sir, the senator from South Carolina asserts that 'slaves are too improvident, too incapable of that minute, constant, delicate attention, and that persevering industry which is essential to the success of manufacturing establishments,' he himself admits the defect in the condition of Southern labor, by which the progress of his favorite section must be retarded. He admits an inability to keep pace with the rest of the world. He admits an inherent weakness; a weakness neither engendered nor aggravated by the tariff—which, as societies are now constituted and directed, must drag in the rear, and be distanced in the common race."

Thus spoke Mr. Dallas, senator from Pennsylvania; and thus speaking, gave offence to no Southern man; and seemed to be well justified in what he said, from the historical fact that the loss of ground, in the race of prosperity, had commenced in the South before the

protective system began—before that epoch year, 1816, when it was first installed as a system, and so installed by the power of the South Carolina vote and talent. But the levy and expenditure of the federal government was, doubtless, the main cause of this Southern decadence—so unnatural in the midst of her rich staples—and which had commenced before 1816.

It so happened, that while the advocates of the American system were calling so earnestly for government protection, to enable them to sustain themselves at home, that the custom-house books were showing that a great many species of our manufactures, and especially the cotton, were going abroad to far distant countries; and sustaining themselves on remote theatres against all competition, and beyond the range of any help from our laws. Mr. Clay, himself, spoke of this exportation, to show the excellence of our fabrics, and that they were worth protection; I used the same fact to show that they were independent of protection; and said:

"And here I would ask, how many and which are the articles that require the present high rate of protection? Certainly not the cotton manufacture; for, the senator from Kentucky [Mr. Clay], who appears on this floor as the leading champion of domestic manufactures, and whose admissions of fact must be conclusive against his arguments of theory! this senator tells you, and dwells upon the disclosure with triumphant exultation, that American cottons are now exported to Asia, and sold at a profit in the cotton markets of Canton and Calcutta! Surely, sir, our tariff laws of 1824 and 1828 are not in force in Bengal and China. And I appeal to all mankind for the truth of the inference, that, if our cottons can go to these countries, and be sold at a profit without any protection at all, they can stay at home, and be sold to our own citizens, without loss, under a less protection than fifty and two hundred and fifty per centum! One fact, Mr. President, is said to be worth a thousand theories; I will add that it is worth a hundred thousand speeches; and this fact that the American cottons now traverse the one-half of the circumference of this globe—cross the equinoctial line; descend to the antipodes; seek foreign markets on the double theatre of British and Asiatic competition, and come off victorious from the contest—is a full and overwhelming answer to all the speeches that have been made, or ever can be made, in favor of high protecting duties on these cottons at home. The only effect of such duties is to cut off importations—to create monopoly at home—to enable our manufacturers to sell their goods higher to their own christian fellow-citizens than to the pagan worshippers of Fo and of Brahma! to enable the inhabitants of the Ganges and the Burrampooter to wear American cottons upon cheaper terms than the inhabitants of the Ohio and Mississippi. And every Western citizen knows the fact, that when these shipments of American cottons were making to the extremities of Asia, the price of these same cottons was actually raised twenty and twenty-five per cent., in all the towns of the West; with this further difference to our prejudice, that we can only pay for them in money, while the inhabitants of Asia make payment in the products of their own country.

"This is what the gentleman's admission proved; but I do not come here to argue upon admissions, whether candid or unguarded, of the adversary speakers. I bring my own facts and proofs; and, really, sir, I have a mind to complain that the gentleman's admission about cottons has crippled the force of my argument; that it has weakened its effect by letting out half at a time, and destroyed its novelty, by an anticipated revelation. The truth is, I have this fact (that we exported domestic cottons) treasured up in my magazine of material! and intended to produce it, at the proper time, to show that we exported this article, not to Canton and Calcutta alone, but to all quarters of the globe; not a few cargoes only, by way of experiment, but in great quantities, as a regular trade, to the amount of a million and a quarter of dollars, annually; and that, of this amount, no less than forty thousand dollars' worth, in the year 1880, had done what the combined fleets and armies of the world could not do; it had scaled the rock of Gibraltar, penetrated to the heart of the British garrison, taken

possession of his Britannic Majesty's soldiers, bound their arms, legs, and bodies, and strutted in triumph over the ramparts and batteries of that unattackable fortress. And now, sir, I will use no more of the gentleman's admissions; I will draw upon my own resources; and will show nearly the whole list of our domestic manufacture to be in the same flourishing condition with cottons, actually going abroad to seek competition, without protection, in every foreign clime, and contending victoriously with foreign manufactures wherever they can encounter them. I read from the custom-house returns, of 1830—the last that has been printed. Listen to it:

"This is the list of domestic manufactures exported to foreign countries. It comprehends the whole, or nearly the whole, of that long catalogue of items which the senator from Kentucky [Mr. Clay] read to us, on the second day of his discourse; and shows the whole to be going abroad, without a shadow of protection, to seek competition, in foreign markets, with the foreign goods of all the world. The list of articles I have read, contains near fifty varieties of manufactures (and I have omitted many minor articles) amounting, in value, to near six millions of dollars! And now behold the diversity of human reasoning! The senator from Kentucky exhibits a list of articles manufactured in the United States, and argues that the slightest diminution in the enormous protection they now enjoy, will overwhelm the whole in ruin, and cover the country with distress; I read the same identical list, to show that all these articles go abroad and contend victoriously with their foreign rivals in all foreign markets."

Mr. Clay had attributed to the tariffs of 1824 and 1828 the reviving and returning prosperity of the country, while in fact it was the mere effect of recovery from prostration, and in spite of these tariffs, instead of by their help. Business had been brought to a stand during the disastrous period which ensued the establishment of the Bank of the United States. It was a period of stagnation, of settlement, of paying up, of getting clear of loads of debt; and starting afresh. It was the strong man, freed from the burthen under which he had long been prostrate, and getting on his feet again. In the West I knew that this was the process, and that our revived prosperity was entirely the result of our own resources, independent of, and in spite of federal legislation; and so declared it in my speech. I said:

"The fine effects of the high tariff upon the prosperity of the West have been celebrated on this floor: with how much reason, let facts respond, and the people judge! I do not think we are indebted to the high tariff for our fertile lands and our navigable rivers; and I am certain we are indebted to these blessings for the prosperity we enjoy. In all that comes from the soil, the people of the West are rich. They have an abundant supply of food for man and beast, and a large surplus to send abroad. They have the comfortable living which industry creates for itself in a rich soil; but, beyond this, they are poor. They have none of the splendid works which imply the presence of the moneyed power! No Appian or Flaminian ways; no roads paved or McAdamized; no canals, except what are made upon borrowed means; no aqueducts; no bridges of stone across our innumerable streams; no edifices dedicated to eternity; no schools for the fine arts: not a public library for which an ordinary scholar would not apologize. And why none of those things? Have the people of the West no taste for public improvements, for the useful and the fine arts, and for literature? Certainly they have a very strong taste for them; but they have no money! not enough for private and current uses, not enough to defray our current expenses, and buy necessaries! without thinking of public improvements. We have no money! and that is a tale which has been told too often here—chanted too dolefully in the book of lamentations which was composed for the death of the Maysville road—to be denied or suppressed now. They have no adequate supply of money. And why? Have they no exports? Nothing to send abroad? Certainly they have exports. Behold the marching myriads of living animals annually taking their departure from the heart of the West, defiling through the gorges of the Cumberland, the Alleghany, and the

Apalachian mountains, or traversing the plains of the South, diverging as they march, and spreading themselves all over that vast segment of our territorial circle which lies between the *debouches* of the Mississippi and the estuary of the Potomac! Behold, on the other hand, the flying steamboats, and the fleets of floating arks, loaded with the products of the forest, the farm, and the pasture, following the course of our noble rivers, and bearing their freights to that great city which revives, upon the banks of the Mississippi, the name[5] of the greatest of the emperors that ever reigned upon the banks of the Tiber, and who eclipsed the glory of his own heroic exploits by giving an order to his legions never to levy a contribution of salt upon a Roman citizen! Behold this double line of exports, and observe the refluent currents of gold and silver which result from them! Large are the supplies—millions are the amount which is annually poured into the West from these double exportations; enough to cover the face of the earth with magnificent improvements, and to cram every industrious pocket with gold and silver. But where is this money? for it is not in the country! Where does it go? for go it does, and scarcely leaves a vestige of its transit behind! Sir, it goes to the Northeast! to the seat of the American system! there it goes! and thus it goes!"

Mr. Clay had commenced his speech with an apology for what might be deemed failing powers on account of advancing age. He said he was getting old, and might not be able to fulfil the expectation, and requite the attention, of the attending crowd; and wished the task could have fallen to younger and abler hands. This apology for age when no diminution of mental or bodily vigor was perceptible, induced several speakers to commence their replies with allusions to it, generally complimentary, but not admitting the fact. Mr. Hayne gracefully said, that he had lamented the advances of age, and mourned the decay of his eloquence, so eloquently as to prove that it was still in full vigor; and that he had made an able and ingenious argument, fully sustaining his high reputation as an accomplished orator. General Smith, of Maryland, said that he could not complain himself of the infirmities of age, though older than the senator from Kentucky, nor could find in his years any apology for the insufficiency of his speech. Mr. Clay thought this was intended to be a slur upon him, and replied in a spirit which gave rise to the following sharp encounter:

"Mr. Smith then rose, and said he was sorry to find that he had unintentionally offended the honorable gentleman from Kentucky. In referring to the vigorous age he himself enjoyed, he had not supposed he should give offence to others who complained of the infirmities of age. The gentleman from Kentucky was the last who should take the remark as disparaging to his vigor and personal appearance; for, when that gentleman spoke to us of his age, he heard a young lady near him exclaim—"Old, why I think he is mighty pretty." The honorable gentleman, on Friday last, made a similitude where none existed. I, said Mr. S., had suggested the necessity of mutual forbearance in settling the tariff, and, thereupon, the gentleman vociferated loudly and angrily about removals from office. He said I was a leader in the system. I deny the fact. I never exercised the least influence in effecting a removal, and on the contrary, I interfered, successfully, to prevent the removal of two gentlemen in office. I am charged with making a committee on roads and canals, adverse to internal improvement. If this be so, it is by mistake. I certainly supposed every gentleman named on that committee but one to be friendly to internal improvement. To the committee on manufactures I assigned four out of five who were known to be friendly to the protective system. The rights of the minority, he had endeavored, also, in arranging the committee, to secure. The appointment of the committees he had found one of the most difficult and onerous tasks he had ever undertaken. One-third of the house were lawyers, all of whom wanted to be put upon some important committee. The oath which the senator had tendered, he hoped he would not take.

[5] "Aurelian," whose name was given to the military station (presidium) which was afterwards corrupted into "Orleans."

In the year 1795, Mr. S. said, he had sustained a protective duty against the opposition of a member from Pittsburg. Previous to the year 1822, he had always given incidental support to manufactures, in fixing the tariff. He was a warm friend to the tariff of 1816, which he still regarded as a wise and beneficial law. He hoped, then, the gentleman would not take his oath.

"Mr. Clay placed, he said, a high value on the compliment of which the honorable senator was the channel of communication; and he the more valued it, inasmuch as he did not recollect more than once before, in his life, to have received a similar compliment. He was happy to find that the honorable gentleman disclaimed the system of proscription; and he should, with his approbation, hereafter cite his authority in opposition to it. The Committee on Roads and Canals, whatever were the gentleman's intentions in constructing it, had a majority of members whose votes and speeches against internal improvements were matter of notoriety. The gentleman's appeal to his acts in '95, is perfectly safe; for, old as I am, my knowledge of his course does not extend back that far. He would take the period which the gentleman named, since 1822. It comes, then, to this: The honorable gentleman was in favor of protecting manufactures; but he had turned—I need not use the word—he has abandoned manufactures. Thus:

"Old politicians chew on wisdom past,
And *totter* on in blunders to the last."

"Mr. Smith.—The last allusion is unworthy of the gentleman. Totter, sir, I totter? Though some twenty years older than the gentleman, I can yet stand firm, and am yet able to correct his errors. I could take a view of the gentleman's course, which would show how inconsistent he has been. Mr. Clay exclaimed: 'Take it, sir, take it—I dare you.' [Cries of "order."] No, sir, said Mr. S., I will not take it. I will not so far disregard what is due to the dignity of the Senate."

Mr. Hayne concluded one of his speeches with a declaration of the seriousness of the Southern resistance to the tariff, and with a feeling appeal to senators on all sides of the house to meet their Southern brethren in the spirit of conciliation, and restore harmony to a divided people by removing from among them the never-failing source of contention. He said:

"Let not gentlemen so far deceive themselves as to suppose that the opposition of the South to the protecting system is not based on high and lofty principles. It has nothing to do with party politics, or the mere elevation of men. It rises far above all such considerations. Nor is it influenced chiefly by calculations of interest, but is founded in much nobler impulses. The instinct of self-interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will, to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation on our part than a simple consent to receive them. But, sir, we have scorned, in a contest for our rights, to resort to any but open and fair means to maintain them. The spirit with which we have entered into this business, is akin to that which was kindled in the bosom of our fathers when they were made the victims of oppression; and if it has not displayed itself in the same way, it is because we have ever cherished the strongest feelings of confraternity towards our brethren, and the warmest and most devoted attachment to the Union. If we have been, in any degree, divided among ourselves in this matter, the source of that division, let gentlemen be assured, has not arisen so much from any difference of opinion as to the true character of the oppression, as from the different degrees of hope of redress. All parties have for years past been looking forward to this crisis for the fulfilment of their hopes, or the confirmation of their fears. And God grant that the result may be auspicious.

“Sir, I call upon gentlemen on all sides of the House to meet us in the true spirit of conciliation and concession. Remove, I earnestly beseech you, from among us, this never-failing source of contention. Dry up at its source this fountain of the waters of bitterness. Restore that harmony which has been disturbed—that mutual affection and confidence which has been impaired. And it is in your power to do it this day; but there is but one means under heaven by which it can—by doing equal justice to all. And be assured that he to whom the country shall be indebted for this blessing, will be considered as the second founder of the republic. He will be regarded, in all aftertimes, as the ministering angel visiting the troubled waters of our political dissensions, and restoring to the element its healing virtues.”

I take pleasure in quoting these words of Mr. Hayne. They are words of moderation and of justice—of sorrow more than anger—of expostulation more than menace—of loyalty to the Union—of supplication for forbearance;—and a moving appeal to the high tariff party to avert a national catastrophe by ceasing to be unjust. His moderation, his expostulation, his supplication, his appeal—had no effect on the majority. The protective system continued to be an exasperating theme throughout the session, which ended without any sensible amelioration of the system, though with a reduction of duty on some articles of comfort and convenience: as recommended by President Jackson.

70. Public Lands.—Distribution To The States

The efforts which had been making for years to ameliorate the public land system in the feature of their sale and disposition, had begun to have their effect—the effect which always attends perseverance in a just cause. A bill had ripened to a third reading in the Senate reducing the price of lands which had been long in market less than one half—to fifty cents per acre—and the pre-emption principle had been firmly established, securing the settler in his home at a fixed price. Two other principles, those of donations to actual settlers, and of the cession to the States in which they lie of all land not sold within a reasonable and limited period, were all that was wanting to complete the ameliorated system which the graduation bills proposed; and these bills were making a progress which promised them an eventual success. All the indications were favorable for the speedy accomplishment of these great reforms in the land system when the session of 1831-'32 opened, and with it the authentic annunciation of the extinction of the public debt within two years—which event would remove the objection of many to interfering with the subject, the lands being pledged to that object. This session, preceding the presidential election, and gathering up so many subjects to go into the canvass, fell upon the lands for that purpose, and in the way in which magazines of grain in republican Rome, and money in the treasury in democratic Athens, were accustomed to be dealt with by candidates for office in the periods of election; that is to say, were proposed for distribution. A plan for dividing out among the States for a given period the money arising from the sale of the lands, was reported from the Committee on Manufactures by Mr. Clay, a member of that committee—and which properly could have nothing to do with the sale and disposition of the lands. That report, after a general history, and view of the public lands, came to these conclusions:

"Upon full and thorough consideration, the committee have come to the conclusion that it is inexpedient either to reduce the price of the public lands, or to cede them to the new States. They believe, on the contrary, that sound policy coincides with the duty which has devolved on the general government to the whole of the States, and the whole of the people of the Union, and enjoins the preservation of the existing system as having been tried and approved after long and triumphant experience. But, in consequence of the extraordinary financial prosperity which the United States enjoy, the question merits examination, whether, whilst the general government steadily retains the control of this great national resource in its own hands, after the payment of the public debt, the proceeds of the sales of the public lands, no longer needed to meet the ordinary expenses of government, may not be beneficially appropriated to some other objects for a limited time.

"Governments, no more than individuals, should be seduced or intoxicated by prosperity, however flattering or great it may be. The country now happily enjoys it in a most unexampled degree. We have abundant reason to be grateful for the blessings of peace and plenty, and freedom from debt. But we must be forgetful of all history and experience, if we indulge the delusive hope that we shall always be exempt from calamity and reverses. Seasons of national adversity, of suffering, and of war, will assuredly come. A wise government should expect, and provide for them. Instead of wasting or squandering its resources in a period of general prosperity, it should husband and cherish them for those times of trial and difficulty, which, in the dispensations of Providence, may be certainly anticipated. Entertaining these views, and as the proceeds of the sales of the public lands are not wanted for ordinary revenue, which will be abundantly supplied from the imposts, the committee respectfully recommend that an appropriation of them be made to some other

purpose, for a limited time, subject to be resumed in the contingency of war. Should such an event unfortunately occur, the fund may be withdrawn from its peaceful destination, and applied in aid of other means, to the vigorous prosecution of the war, and, afterwards to the payment of any debt which may be contracted in consequence of its existence. And when peace shall be again restored, and the debt of the new war shall have been extinguished, the fund may be again appropriated to some fit object other than that of the ordinary expenses of government. Thus may this great resource be preserved and rendered subservient, in peace and in war, to the common benefit of all the States composing the Union.

"The inquiry remains, what ought to be the specific application of the fund under the restriction stated? After deducting the ten per cent. proposed to be set apart for the new States, a portion of the committee would have preferred that the residue should be applied to the objects of internal improvement, and colonization of the free blacks, under the direction of the general government. But a majority of the committee believes it better, as an alternative for the scheme of cession to the new States, and as being most likely to give general satisfaction, that the residue be divided among the twenty-four States, according to their federal representative population; to be applied to education, internal improvement, or colonization, or to the redemption of any existing debt contracted for internal improvements, as each State, judging for itself, shall deem most conformable with its own interests and policy. Assuming the annual product of the sales of the public lands to be three millions of dollars, the table hereto annexed, marked C, shows what each State would be entitled to receive, according to the principle of division which has been stated. In order that the propriety of the proposed appropriation should again, at a day not very far distant, be brought under the review of Congress, the committee would recommend that it be limited to a period of five years, subject to the condition of war not breaking out in the mean time. By an appropriation so restricted as to time, each State will be enabled to estimate the probable extent of its proportion, and to adapt its measures of education, improvement, colonization, or extinction of existing debt, accordingly.

"In conformity with the views and principles which the committee have now submitted, they beg leave to report a bill, entitled 'An act to appropriate, for a limited time, the proceeds of the sales of the public lands of the United States.'"

The impropriety of originating such a bill in the committee on manufactures was so clear that acquiescence in it was impossible. The chairman of the committee on public lands immediately moved its reference to that committee; and although there was a majority for it in the Senate, and for the bill as it came from the committee on manufactures, yet the reference was immediately voted; and Mr. Clay's report and bill sent to that committee, invested with general authority over the whole subject. That committee, through its chairman, Mr. King of Alabama, made a counter report, from which some extracts are here given:

"The committee ventures to suggest that the view which the committee on manufactures has taken of the federal domain, is fundamentally erroneous; that it has misconceived the true principles of national policy with respect to wild lands; and, from this fundamental mistake, and radical misconception, have resulted the great errors which pervade the whole structure of their report and bill.

"The committee on manufactures seem to contemplate the federal domain merely as an object of revenue, and to look for that revenue solely from the receivers of the land offices; when the science of political economy has ascertained such a fund to be chiefly, if not exclusively, valuable under the aspect of population and cultivation, and the eventual extraction of revenue from the people in its customary modes of taxes and imposts.

“The celebrated Edmund Burke is supposed to have expressed the sum total of political wisdom on this subject, in his well-known propositions to convert the forest lands of the British crown into private property; and this committee, to spare themselves further argument, and to extinguish at once a political fallacy which ought not to have been broached in the nineteenth century, will make a brief quotation from the speech of that eminent man.

“‘The revenue to be derived from the sale of the forest lands will not be so considerable as many have imagined; and I conceive it would be unwise to screw it up to the utmost, or even to suffer bidders to enhance, according to their eagerness, the purchase of objects wherein the expense of that purchase may weaken the capital to be employed in their cultivation. * * * The principal revenue which I propose to draw from these uncultivated wastes, is to spring from the improvement and cultivation of the kingdom events infinitely more advantageous to the revenues of the Crown, than the rents of the best landed estates which it can hold. * * * * It is thus that I would dispose of the unprofitable landed estates of the Crown—throw them into the mass of private property—by which they will come, through the course of circulation, and through the political secretions of the state, into well-regulated revenue. * * * * Thus would fall an expensive agency, with all the influence which attends it.’

“This committee takes leave to say that the sentiments here expressed by Mr. Burke are the inspirations of political wisdom; that their truth and justice have been tested in all ages and all countries, and particularly in our own age and in our own country. The history of the public lands of the United States furnishes the most instructive lessons of the inutility of sales, the value of cultivation, and the fallacy of large calculations. These lands were expected, at the time they were acquired by the United States, to pay off the public debt immediately, to support the government, and to furnish large surplusses for distribution. Calculations for a thousand millions were made upon them, and a charge of treachery was raised against General Hamilton, then Secretary of the Treasury, for his report in the year 1791, in which the fallacy of all these visionary calculations was exposed, and the real value of the lands soberly set down at an average of twenty cents per acre. Yet, after an experiment of nearly fifty years, it is found that the sales of the public lands, so far from paying the public debt, have barely defrayed the expenses of managing the lands; while the revenue derived from cultivation has paid both principal and interest of the debts of two wars, and supported the federal government in a style of expenditure infinitely beyond the conceptions of those who established it. The gross proceeds of the sales are but thirty-eight millions of dollars, from which the large expenses of the system are to be deducted; while the clear receipts from the customs, after paying all expenses of collection, amount to $556,443,830. This immense amount of revenue springs from the use of soil reduced to private property. For the duties are derived from imported goods; the goods are received in exchange for exports; and the exports, with a small deduction for the products of the sea, are the produce of the farm and the forest. This is a striking view, but it is only one half of the picture. The other half must be shown, and will display the cultivation of the soil, in its immense exports, as giving birth to commerce and navigation, and supplying employment to all the trades and professions connected with these two grand branches of national industry; while the business of selling the land is a meagre and barren operation, auxiliary to no useful occupation, injurious to the young States, by exhausting them of their currency, and extending the patronage of the federal government in the complicated machinery of the land office department. Such has been the difference between the revenue received from the sales and from the cultivation of the land; but no powers of cultivation can carry out the difference, and show what it will be: for, while the sale of the land is a single operation, and can be performed but once, the extraction of revenue from its cultivation is an annual and perpetual process, increasing in

productiveness through all time, with the increase of population, the amelioration of soils, the improvement of the country, and the application of science to the industrial pursuits.

“This committee have said that the bill reported by the Committee on Manufactures, to divide the proceeds of the sales of public lands among the several States for a limited time, is a bill wholly inadmissible in principle, and essentially erroneous in its details.

“They object to the principle of the bill, because it proposes to change—and that most injuriously and fatally for the new States, the character of their relation to the federal government, on the subject of the public lands. That relation, at present, imposes on the federal government the character of a trustee, with the power and the duty of disposing of the public lands in a liberal and equitable manner. The principle of the bill proposes to substitute an individual State interest in the lands, and would be perfectly equivalent to a division of the lands among the States; for, the power of legislation being left in their hands, with a direct interest in their sales, the old and populous States would necessarily consider the lands as their own, and govern their legislation accordingly. Sales would be forbid or allowed; surveys stopped or advanced; prices raised or lowered; donations given or denied; old French and Spanish claims confirmed or rejected; settlers ousted; emigrations stopped, precisely as it suited the interest of the old States; and this interest, in every instance, would be precisely opposite to the interest of the new States. In vain would some just men wish to act equitably by these new States; their generous efforts would expose them to attacks at home. A new head of electioneering would be opened; candidates for Congress would rack their imaginations, and exhaust their arithmetic, in the invention and display of rival projects for the extraction of gold from the new States; and he that would promise best for promoting the emigration of dollars from the new States, and preventing the emigration of people to them, would be considered the best qualified for federal legislation. If this plan of distribution had been in force heretofore, the price of the public lands would not have been reduced, in 1819-’20, nor the relief laws passed, which exonerated the new States from a debt of near twenty millions of dollars. If adopted now, these States may bid adieu to their sovereignty and independence! They will become the feudatory vassals of the paramount States! Their subjection and dependence will be without limit or remedy. The five years mentioned in the bill had as well be fifty or five hundred. The State that would surrender its sovereignty, for ten per centum of its own money, would eclipse the folly of Esau, and become a proverb in the annals of folly with those who have sold their birthright for ‘a mess of pottage.’”

After these general objections to the principle and policy of the distribution project, the report of the Committee on Public Lands went on to show its defects, in detail, and to exhibit the special injuries to which it would subject the new States, in which the public lands lay. It said:

“The details of the bill are pregnant with injustice and unsound policy.

“1. The rule of distribution among the States makes no distinction between those States which did or did not make cessions of their vacant land to the federal government. Massachusetts and Maine, which are now selling and enjoying their vacant lands in their own right, and Connecticut, which received a deed for two millions of acres from the federal government, and sold them for her own benefit, are put upon an equal footing with Virginia, which ceded the immense domain which lies in the forks of the Ohio and Mississippi, and Georgia, which ceded territory for two States. This is manifestly unjust.

“2. The bill proposes benefits to some of the States, which they cannot receive without dishonor, nor refuse without pecuniary prejudice. Several States deny the power of the federal government to appropriate the public moneys to objects of internal improvement or to

colonization. A refusal to accept their dividends would subject such States to loss; to receive them, would imply a sale of their constitutional principles for so much money. Considerations connected with the harmony and perpetuity of our confederacy should forbid any State to be compelled to choose between such alternatives.

“3. The public lands, in great part, were granted to the federal government to pay the debts of the Revolutionary War; it is notorious that other objects of revenue, to wit, duties on imported goods, have chiefly paid that debt. It would seem, then, to be just to the donors of the land, after having taxed them in other ways to pay the debt, that the land should go in relief of their present taxes; and that, so long as any revenue may be derived from them, it should go into the common treasury, and diminish, by so much, the amount of their annual contributions.

“4. The colonization of free people of color, on the western coast of Africa, is a delicate question for Congress to touch. It connects itself indissolubly with the slave question, and cannot be agitated by the federal legislature, without rousing and alarming the apprehensions of all the slaveholding States, and lighting up the fires of the extinguished conflagration which lately blazed in the Missouri question. The harmony of the States, and the durability of this confederacy, interdict the legislation of the federal legislature upon this subject. The existence of slavery in the United States is local and sectional. It is confined to the Southern and Middle States. If it is an evil, it is an evil to them, and it is their business to say so. If it is to be removed, it is their business to remove it. Other States put an end to slavery, at their own time, and in their own way, and without interference from federal or State legislation, or organized societies. The rights of equality demand, for the remaining States, the same freedom of thought and immunity of action. Instead of assuming the business of colonization, leave it to the slave-holding States to do as they please; and leave them their resources to carry into effect their resolves. Raise no more money from them than the exigencies of the government require, and then they will have the means, if they feel the inclination, to rid themselves of a burden which it is theirs to bear and theirs to remove.

“5. The sum proposed for distribution, though nominally to consist of the net proceeds of the sales of the public lands, is, in reality, to consist of their gross proceeds. The term net, as applied to revenue from land offices or custom-houses, is quite different. In the latter, its signification corresponds with the fact, and implies a deduction of all the expenses of collection; in the former, it has no such implication, for the expenses of the land system are defrayed by appropriations out of the treasury. To make the whole sum received from the land offices a fund for distribution, would be to devolve the heavy expenses of the land system upon the custom-house revenue: in other words, to take so much from the custom-house revenue to be divided among the States. This would be no small item. According to the principles of the account drawn up against the lands, it would embrace—

“1. Expenses of the general land office.

“2. Appropriations for surveying.

“3. Expenses of six surveyor generals’ offices.

“4. Expenses of forty-four land offices.

“5. Salaries of eighty-eight registers and receivers.

“6. Commissions on sales to registers and receivers.

“7. Allowance to receivers for depositing money.

“8. Interest on money paid for extinguishing Indian titles.

“9. Annuities to Indians.

“10. Future Indian treaties for extinguishing title.

“11. Expenses of annual removal of Indians.

“These items exceed a million of dollars. They are on the increase, and will continue to grow at least until the one hundred and thirteen million five hundred and seventy-seven thousand eight hundred and sixty-nine acres of land within the limits of the States and territories now covered by Indian title shall be released from such title. The reduction of these items, present and to come, from the proposed fund for distribution, must certainly be made to avoid a contradiction between the profession and the practice of the bill; and this reduction might leave little or nothing for division among the distributees. The gross proceeds of the land sales for the last year were large; they exceeded three millions of dollars; but they were equally large twelve years ago, and gave birth to some extravagant calculations then, which vanished with a sudden decline of the land revenue to less than one million. The proceeds of 1819 were $3,274,422; those of 1823 were $916,523. The excessive sales twelve years ago resulted from the excessive issue of bank paper, while those of 1831 were produced by the several relief laws passed by Congress. A detached year is no evidence of the product of the sales; an average of a series of years presents the only approximation to correctness; and this average of the last ten years would be about one million and three quarters. So that after all expenses are deducted, with the five per centum now payable to the new States, and ten per centum proposed by the bill, there may be nothing worth dividing among the States; certainly nothing worth the alarm and agitation which the assumption of the colonization question must excite among the slaveholding States; nothing worth the danger of compelling the old States which deny the power of federal internal improvement, to choose between alternatives which involve a sale of their principles on one side, or a loss of their dividends on the other; certainly nothing worth the injury to the new States, which must result from the conversion of their territory into the private property of those who are to have the power of legislation over it, and a direct interest in using that power to degrade and impoverish them.”

The two sets of reports were printed in extra numbers, and the distribution bill largely debated in the Senate, and passed that body: but it was arrested in the House of Representatives. A motion to postpone it to a day beyond the session—equivalent to rejection—prevailed by a small majority: and thus this first attempt to make distribution of public property, was, for the time, gotten rid of.

71. Settlement Of French And Spanish Land Claims

It was now near thirty years since the province of Louisiana had been acquired, and with it a mass of population owning and inhabiting lands, the titles to which in but few instances ever had been perfected into complete grants; and the want of which was not felt in a new country where land was a gratuitous gift to every cultivator, and where the government was more anxious for cultivation than the people were to give it. The transfer of the province from France and Spain to the United States, found the mass of the land titles in an inchoate state; and coming under a government which made merchandise out of the soil, and among a people who had the Anglo-Saxon avidity for landed property, some legislation and tribunal was necessary to separate the perfect from the imperfect titles; and to provide for the examination and perfection of the latter. The treaty of cession protected every thing that was "property;" and an inchoate title fell as well within that category as a perfect one. Without the treaty stipulation the law of nations would have operated the same protection, and to the same degree; and that in the case of a conquered as well as of a ceded people. The principle was acknowledged: the question was to apply it, and to carry out the imperfect titles as the ceding government would have done, if it had continued. This was attempted through boards of commissioners, placed under limitations and restrictions, which cut off masses of claims to which there was no objection except in the confirming law; and with the obligation of reporting to Congress for its sanction the claims which it found entitled to confirmation:—a condition which, in the distance of the lands and claimants from the seat of government, their ignorance of our laws and customs, their habitude to pay for justice, and their natural distrust of a new and alien domination, was equivalent in its effects to the total confiscation of most of the smaller claims, and the quarter or the half confiscation of the larger ones in the division they were compelled to make with agents—or in the forced sales which despair, or necessity forced upon them. This state of things had been going on for almost thirty years in all Louisiana—ameliorated occasionally by slight enlargements of the powers of the boards, and afterwards of the courts to which the business was transferred, but failing at two essential points, *first*, of acknowledging the validity of all claims which might in fact have been completed if the French or Spanish government had continued under which they originated; *secondly*, in not providing a cheap, speedy and local tribunal to decide summarily upon claims, and definitively when their decisions were in their favor.

In this year—but after an immense number of people had been ruined, and after the country had been afflicted for a generation with the curse of unsettled land titles—an act was passed, founded on the principle which the case required, and approximating to the process which was necessary to give it effect. The act of 1832 admitted the validity of all inchoate claims—all that might in fact have been perfected under the previous governments; and established a local tribunal to decide on the spot, making two classes of claims—one coming under the principle acknowledged, the other not coming under that principle, and destitute of merit in law or equity—but with the ultimate reference of their decisions to Congress for its final sanction. The principle of the act, and its mode of operation, was contained in the first section, and in these words:

"That it shall be the duty of the recorder of land titles in the State of Missouri, and two commissioners to be appointed by the President of the United States, by and with the advice and consent of the Senate, to examine all the unconfirmed claims to land in that State, heretofore filed in the office of the said recorder, according to law, founded upon any incomplete grant, concession, warrant, or order of survey, issued by the authority of France or

Spain, prior to the tenth day of March, one thousand eight hundred and four; and to class the same so as to show, first, what claims, in their opinion, would, in fact, have been confirmed, according to the laws, usages, and customs of the Spanish government, and the practices of the Spanish authorities under them, at New Orleans, if the government under which said claims originated had continued in Missouri; and secondly, what claims, in their opinion, are destitute of merit, in law or equity, under such laws, usages, customs, and practice of the Spanish authorities aforesaid; and shall also assign their reasons for the opinions so to be given. And in examining and classing such claims, the recorder and commissioners shall take into consideration, as well the testimony heretofore taken by the boards of commissioners and recorder of land titles upon those claims, as such other testimony as may be admissible under the rules heretofore existing for taking such testimony before said boards and recorder: and all such testimony shall be taken within twelve months after the passage of this act."

Under this act a thirty years' disturbance of land titles was closed (nearly), in that part of Upper Louisiana, now constituting the State of Missouri. The commissioners executed the act in the liberal spirit of its own enactment, and Congress confirmed all they classed as coming under the principles of the act. In other parts of Louisiana, and in Florida, the same harassing and ruinous process had been gone through in respect to the claims of foreign origin—limitations, as in Missouri, upon the kind of claims which might be confirmed, excluding minerals and saline waters—limitations upon the quantity to be confirmed, so as to split or grant, and divide it between the grantee and the government—the former having to divide again with an agent or attorney—and limitations upon the inception of the titles which might be examined, so as to confine the origination to particular officers, and forms. The act conformed to all previous ones, of requiring no examination of a title which was complete under the previous governments.

72. “Effects Of The Veto.”

Under this caption a general register commenced in all the newspapers opposed to the election of General Jackson (and they were a great majority of the whole number published), immediately after the delivery of the veto message, and were continued down to the day of election, all tending to show the disastrous consequences upon the business of the country, and upon his own popularity, resulting from that act. To judge from these items it would seem that the property of the country was nearly destroyed, and the General’s popularity entirely; and that both were to remain in that state until the bank was rechartered. Their character was to show the decline which had taken place in the price of labor, produce, and property—the stoppage and suspension of buildings, improvements, and useful enterprises—the renunciation of the President by his old friends—the scarcity of money and the high rate of interest—and the consequent pervading distress of the whole community. These lugubrious memorandums of calamities produced by the conduct of one man were duly collected from the papers in which they were chronicled and registered in “Niles’ Register,” for the information of posterity; and a few items now selected from the general registration will show to what extent this business of distressing the country—(taking the facts to be true), or of alarming it (taking them to be false), was carried by the great moneyed corporation, which, according to its own showing, had power to destroy all local banks; and consequently to injure the whole business of the community. The following are a few of these items—a small number of each class, by way of showing the character of the whole:

“On the day of the receipt of the President’s bank veto in New-York, four hundred and thirty-seven shares of United States Bank stock were sold at a decline of four per centum from the rates of the preceding day. We learn from Cincinnati that, within two days after the veto reached that city, building-bricks fell from five dollars to three dollars per thousand. A general consternation is represented to have pervaded the city. An intelligent friend of General Jackson, at Cincinnati, states, as the opinion of the best informed men there, that the veto has caused a depreciation of the real estate of the city, of from twenty-five to thirty-three and one third per cent.”—”A thousand people assembled at Richmond, Kentucky, to protest against the veto.”—”The veto reached a meeting of citizens, in Mason county, Kentucky, which had assembled to hear the speeches of the opposing candidates for the legislature, on which two of the administration candidates immediately withdrew themselves from the contest, declaring that they could support the administration no longer.”—”Lexington, Kentucky: July 25th. A call, signed by fifty citizens of great respectability, formerly supporters of General Jackson, announced their renunciation of him, and invited all others, in the like situation with themselves, to assemble in public meeting and declare their sentiments. A large and very respectable meeting ensued.”—”Louisville, Kentucky: July 18. Forty citizens, ex-friends of General Jackson, called a meeting, to express their sentiments on the veto, declaring that they could no longer support him. In consequence, one of the largest meetings ever held in Louisville was convened, and condemned the veto, the anti-tariff and anti-internal improvement policy of General Jackson, and accused him of a breach of promise, in becoming a second time a candidate for the Presidency.”—”At Pittsburg, seventy former friends of General Jackson called a meeting of those who had renounced him, which was numerously and respectably attended, the veto condemned, and the bank applauded as necessary to the prosperity of the country.”—”Irish meeting in Philadelphia. A call, signed by above two thousand naturalized Irishmen, seceding from General Jackson, invited their fellow-countrymen to meet and choose between the tyrant and the bank, and gave rise to a numerous assemblage in Independence Square, at which strong resolutions were adopted,

renouncing Jackson and his measures, opposing his re-election and sustaining the bank."—"The New Orleans emporium mentions, among other deleterious effects of the bank veto, at that place, that one of the State banks had already commenced discounting four months' paper, at eight per centum."—"Cincinnati farmers look here! We are credibly informed that several merchants in this city, in making contracts for their winter supplies of pork, are offering to contract to pay two dollars fifty cents per hundred, if Clay is elected, and one dollar fifty cents, if Jackson is elected. Such is the effect of the veto. This is something that people can understand."—"Baltimore. A great many mechanics are thrown out of employment by the stoppage of building. The prospect ahead is, that we shall have a very distressing winter. There will be a swift reduction of prices to the laboring classes. Many who subsisted upon labor, will lack regular employment, and have to depend upon chance or charity; and many will go supperless to bed who deserve to be filled."—"Cincinnati. Facts are stubborn things. It is a fact that, last year, before this time, $300,000 had been advanced, by citizens of this place, to farmers for pork, and now, not one dollar. So much for the veto."—"Brownsville, Pennsylvania. We understand, that a large manufacturer has discharged all his hands, and others have given notice to do so. We understand, that not a single steamboat will be built this season, at Wheeling, Pittsburg, or Louisville."—"Niles' Register editorial. No King of England has dared a practical use of the word 'veto,' for about two hundred years, or more; and it has become obsolete in the United Kingdom of Great Britain; and Louis Philippe would hardly retain his crown three days, were he to veto a deliberate act of the two French Chambers, though supported by an army of 100,000 men."

All this distress and alarm, real and factitious, was according to the programme which prescribed it, and easily done by the bank, and its branches in the States: its connection with money-dealers and brokers; its power over its debtors, and its power over the thousand local banks, which it could destroy by an exertion of its strength, or raise up by an extension of its favor. It was a wicked and infamous attempt, on the part of the great moneyed corporation, to govern the election by operating on the business and the fears of the people—destroying some and alarming others.

73. Presidential Election Of 1832

General Jackson and Mr. Van Buren were the candidates, on one side; Mr. Clay and Mr. John Sergeant, of Pennsylvania, on the other, and the result of no election had ever been looked to with more solicitude. It was a question of systems and of measures, and tried in the persons of men who stood out boldly and unequivocally in the representation of their respective sides. Renewal of the national bank charter, continuance of the high protective policy, distribution of the public land money, internal improvement by the federal government, removal of the Indians, interference between Georgia and the Cherokees, and the whole American system were staked on the issue, represented on one side by Mr. Clay and Mr. Sergeant, and opposed, on the other, by General Jackson and Mr. Van Buren. The defeat of Mr. Clay, and the consequent condemnation of his measures, was complete and overwhelming. He received but forty-nine votes out of a totality of two hundred and eighty-eight! And this result is not to be attributed, as done by Mons. de Tocqueville, to military fame. General Jackson was now a tried statesman, and great issues were made in his person, and discussed in every form of speech and writing, and in every forum, State, and federal—from the halls of Congress to township meetings—and his success was not only triumphant but progressive. His vote was a large increase upon the preceding one of 1828, as that itself had been upon the previous one of 1824. The result was hailed with general satisfaction, as settling questions of national disturbance, and leaving a clear field, as it was hoped, for future temperate and useful legislation. The vice-presidential election, also, had a point and a lesson in it. Besides concurring with General Jackson in his systems of policy, Mr. Van Buren had, in his own person, questions which concerned himself, and which went to his character as a fair and honorable man. He had been rejected by the Senate as minister to the court of Great Britain, under circumstances to give *éclat* to the rejection, being then at his post; and on accusations of prostituting official station to party intrigue and elevation, and humbling his country before Great Britain to obtain as a favor what was due as a right. He had also been accused of breaking up friendship between General Jackson and Mr. Calhoun, for the purpose of getting a rival out of the way—contriving for that purpose the dissolution of the cabinet, the resuscitation of the buried question of the punishment of General Jackson in Mr. Monroe's cabinet, and a system of intrigues to destroy Mr. Calhoun—all brought forward imposingly in senatorial and Congress debates, in pamphlets and periodicals, and in every variety of speech and of newspaper publication; and all with the avowed purpose of showing him unworthy to be elected Vice-President. Yet, he was elected—and triumphantly—receiving the same vote with General Jackson, except that of Pennsylvania, which went to one of her own citizens, Mr. William Wilkins, then senator in Congress, and afterwards Minister to Russia, and Secretary of War. Another circumstance attended this election, of ominous character, and deriving emphasis from the state of the times. South Carolina refused to vote in it; that is to say, voted with neither party, and threw away her vote upon citizens who were not candidates, and who received no vote but her own; namely, Governor John Floyd of Virginia, and Mr. Henry Lee of Massachusetts: a dereliction not to be accounted for upon any intelligible or consistent reason, seeing that the rival candidates held the opposite sides of the system of which the State complained, and that the success of one was to be its overthrow; of the other, to be its confirmation. This circumstance, coupled with the nullification attitude which the State had assumed, gave significance to this separation from the other States in the matter of the election: a separation too marked not to be noted, and interpreted by current events too clearly to be misunderstood. Another circumstance attended this election, of a nature not of itself to command commemoration, but worthy to be remembered for the lesson

it reads to all political parties founded upon one idea, and especially when that idea has nothing political in it; it was the anti-masonic vote of the State of Vermont, for Mr. Wirt, late United States Attorney-General, for President; and for Mr. Amos Ellmaker of Pennsylvania, for Vice-President. The cause of that vote was this: some years before, a citizen of New-York, one Mr. Morgan, a member of the Freemason fraternity, had disappeared, under circumstances which induced the belief that he had been secretly put to death, by order of the society, for divulging their secret. A great popular ferment grew out of this belief, spreading into neighboring States, with an outcry against all masons, and all secret societies, and a demand for their suppression. Politicians embarked on this current; turned it into the field of elections, and made it potent in governing many. After obtaining dominion over so many local and State elections, “anti-masonry,” as the new enthusiasm was called, aspired to higher game, undertook to govern presidential candidates, subjecting them to interrogatories upon the point of their masonic faith; and eventually set up candidates of their own for these two high offices. The trial was made in the persons of Messrs. Wirt and Ellmaker, and resulted in giving them seven votes—the vote of Vermont alone—and, in showing the weakness of the party, and its consequent inutility as a political machine. The rest is soon told. Anti-masonry soon ceased to have a distinctive existence; died out, and, in its death, left a lesson to all political parties founded in one idea—especially when that idea has nothing political in it.

74. First Annual Message Of President Jackson After His Second Election

This must have been an occasion of great and honest exultation to General Jackson—a re-election after a four years' trial of his administration, over an opposition so formidable, and after having assumed responsibilities so vast, and by a majority so triumphant—and his message directed to the same members, who, four months before, had been denouncing his measures, and consigning himself to popular condemnation. He doubtless enjoyed a feeling of elation when drawing up that message, and had a right to the enjoyment; but no symptom of that feeling appeared in the message itself, which, abstaining from all reference to the election, wholly confined itself to business topics, and in the subdued style of a business paper. Of the foreign relations he was able to give a good, and therefore, a brief account; and proceeding quickly to our domestic affairs gave to each head of these concerns a succinct consideration. The state of the finances, and the public debt, claimed his first attention. The receipts from the customs were stated at twenty-eight millions of dollars—from the lands at two millions—the payments on account of the public debt at eighteen millions;—and the balance remaining to be paid at seven millions—to which the current income would be more than adequate notwithstanding an estimated reduction of three or four millions from the customs in consequence of reduced duties at the preceding session. He closed this head with the following view of the success of his administration in extinguishing a national debt, and his congratulations to Congress on the auspicious and rare event:

"I cannot too cordially congratulate Congress and my fellow-citizens on the near approach of that memorable and happy event, the extinction of the public debt of this great and free nation. Faithful to the wise and patriotic policy marked out by the legislation of the country for this object, the present administration has devoted to it all the means which a flourishing commerce has supplied, and a prudent economy preserved, for the public treasury. Within the four years for which the people have confided the executive power to my charge, fifty-eight millions of dollars will have been applied to the payment of the public debt. That this has been accomplished without stinting the expenditures for all other proper objects, will be seen by referring to the liberal provision made, during the same period, for the support and increase of our means of maritime and military defence, for internal improvements of a national character, for the removal and preservation of the Indians and, lastly, for the gallant veterans of the Revolution."

To the gratifying fact of the extinction of the debt, General Jackson wished to add the substantial benefit of release from the burthens which it imposed—an object desirable in itself, and to all the States, and particularly to those of the South, greatly dissatisfied with the burthens of the tariff, and with the large expenditures which took place in other quarters of the Union. Sixteen millions of dollars, he stated to be the outlay of the federal government for all objects exclusive of the public debt; so that ten millions might be subject to reduction: and this to be effected so as to retain a protecting duty in favor of the articles essential to our defence and comfort in time of war. On this point he said:

"Those who take an enlarged view of the condition of our country, must be satisfied that the policy of protection must be ultimately limited to those articles of domestic manufacture which are indispensable to our safety in time of war. Within this scope, on a reasonable scale, it is recommended by every consideration of patriotism and duty, which will doubtless always secure to it a liberal and efficient support. But beyond this object, we have already

seen the operation of the system productive of discontent. In some sections of the republic, its influence is deprecated as tending to concentrate wealth into a few hands, and as creating those germs of dependence and vice which, in other countries, have characterized the existence of monopolies, and proved so destructive of liberty and the general good. A large portion of the people, in one section of the republic, declares it not only inexpedient on these grounds, but as disturbing the equal relations of property by legislation, and therefore unconstitutional and unjust."

On the subject of the public lands his recommendations were brief and clear, and embraced the subject at the two great points which distinguish the statesman's view from that of a mere politician. He looked at them under the great aspect of settlement and cultivation, and the release of the new States from the presence of a great foreign landholder within their limits. The sale of the salable parts to actual settlers at what they cost the United States, and the cession of the unsold parts within a reasonable time to the States in which they lie, was his wise recommendation; and thus expressed:

"It seems to me to be our true policy that the public lands shall cease as soon as practicable, to be a source of revenue, and that they be sold to settlers in limited parcels, at a price barely sufficient to reimburse to the United States the expense of the present system, and the cost arising under our Indian compacts. The advantages of accurate surveys and undoubted titles, now secured to purchasers, seem to forbid the abolition of the present system, because none can be substituted which will more perfectly accomplish these important ends. It is desirable, however, that, in convenient time, this machinery be withdrawn from the States, and that the right of soil, and the future disposition of it, be surrendered to the States, respectively, in which it lies.

"The adventurous and hardy population of the West, besides contributing their equal share of taxation under our impost system, have, in this progress of our government, for the lands they occupy, paid into the treasury a large proportion of forty millions of dollars, and, of the revenue received therefrom, but a small part has been expended amongst them. When, to the disadvantage of their situation in this respect, we add the consideration that it is their labor alone which gives real value to the lands, and that the proceeds arising from their sale are distributed chiefly among States which had not originally any claim to them, and which have enjoyed the undivided emolument arising from the sale of their own lands, it cannot be expected that the new States will remain longer contented with the present policy, after the payment of the public debt. To avert the consequences which may be apprehended from this cause, to put an end for ever to all partial and interested legislation on the subject, and to afford to every American citizen of enterprise, the opportunity of securing an independent freehold, it seems to me, therefore, best to abandon the idea of raising a future revenue out of the public lands."

These are the grounds upon which the members from the new States should unite and stand. The Indian title has been extinguished within their limits; the federal title should be extinguished also. A stream of agriculturists is constantly pouring into their bosom—many of them without the means of purchasing land—and to all of them the whole of their means needed in its improvement and cultivation. Donations then, or sales at barely reimbursing prices, is the wise policy of the government; and a day should be fixed by Congress in every State (regulated by the quantity of public land within its limits), after which the surrender of the remainder should take effect within the State; and the whole federal machinery for the sale of the lands be withdrawn from it. In thus filling the new States and Territories with independent landholders—with men having a stake in the soil—the federal government would itself be receiving, and that for ever, the two things of which every government has

need: namely, perennial revenue, and military service. The cultivation of the lands would bring in well-regulated revenue through the course of circulation, and, what Mr. Burke calls, "the political secretions of the State." Their population would be a perpetual army for the service of the country when needed. It is the true and original defence of nations—the incitement and reward for defence—a freehold, and arms to defend it. It is a source of defence which preceded standing armies, and should supersede them; and pre-eminently belongs to a republic, and above all to the republic of the United States, so abounding in the means of creating these defenders, and needing them so much. To say nothing of nearer domains, there is the broad expanse from the Mississippi to the Pacific ocean, all needing settlers and defenders. Cover it with freeholders, and you have all the defenders that are required—all that interior savages, or exterior foreigners, could ever render necessary to appear in arms. In a mere military point of view, and as assuring the cheap and efficient defence of the nation, our border, and our distant public territory, should be promptly covered with freehold settlers.

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On the subject of the removal of the Indians, the message said:

"I am happy to inform you, that the wise and humane policy of transferring from the eastern to the western side of the Mississippi, the remnants of our aboriginal tribes, with their own consent, and upon just terms, has been steadily pursued, and is approaching, I trust, its consummation. By reference to the report of the Secretary of War, and to the documents submitted with it, you will see the progress which has been made since your last session in the arrangement of the various matters connected with our Indian relations. With one exception, every subject involving any question of conflicting jurisdiction, or of peculiar difficulty, has been happily disposed of, and the conviction evidently gains ground among the Indians, that their removal to the country assigned by the United States for their permanent residence, furnishes the only hope of their ultimate prosperity.

"With that portion of the Cherokees, however, living within the State of Georgia, it has been found impracticable, as yet, to make a satisfactory adjustment. Such was my anxiety to remove all the grounds of complaint, and to bring to a termination the difficulties in which they are involved, that I directed the very liberal propositions to be made to them which accompany the documents herewith submitted. They cannot but have seen in these offers the evidence of the strongest disposition, on the part of the government, to deal justly and liberally with them. An ample indemnity was offered for their present possessions, a liberal provision for their future support and improvement, and full security for their private and political rights. Whatever difference of opinion may have prevailed respecting the just claims of these people, there will probably be none respecting the liberality of the propositions, and very little respecting the expediency of their immediate acceptance. They were, however, rejected, and thus the position of these Indians remains unchanged, as do the views communicated in my message to the Senate, of February 22, 1831."

The President does not mention the obstacles which delayed the humane policy of transferring the Indian tribes to the west of the Mississippi, nor allude to the causes which prevented the remaining Cherokees in Georgia from accepting the liberal terms offered them, and joining the emigrated portion of their tribe on the Arkansas; but these obstacles and causes were known to the public, and the knowledge of them was carried into the parliamentary, the legislative, and the judicial history of the country. These removals were seized upon by party spirit as soon as General Jackson took up the policy of his predecessors, and undertook to complete what they had began. His injustice and tyranny to the Indians became a theme of political party vituperation; and the South, and Georgia especially, a new

battle-field for political warfare. The extension of her laws and jurisdiction over the part of her territory still inhabited by a part of the Cherokees, was the signal for concentrating upon that theatre the sympathies, and the interference of politicians and of missionaries. Congress was appealed to; and refused the intervention of its authority. The Supreme Court was applied to to stay, by an injunction, the operation of the laws of Georgia, on the Indian part of the State; and refused the application, for want of jurisdiction of the question. It was applied to to bring the case of the missionaries before itself, and did so, reversing the judgment of the Georgia State Court, and pronouncing one of its own; which was disregarded. It was applied to to reverse the judgment in the case of Tassells, and the writ of error was issued to bring up the case; and on the day appointed Tassells was hanged. The missionaries were released as soon as they ceased their appeals to the Supreme Court, and addressed themselves to the Governor of Georgia, to whom belonged the pardoning power; and the correspondence and communications which took place between themselves and Governor Lumpkin showed that they were emissaries, as well as missionaries, and acting a prescribed part for the "good of the country"—as they expressed it. They came from the North, and returned to it as soon as released. All Georgia was outraged, and justly, at this political interference in her affairs, and this intrusive philanthropy in behalf of Indians to whom she gave the same protection as to her own citizens, and at these attempts, so repeatedly made to bring her before the Supreme Court. Her governors (Troup, Gilmer, and Lumpkin,) to whom it successively belonged to represent the rights and dignity of the State, did so with firmness and moderation; and, in the end, all her objects were attained, and the interference and intrusion ceased; and the issue of the presidential election rebuked the political and ecclesiastical intermeddlers in her affairs.

A passage in the message startled the friends of the Bank of the United States, and, in fact, took the public by surprise. It was an intimation of the insolvency of the bank, and of the insecurity of the public deposits therein; and a recommendation to have the affairs of the institution thoroughly investigated. It was in these terms:

"Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress, under the firm belief that it is worthy their serious investigation. An inquiry into the transactions of the institution, embracing the branches as well as the principal bank, seems called for by the credit which is given throughout the country to many serious charges impeaching its character, and which, if true, may justly excite the apprehension that it is no longer a safe depository of the money of the people."

This recommendation gave rise to proceedings in Congress, which will be noted in their proper place. The intimation of insolvency was received with scorn by the friends of the great corporation—with incredulity by the masses—and with a belief that it was true only by the few who closely observed the signs of the times, and by those who confided in the sagacity and provident foresight of Jackson (by no means inconsiderable either in number or judgment). For my own part I had not suspicioned insolvency when I commenced my opposition to the renewed charter; and was only brought to that suspicion, and in fact, conviction, by seeing the flagrant manner in which the institution resisted investigation, when proposed under circumstances which rendered it obligatory to its honor; and which could only be so resisted from a consciousness that, if searched, something would be found worse than any thing charged. The only circumstance mentioned by the President to countenance suspicion was the conduct of the bank in relation to the payment of five millions of the three per cent. stock, ordered to have been paid at the bank in the October preceding (and where the money, according to its returns, was in deposit); and instead of paying which the bank secretly sent an agent to London to obtain delay from the creditors for six, nine and twelve

months; and even to purchase a part of the stock on its account—which was done—and in clear violation of its charter (which forbids the institution to traffic in the stocks of the United States). This delay, with the insufficient and illegal reason given for it (for no reason could be legal or sufficient while admitting the money to be in her hands, and that which the bank gave related to the cholera, and the ever-ready excuse of accommodation to the public), could only be accounted for from an inability to produce the funds; in other words, that while her returns to the treasury admitted she had the money, the state of her vaults showed that she had it not. This view was further confirmed by her attempt to get a virtual loan to meet the payment, if delay could not be obtained, or the stock purchased, in the application to the London house of the Barings to draw upon it for the amount uncovered by delay or by purchase.

But the salient passage in the message—the one which gave it a new and broad emphasis in the public mind—was the part which related to the attitude of South Carolina. The proceedings of that State had now reached a point which commanded the attention of all America, and could not be overlooked in the President's message. Organized opposition, and forcible resistance to the laws, took their open form; and brought up the question of the governmental enforcement of these laws, or submission to their violation. The question made a crisis; and the President thus brought the subject before Congress:

"It is my painful duty to state, that, in one quarter of the United States, opposition to the revenue laws has risen to a height which threatens to thwart their execution, if not to endanger the integrity of the Union. Whatever obstructions may be thrown in the way of the judicial authorities of the general government, it is hoped they will be able, peaceably, to overcome them by the prudence of their own officers, and the patriotism of the people. But should this reasonable reliance on the moderation and good sense of all portions of our fellow-citizens be disappointed, it is believed that the laws themselves are fully adequate to the suppression of such attempts as may be immediately made. Should the exigency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice of it will be given to Congress, with the suggestion of such views and measures as may be deemed necessary to meet it."

Nothing could be more temperate, subdued, and even conciliatory than the tone and language of this indispensable notice. The President could not avoid bringing the subject to the notice of Congress; and could not have done it in a more unexceptionable manner. His language was that of justice and mildness. The peaceful administration of the laws were still relied upon, and if any thing further became necessary he promised an immediate notice to Congress. In the mean time, and in a previous part of his message, he had shown his determination, so far as it depended on him, to remove all just complaint of the burthens of the tariff by effecting a reduction of many millions of the duties:—a dispensation permitted by the extinction of the public debt within the current year, and by the means already provided, and which would admit of an abolition of ten to twelve millions of dollars of duties.

75. Bank Of The United States—Delay In Paying The Three Per Cents—Committee Of Investigation

The President in his message had made two recommendations which concerned the bank—one that the seven millions of stock held therein by the United States should be sold; the other that a committee should be appointed to investigate its condition. On the question of referring the different parts of the message to appropriate committees. Mr. Speight, of North Carolina, moved that this latter clause be sent to a select committee to which Mr. Wayne, of Georgia, proposed an amendment, that the committee should have power to bring persons before them, and to examine them on oath, and to call upon the bank and its branches for papers. This motion gave rise to a contest similar to that of the preceding session on the same point, and by the same actors—and with the same result in favor of the bank—the debate being modified by some fresh and material incidents. Mr. Wickliffe, of Kentucky, had previously procured a call to be made on the Secretary of the Treasury for the report which his agent was employed in making upon the condition of the bank; and wished the motion for the committee to be deferred until that report came in. He said:

"He had every confidence, both from his own judgment and from information in his possession, that when the resolution he had offered should receive its answer, and the House should have the report of the agent sent by the Secretary of the Treasury to inquire into the affairs of the bank, with a view to ascertain whether it was a safe depository for the public funds, the answer would be favorable to the bank and to the entire security of the revenue. Mr. W. said he had hoped that the resolution he had offered would have superseded the necessity of another bank discussion in that House, and of the consequences upon the financial and commercial operations of the country, and upon the credit of our currency. He had not understood, from a hasty reading of the report of the Secretary of the Treasury, that that officer had expressed any desire for the appointment of any committee on the subject. The secretary said that he had taken steps to obtain such information as was within his control, but that it was possible he might need further powers hereafter. What had already been the effect throughout the country of the broadside discharged by the message at the bank? Its stock had, on the reception of that message, instantly fallen down to 104 per cent. Connected with this proposition to sell the stock, a loss had already been incurred by the government of half a million of dollars. What further investigations did gentlemen require? What new bill of indictment was to be presented? There was one in the secretary's report, which was also alluded to in the message: it was, that the bank had, by its unwaranted action, prevented the government from redeeming the three per cent. stock at the time it desired. But what was the actual state of the fact? What had the bank done to prevent such redemption? It had done nothing more nor less than what it had been required by the government to do."

The objection to inquiry, made by Mr. Wickliffe, that it depreciated the stock, and made a loss of the difference to its holders, was entirely fallacious, as fluctuations in the price of stocks are greatly under the control of those who gamble in them, and who seize every circumstance, alternately to depress and exalt them; and the fluctuations affect nobody but those who are buyers or sellers. Yet this objection was gravely resorted to every time that any movement was made which affected the bank; and arithmetical calculations were gravely gone into to show, upon each decline of the stock, how much money each stockholder had lost. On this occasion the loss of the United States was set down at half a million of dollars:—which was recovered four days afterwards upon the reading of the report of the treasury agent, favorable to the bank, and which enabled the dealers to put up the shares to

112 again. In the mean time nobody lost any thing but the gamblers; and that was nothing to the public, as the loss of one was the gain of the other: and the thing balanced itself. Holders for investment neither lost, nor gained. For the rest, Mr. Wayne, of Georgia, replied:

"It has been said that nothing was now before the House to make an inquiry into the condition of the bank desirable or necessary. He would refer to the President's message, and to the report of the Secretary of the Treasury, both suggesting an examination, to ascertain if the bank was, or would be in future, a safe depository for the public funds. Mr. W. did not say it was not, but an inquiry into the fact might be very proper notwithstanding; and the President and Secretary, in suggesting it, had imputed no suspicion of the insolvency of the bank. Eventual ability to discharge all of its obligations is not of itself enough to entitle the bank to the confidence of the government. Its management, and the spirit in which it is managed, in direct reference to the government, or to those administering it, may make investigation proper. What was the Executive's complaint against the bank? That it had interfered with the payment of the public debt, and would postpone the payment of five millions of it for a year after the time fixed upon for its redemption, by becoming actually or nominally the possessors of that amount of the three per centum stock, though the charter prohibited it from holding such stock, and from all advantages which might accrue from the purchase of it. True, the bank had disavowed the ownership. But of that sum which had been bought by Baring, Brothers, & Co., under the agreement with the agent of the bank, at ninety-one and a half, and the cost of which had been charged to the bank, who would derive the benefit of the difference between the cost of it and the par value, which the government will pay? Mr. W. knew this gain would be effected by what may be the rate of exchange between the United States and England, but still there would be gain, and who was to receive it? Baring, Brothers, & Co.? No. The bank was, by agreement, charged with the cost of it, in a separate account, on the books of Baring, Brothers, & Co., and it had agreed to pay interest upon the amount, until the stock was redeemed.

"The bank being prohibited to deal in such stock, it would be well to inquire, even under the present arrangements with Baring, Brothers, & Co., whether the charter, in this respect, was substantially complied with. Mr. W. would not now go into the question of the policy of the arrangement by the bank concerning the three per cents. It may eventuate in great public benefit, as regards the commerce of the country; but if it does, it will be no apology for the temerity of an interference with the fixed policy of the government, in regard to the payment of the national debt; a policy, which those who administer the bank knew had been fixed by all who, by law, can have any agency in its payment. Nor can any apology be found for it in the letter of the Secretary of the Treasury of the 19th of July last to Mr. Biddle; for, at Philadelphia, the day before, on the 18th, he employed an agent to go to England, and had given instructions to make an arrangement, by which the payment of the public debt was to be postponed until October, 1833."

Mr. Watmough, representative from the district in which the bank was situated, disclaimed any intention to thwart any course which the House was disposed to take; but said that the charges against the bank had painfully affected the feelings of honorable men connected with the corporation, and injured its character; and deprecated the appointment of a select committee; and proposed the Committee of Ways and Means—the same which had twice reported in favor of the bank:—and he had no objection that this committee should be clothed with all the powers proposed by Mr. Wayne to be conferred upon the select committee. In this state of the question the report of the treasury agent came in, and deserves to be remembered in contrast with the actual condition of the bank as afterwards discovered, and as a specimen of the imposing exhibit of its affairs which a moneyed corporation can make when actually insolvent. The report, founded on the statements furnished by the institution

itself, presented a superb condition—near eighty millions of assets (to be precise, $79,593,870), to meet all demands against it, amounting to thirty-seven millions and a quarter—leaving forty-two millions and a quarter for the stockholders; of which thirty-five millions would reimburse the stock, and seven and a quarter millions remain for dividend. Mr. Polk stated that this report was a mere compendium of the monthly bank returns, showing nothing which these returns did not show; and especially nothing of the eight millions of unavailable funds which had been ascertained to exist, and which had been accumulating for eighteen years. On the point of the non-payment of the three per cents, he said:

"The Secretary of the Treasury had given public notice that the whole amount of the three per cents would be paid off on the first of July. The bank was apprised of this arrangement, and on its application the treasury department consented to suspend the redemption of one third of this stock until the first of October, the bank paying the interest in the mean while. But, if the condition of the bank was so very prosperous, as has been represented, why did it make so great a sacrifice as to pay interest on that large amount for three months, for the sake of deferring the payment? The Secretary of the Treasury, on the 19th July, determined that two thirds of the stock should be paid off on the first of October; and, on the 18th of July what did the bank do? It dispatched an agent to London, without the knowledge of the treasury, and for what? In effect, to borrow 5,000,000 dollars, for that was the amount of the transaction. From this fact Mr. P. inferred that the bank was unable to go on without the public deposits. They then made a communication to the treasury, stating that the bank would hold up such certificates as it could control, to suit the convenience of the government; but was it on this account that they sent their agent to London? Did the president of the bank himself assign this reason? No; he gave a very different account of the matter; he said that the bank apprehended that the spread of the cholera might produce great distress in the country, and that the bank wished to hold itself in an attitude to meet the public exigencies, and that with this view an agent was sent to make an arrangement with the Barings for withholding three millions of the stock."

The motion of Mr. Watmough to refer the inquiry to the Committee of Ways and Means, was carried; and that committee soon reported: *first*, on the point of postponing the payment of a part of the three per cents, that the business being now closed by the actual payment of that stock, it no longer presented any important or practicable point of inquiry, and did not call for any action of Congress upon it; and, *secondly*, on the point of the safety of the public deposits, that there could be no doubt of the entire soundness of the whole bank capital, after meeting all demands upon it, either by its bill holders or the government; and that such was the opinion of the committee, who felt great confidence in the well-known character and intelligence of the directors, whose testimony supported the facts on which the committee's opinion rested. And they concluded with a resolve which they recommended to the adoption of the House, "That the government deposits may, in the opinion of the House, be safely continued in the Bank of the United States." Mr. Polk, one of the committee, dissented from the report, and argued thus against it:

"He hoped that gentlemen who believed the time of the House, at this period of the session, to be necessarily valuable, would not press the consideration of this resolution upon the House at this juncture. During the small remainder of the session, there were several measures of the highest public importance which remained to be acted on. For one, he was extremely anxious that the session should close by 12 o'clock to-night, in order that a sitting upon the Sabbath might be avoided. He would not proceed in expressing his views until he should understand from gentlemen whether they intended to press the House to a vote upon this resolution. [A remark was made by Mr. Ingersoll, which was not heard distinctly by the

reporter.] Mr. P. proceeded. As it had been indicated that gentlemen intended to take a vote upon the resolution, he would ask whether it was possible for the members of the House to express their opinions on this subject with an adequate knowledge of the facts. The Committee of Ways and Means had spent nearly the whole session in the examination of one or two points connected with this subject. The range of investigation had been, of necessity, much less extensive than the deep importance of the subject required; but, before any opinion could be properly expressed, it was important that the facts developed by the committee should be understood. There had been no opportunity for this, and there was no necessity for the expression of a premature opinion unless it was considered essential to whitewash the bank. If the friends of the bank deemed it indispensably necessary, in order to sustain the bank, to call for an expression of opinion, where the House had enjoyed no opportunity of examining the testimony and proof upon which alone a correct opinion could be formed, he should be compelled, briefly, to present one or two facts to the House. It had been one of the objects of the Committee of Ways and Means to ascertain the circumstances relative to the postponement of the redemption of the three per cent. stock by the bank. With the mass of other important duties devolving upon the committee, as full an investigation of the condition of the bank as was desirable could not be expected. The committee, therefore, had been obliged to limit their inquiries to this subject of the three per cents; the other subjects of investigation were only incidental. Upon this main subject of inquiry the whole committee, majority as well as minority, were of opinion that the bank had exceeded its legitimate authority, and had taken measures which were in direct violation of its charter. He would read a single sentence from the report of the majority, which conclusively established this position. In the transactions upon this subject, the majority of the committee expressly say, in their report, that ‘the bank exceeded its legitimate authority, and that this proceeding had no sufficient warrant in the correspondence of the Secretary of the Treasury.’ Could language be more explicit? It was then the unanimous opinion of the committee, upon this main topic of inquiry, that the bank had exceeded its legitimate authority, and that its proceedings relative to the three per cents had no sufficient warrant in the correspondence of the Secretary of the Treasury. The Bank of the United States, it must be remembered, had been made the place of deposit for the public revenues, for the purpose of meeting the expenditures of the government. With the public money in its vaults, it was bound to pay the demands of the government. Among these demands upon the public money in the bank, was that portion of the public debt of which the redemption had been ordered. Had the bank manifested a willingness to pay out the public money in its possession for this object? On examination of the evidence it would be found that, as early as March, 1832, the president of the bank, without the knowledge of the government directors, had instituted a correspondence with certain holders of the public debt, for the purpose of procuring a postponement of its redemption. There was, at that time, no cholera, which could be charged with giving occasion to the correspondence. When public notice had been given by the Secretary of the Treasury of the redemption of the debt, the president of the bank immediately came to Washington, and requested that the redemption might be postponed. And what was the reason then assigned by the president of the bank for this postponement? Why, that the measure would enable the bank to afford the merchants great facilities for the transaction of their business under an extraordinary pressure upon the money market. What was the evidence upon this point? The proof distinctly showed that there was no extraordinary pressure. The monthly statements of the bank established that there was, in fact, a very considerable curtailment of the facilities given to the merchants in the commercial cities.

“The minority of the Committee of Ways and Means had not disputed the ability of the bank to discharge its debts in its own convenient time; but had the bank promptly paid the public money deposited in its vaults when called for? As early as October, 1831, the bank had

anticipated that during the course of 1832 it would not be allowed the undisturbed and permanent use of the public deposits. In the circular orders to the several branches which were then issued, the necessity was stated for collecting the means for refunding those deposits from the loans which were then outstanding. Efforts were made by the branches of the West to make collections for that object; but those efforts entirely failed. The debts due upon loans made by the Western branches had not been curtailed. It was found impossible to curtail them. As the list of discounts had gone down, the list of domestic bills of exchange had gone up. The application before alluded to was made in March to Mr. Ludlow, of New-York, who represented about 1,700,000 of the public debt to postpone its redemption. This expedient also failed. Then the president of the bank came to Washington for the purpose of procuring the postponement of the period of redemption, upon the ground that an extraordinary pressure existed, and the public interest would be promoted by enabling the bank to use the public money in affording facilities to the merchants of the commercial cities. And what next? In July, the president of the bank and the exchange committee, without the knowledge of the head of the treasury, or of the board of directors of the bank, instituted a secret mission to England, for the purpose of negotiating in effect a loan of five millions of dollars, for which the bank was to pay interest. The propriety or object of this mission was not laid before the board of directors, and no clue was afforded to the government. Mr. Cadwalader went to England upon this secret mission. On the 1st of October the bank was advised of the arrangement made by Mr. Cadwalader, by which it was agreed, in behalf of the bank, to purchase a part of the debt of the foreign holders, and to defer the redemption of a part. Now, it was well known to every one who had taken the trouble to read the charter of the bank, that it was expressly prohibited from purchasing public stock. On the 15th October it was discovered that Cadwalader had exceeded his instructions. This discovery by the bank took place immediately after the circular letter of Baring, Brothers, & Co., of London, announcing that the arrangement had been published in one of the New-York papers. This circular gave the first information to the government, or to any one in this country, as far as he was advised, excepting the exchange committee of the bank, of the object of Cadwalader's mission. In the limited time which could now be spared for this discussion, it was impossible to go through the particulars of this scheme. It would be seen, on examination of the transaction, that the bank had directly interfered with the redemption of the public debt, for the obvious reason that it was unable to refund the public deposits. The cholera was not the ground of the correspondence with Ludlow. It was not the cholera which brought the president of the bank to Washington, to request the postponement of the redemption of the debt; nor was it the cholera which led to the resolution of the exchange committee of the bank to send Cadwalader to England. The true disorder was, the impossibility in which the bank found itself to concentrate its funds and diminish its loans. It had been stated in the report of the majority of the committee, that the certificates of the greater portion of the three per cents had been surrendered. It had been said that there was now less than a million of this debt outstanding. In point of fact, it would seem, from the correspondence, that between one and two millions of the debts of which the certificates had been surrendered, had been paid by the bank becoming debtor to the foreign holder instead of the government. The directors appear to suppose this has not been the case, but the correspondence shows that the certificates have been sent home under this arrangement. After this brief explanation of the conduct of the bank in relation to the public deposits, he would ask whether it was necessary to sustain the credit of the bank by adopting this resolution."

The vote on the resolution was taken, and resulted in a large majority for it—109 to 46. Those who voted in the negative were: John Anderson of Maine; William G. Angel of New-York; William S. Archer of Virginia; James Bates of Maine; Samuel Beardsley of New-York; John T. Bergen of New-York; Laughlin Bethune of North Carolina; John Blair of Tennessee;

Joseph Bouck of New-York; John C. Brodhead of New-York; John Carr of Indiana; Clement C. Clay of Alabama; Henry W. Connor of North Carolina; Charles Dayan of New-York; Thomas Davenport of Virginia; William Fitzgerald of Tennessee; —— Clayton of Georgia; Nathan Gaither of Kentucky; William F. Gordon of Virginia; Thomas H. Hall of North Carolina; Joseph W. Harper of New Hampshire; —— Hawkins; Michael Hoffman of New-York; Henry Horn of Pennsylvania; Henry Hubbard of New Hampshire; Adam King of Pennsylvania; Joseph Lecompte of Kentucky; Chittenden Lyon of Kentucky; Joel K. Mann of Kentucky; Samuel W. Mardis of Alabama; John Y. Mason of Virginia; Jonathan McCarty of Indiana; Thomas R. Mitchell of South Carolina; Job Pierson of New-York; James K. Polk of Tennessee; Edward C. Reed of New-York; Nathan Soule of New-York; Jesse Speight of North Carolina; Jas. Standifer of Tennessee; Francis Thomas of Maryland; Wiley Thompson of Georgia; Daniel Wardwell of New-York; James M. Wayne of Georgia; John W. Weeks of New Hampshire; Campbell P. White of New-York: J. T. H. Worthington of Maryland. And thus the bank not only escaped without censure, but received high commendation; while its conduct in relation to the three per cents placed it unequivocally in the category of an unfaithful and prevaricating agent; and only left open the inquiry whether its conduct was the result of inability to pay the sum required, or a disposition to make something for itself or to favor its debtors—the most innocent of these motives being negatived by the sinister concealment of the whole transaction from the government (after getting delay from it), its concealment from the public, its concealment even from its own board of directors—its entire secrecy from beginning to end—until accidentally discovered through a London letter published in New-York. These are the same three per cents, the redemption of which through an enlargement of the powers of the sinking fund commissioners I had endeavored to effect some years before, when they could have been bought at about sixty-six cents in the dollar, and when my attempt was defeated by the friends of the bank. They were now paid at the rate of one hundred cents to the dollar, losing all the time the interest on the deposits, in bank, and about four millions for the appreciation of the stock. The attempt to get this stock redeemed, or interest on the deposits, was one of my first financial movements after I came into the Senate; and the ease with which the bank defeated me, preventing both the extinction of the debt and the payment of interest on the deposits, convinced me how futile it was to attempt any legislation unfavorable to the bank in a case which concerned itself.

76. Abolition Of Imprisonment For Debt

The philanthropic Col. R. M. Johnson, of Kentucky, had labored for years at this humane consummation; and finally saw his labors successful. An act of Congress was passed abolishing all imprisonment for debt, under process from the courts of the United States: the only extent to which an act of Congress could go, by force of its enactments; but it could go much further, and did, in the force of example and influence; and has led to the cessation of the practice of imprisoning the debtors, in all, or nearly all, of the States and Territories of the Union; and without the evil consequences which had been dreaded from the loss of this remedy over the person. It led to a great many oppressions while it existed, and was often relied upon in extending credit, or inducing improvident people to incur debt, where there was no means to pay it, or property to meet it, in the hands of the debtor himself; but reliance wholly placed upon the sympathies of third persons, to save a friend or relative from confinement in a prison. The dower of wives, and the purses of fathers, brothers, sisters, friends, were thus laid under contribution by heartless creditors; and scenes of cruel oppression were witnessed in every State. Insolvent laws and bankrupt laws were invented to cover the evil, and to separate the unfortunate from the fraudulent debtor; but they were slow and imperfect in operation, and did not reach the cases in which a cold and cruel calculation was made upon the sympathies of friends and relatives, or upon the chances of catching the debtor in some strange and unbefriended place. A broader remedy was wanted, and it was found in the total abolition of the practice, leaving in full force all the remedies against fraudulent evasions of debt. In one of his reports on the subject, Col. Johnson thus deduced the history of this custom, called “barbarous,” but only to be found in civilized countries:

“In ancient Greece, the power of creditors over the persons of their debtors was absolute; and, as in all cases where despotic control is tolerated, their rapacity was boundless. They compelled the insolvent debtors to cultivate their lands like cattle, to perform the service of beasts of burden, and to transfer to them their sons and daughters, whom they exported as slaves to foreign countries.

“These acts of cruelty were tolerated in Athens, during her more barbarous state, and in perfect consonance with the character of a people who could elevate a Draco, and bow to his mandates, registered in blood. But the wisdom of Solon corrected the evil. Athens felt the benefit of the reform; and the pen of the historian has recorded the name of her lawgiver as the benefactor of man. In ancient Rome, the condition of the unfortunate poor was still more abject. The cruelty of the Twelve Tables against insolvent debtors should be held up as a beacon of warning to all modern nations. After judgment was obtained, thirty days of grace were allowed before a Roman was delivered into the power of his creditor. After this period, he was retained in a private prison, with twelve ounces of rice for his daily sustenance. He might be bound with a chain of fifteen pounds weight; and his misery was three times exposed in the market-place, to excite the compassion of his friends. At the expiration of sixty days, the debt was discharged by the loss of liberty or life. The insolvent debtor was either put to death or sold in foreign slavery beyond the Tiber. But, if several creditors were alike obstinate and unrelenting, they might legally dismember his body, and satiate their revenge by this horrid partition. Though the refinements of modern criticisms have endeavored to divest this ancient cruelty of its horrors, the faithful Gibbon, who is not remarkable for his partiality to the poorer class, preferring the liberal sense of antiquity, draws this dark picture of the effect of giving the creditor power over the person of the debtor. No sooner was the Roman empire subverted than the delusion of Roman perfection

began to vanish, and then the absurdity and cruelty of this system began to be exploded—a system which convulsed Greece and Rome, and filled the world with misery, and, without one redeeming benefit, could no longer be endured—and, to the honor of humanity, for about one thousand years, during the middle ages, imprisonment for debt was generally abolished. They seemed to have understood what, in more modern times, we are less ready to comprehend, that power, in any degree, over the person of the debtor, is the same in principle, varying only in degree, whether it be to imprison, to enslave, to brand, to dismember, or to divide his body. But, as the lapse of time removed to a greater distance the cruelties which had been suffered, the cupidity of the affluent found means again to introduce the system; but by such slow gradations, that the unsuspecting poor were scarcely conscious of the change.

"The history of English jurisprudence furnishes the remarkable fact, that, for many centuries, personal liberty could not be violated for debt. Property alone could be taken to satisfy a pecuniary demand. It was not until the reign of Henry III., in the thirteenth century, that the principle of imprisonment for debt was recognized in the land of our ancestors, and that was in favor of the barons alone; the nobility against their bailiffs, who had received their rents and had appropriated them to their own use. Here was the shadow of a pretext. The great objection to the punishment was, that it was inflicted at the pleasure of the baron, without a trial: an evil incident to aristocracies, but obnoxious to republics. The courts, under the pretext of imputed crime, or constructive violence, on the part of the debtor, soon began to extend the principle, but without legislative sanction. In the eleventh year of the reign of Edward I., the immediate successor of Henry, the right of imprisoning debtors was extended to merchants—Jewish merchants excepted, on account of their heterodoxy in religion—and was exercised with great severity. This extension was an act of policy on the part of the monarch. The ascendency obtained by the barons menaced the power of the throne; and, to counteract their influence, the merchants, a numerous and wealthy class, were selected by the monarch, and invested with the same authority over their debtors.

"But England was not yet prepared for the yoke. She could endure an hereditary nobility; she could tolerate a monarchy; but she could not yet resign her unfortunate sons, indiscriminately, to the prison. The barons and the merchants had gained the power over their victims; yet more than sixty years elapsed before Parliament dared to venture another act recognizing the principle. During this period, imprisonment for debt had, in some degree, lost its novelty. The incarceration of the debtor began to make the impression that fraud, and not misfortune, had brought on his catastrophe, and that he was, therefore, unworthy of the protection of the law, and too degraded for the society of the world. Parliament then ventured, in the reign of Edward III., in the fourteenth century, to extend the principle to two other cases—debt and detinue. This measure opened the door for the impositions which were gradually introduced by judicial usurpation, and have resulted in the most cruel oppression. Parliament, for one hundred and fifty years afterwards, did not venture to outrage the sentiments of an injured and indignant people, by extending the power to ordinary creditors. But they had laid the foundation, and an irresponsible judiciary reared the superstructure. From the twenty-fourth year of the reign of Edward III., to the nineteenth of Henry VIII., the subject slumbered in Parliament. In the mean time, all the ingenuity of the courts was employed, by the introduction of artificial forms and legal fictions, to extend the power of imprisonment for debt in cases not provided for by statute. The jurisdiction of the court called the King's Bench, extended to all crimes or disturbances against the peace. Under this court of criminal jurisdiction, the debtor was arrested by what was called the writ of Middlesex, upon a supposed trespass or outrage against the peace and dignity of the crown. Thus, by a fictitious construction, the person who owed his neighbor was supposed to be, what every one

knew him not to be, a violator of the peace, and an offender against the dignity of the crown; and while his body was held in custody for this crime, he was proceeded against in a civil action, for which he was not liable to arrest under statute. The jurisdiction of the court of common pleas extended to civil actions arising between individuals upon private transactions. To sustain its importance upon a scale equal with that of its rival, this court also adopted its fictions, and extended its power upon artificial construction, quite as far beyond its statutory prerogative; and upon the fictitious plea of trespass, constituting a legal supposition of outrage against the peace of the kingdom, authorized the writ of capias, and subsequent imprisonment, in cases where a summons only was warranted by law. The court of exchequer was designed to protect the king's revenue, and had no legal jurisdiction, except in cases of debtors to the public. The ingenuity of this court found means to extend its jurisdiction to all cases of debt between individuals, upon the fictitious plea that the plaintiff, who instituted the suit, was a debtor to the king, and rendered the less able to discharge the debt by the default of the defendant. Upon this artificial pretext, that the defendant was debtor to the king's debtor, the court of exchequer, to secure the king's revenue, usurped the power of arraigning and imprisoning debtors of every description. Thus, these rival courts, each ambitious to sustain its relative importance, and extend its jurisdiction, introduced, as legal facts, the most palpable fictions, and sustained the most absurd solecisms as legal syllogisms.

"Where the person of the debtor was, by statute, held sacred, the courts devised the means of construing the demand of a debt into the supposition of a crime, for which he was subject to arrest on mesne process; and the evidence of debt, into the conviction of a crime against the peace of the kingdom, for which he was deprived of his liberty at the pleasure of the offended party. These practices of the courts obtained by regular gradation. Each act of usurpation was a precedent for similar outrages, until the system became general, and at length received the sanction of Parliament. The spirit of avarice finally gained a complete triumph over personal liberty. The sacred claims of misfortune were disregarded, and, to the iron grasp of poverty, were added the degradation of infamy, and the misery of the dungeon.

"While imprisonment for debt is sanctioned, the threats of the creditor are a source of perpetual distress to the dependent, friendless debtor, holding his liberty by sufferance alone. Temptations to oppression are constantly in view. The means of injustice are always at hand; and even helpless females are not exempted from the barbarous practice. In a land of liberty, enjoying, in all other respects, the freest and happiest government with which the world was ever blessed, it is matter of astonishment that this cruel custom, so anomalous to all our institutions, inflicting so much misery upon society, should have been so long endured."

The act was passed soon after this masterly report was made, followed by similar acts in most of the States; and has been attended every where with the beneficial effect resulting from the suppression of any false and vicious principle in legislation. It is a false and vicious principle in the system of credit to admit a calculation for the chance of payment, founded on the sympathy and alarms of third parties, or on the degradation and incarceration of the debtor himself. Such a principle is morally wrong, and practically unjust; and there is no excuse for it in the plea of fraud. The idea of fraud does not enter into the contract at its original formation; and if occurring afterwards, and the debtor undertakes to defraud his creditor, there is a code of law made for the case; and every case should rest upon its own circumstances. As an element of credit, imprisonment for debt is condemned by morality, by humanity, and by the science of political economy; and its abolition has worked well in reducing the elements of credit to their legitimate derivation in the personal character, visible means, and present securities of the contracting debtor. And, if in that way, it has diminished in any degree the wide circle of credit, that is an additional advantage gained to the good order of society and to the solidity of the social edifice. And thus, as in so many other

instances, American legislation has ameliorated the law derived from our English ancestors, and given an example which British legislation may some day follow.—In addition to the honor of seeing this humane act passed during his administration, General Jackson had the further and higher honor of having twice recommended it to the favorable consideration of Congress.

77. Sale Of United States Stock In The National Bank

The President in his annual message had recommended the sale of this stock, and all other stock held by the United States in corporate companies, with the view to disconnecting the government from such corporations, and from all pursuits properly belonging to individuals. And he made the recommendation upon the political principle which condemns the partnership of the government with a corporation; and upon the economical principle which condemns the national pursuit of any branch of industry and leaves the profit, or loss of all such pursuits to individual enterprise; and upon the belief, in this instance, that the partnership was unsafe—that the firm would fail—and the stockholders lose their investment. In conformity to this recommendation, a bill was brought into the House of Representatives to sell the public stock held in the Bank of the United States, being seven millions of dollars in amount, and consisting of a national stock bearing five per centum interest. The bill was met at the threshold by the parliamentary motion which implies the unworthiness of the subject to be considered; namely, the motion to reject the bill at the first reading. That reading is never for consideration, but for information only; and, although debatable, carries the implication of unfitness for debate, and of some flagrant enormity which requires rejection, without the honor of the usual forms of legislation. That motion was made by a friend of the bank, and seconded by the member (Mr. Watmough) supposed to be familiar with the wishes of the bank directory. The speakers on each side gave vent to expressions which showed that they felt the indignity that was offered to the bill, one side in promoting—the other in opposing the motion. Mr. Wickliffe, the mover, said: “He was impelled, by a sense of duty to his constituents and to his country, to do in this case, what he had never done before—to move the rejection of a bill at its first reading. There are cases in which courtesy should yield to the demands of justice and public duty; and this, in my humble opinion, is one of them. It is a bill fraught with ruin to all private interests, except the interest of the stockjobbers of Wall-street.” Mr. Watmough expressed his indignation and amazement at the appearance of such a bill, and even fell upon the committee which reported it with so much personality as drew a call to order from the Speaker of the House. “He expressed his sincere regret at the necessity which compelled him to intrude upon the House, and to express his opinion on the bill, and his indignation against this persecution of a national institution. He was at a loss to say which feeling predominated in his bosom—amazement, at the want of financial skill in the supporters of the bill—or detestation of the unrelenting spirit of the administration persecution on that floor of an institution admitted by the wisest and the best men of the times to be absolutely essential to the existence and safety of this Union, and almost to that of the constitution itself which formed its basis. He said, he was amazed that such a bill, at such a crisis, could emanate from any committee of this House; but his amazement was diminished when he recalled to mind the source from which it came. It came from the Committee of Ways and Means, and was under the parental care of the gentleman from Tennessee. Need he say more?”

Now, the member thus referred to, and who, after being pointed out as the guardian of the bill required nothing more to be said, was Mr. Polk, afterwards President of the United States. But parliamentary law is no respecter of persons, and would consider the indecorum and outrage of the allusion equally reprehensible in the case of the youngest and least considerable member; and the language is noted here to show the indignities to which members were subjected in the House for presuming to take any step concerning the bank

which militated against that corporation. The sale of the government stock was no injury to the capital of the bank: it was no extinction of seven millions of capital but a mere transfer of that amount to private stockholders—such transfer as took place daily among the private stockholders. The only injury could be to the market price of the stock in the possible decline involved in the withdrawal of a large stockholder; but that was a damage, in the eye of the law and of morality, without injury; that is, without injustice—the stockholder having a right to do so without the assignment of reasons to be judged of by the corporation; and consequently a right to sell out and withdraw when he judged his money to be unsafe, or unprofitably placed, and susceptible of a better investment.

Mr. Polk remarked upon the unusual but not unexpected opposition to the bill; and said if the House was now forced to a decision, it would be done without opportunity for deliberation. He vindicated the bill from any necessary connection with the bank—with its eulogy or censure. This eulogy or censure had no necessary connection with a proposition to sell the government stock. It was a plain business proceeding. The bill authorized the Secretary of the Treasury to sell the stock upon such terms as he should deem best for the government. It was an isolated proposition. It proposed to disenthral the government from a partnership with this incorporated company. It proposed to get rid of the interest which the government had in this moneyed monopoly; and to do so by a sale of the government stocks, and on terms not below the market price. He was not disposed to depreciate the value of the article which he wished to sell. He was willing to rest upon the right to sell. The friends of the bank themselves raised the question of solvency, it would seem, that they might have an opportunity, to eulogize the institution under the forms of a defence. This was not the time for such a discussion—for an inquiry into the conduct and condition of the bank.

The argument and the right were with the supporters of the bill; but they signified nothing against the firm majority, which not only stood by the corporation in its trials, but supported it in its wishes. The bill was immediately rejected, and by a summary process which inflicted a new indignity. It was voted down under the operation of the "previous question," which, cutting off all debate, and all amendments, consigns a measure to instant and silent decision—like the "*mort sans phrase*" (death without talk) of the Abbé Sièyes, at the condemnation of Louis the Sixteenth. But the vote was not very triumphant—one of the leanest majorities, in fact, which the bank had received: one hundred and two to ninety-one.

The negative votes were:

"Messrs. Adair, Alexander, R. Allen, Anderson, Angel, Archer, Barnwell, James Bates, Beardsley Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, John Brodhead, John C. Brodhead, Cambreleng, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Connor, Davenport, Dayan, Doubleday, Draper, Felder, Ford, Foster, Gaither, Gilmore, Gordon, Griffin, Thomas H. Hall, William Hall, Harper, Hawkins, Hoffman, Holland, Horn, Howard, Hubbard, Isacks, Jarvis, Jewett, Richard M. Johnson, Cave Johnson, Kavanagh, Kennon, Adam King, John King, Lamar, Lansing, Leavitt, Lecompte, Lewis, Lyon, Mann, Mardis, Mason, McCarty, Wm. McCoy, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Plummer, Polk, Edward C. Reed, Roane, Soule, Speight, Standifer, John Thompson, Verplanck, Ward, Wardwell, Wayne, Weeks, Campbell, P. White, Worthington.—91."

Such was the result of this attempt, on the part of the government, to exercise the most ordinary right of a stockholder to sell its shares: opposed, insulted, defeated; and by the power of the bank in Congress, of whose members subsequent investigations showed above fifty to be borrowers from the institution; and many to be on the list of its retained attorneys. But this was not the first time the government had been so treated. The same thing had

happened once before, and about in the same way; but without the same excuse of persecution and enmity to the corporation; for, it was before the time of General Jackson's Presidency; to wit, in the year 1827, and under the Presidency of Mr. Quincy Adams. Mr. Philip P. Barbour, representative from Virginia, moved an inquiry, at that time, into the expediency of selling the United States stock in the bank: the consideration of the resolution was delayed a week, the time necessary for a communication with Philadelphia. At the end of the week, the resolution was taken up, and summarily rejected. Mr. Barbour had placed his proposition wholly upon the ground of a public advantage in selling its stock, unconnected with any reason disparaging to the bank, and in a way to avoid, as he believed, any opposition. He said:

"The House were aware that the government holds, at this time, stock of the Bank of the United States, to the amount of seven millions of dollars, which stock was at present worth in market about twenty-three and one half per cent. advance above its par value. If the whole of this stock should now be sold by the government, it would net a profit of one million and six hundred thousand dollars above the nominal amount of the stock. Such being the case, he thought it deserved the serious consideration of the House, whether it would not be a prudent and proper measure now to sell out that stock. It had been said, Mr. B. observed, by one of the best writers on political economy, with whom he was acquainted, that the pecuniary affairs of nations bore a close analogy to those of private households: in both, their prosperity mainly depended on a vigilant and effective management of their resources. There is, said Mr. B., an amount of between seventeen and eighteen millions of the stock of the United States now redeemable, and an amount of nine millions more, which will be redeemable next year. If the interest paid by the United States on this debt is compared with the dividend it receives on its stock in the Bank of the United States, it will be found that a small advantage would be gained by the sale of the latter, in this respect; since the dividends on bank stock are received semi-annually, while the interest of the United States' securities is paid quarterly; this, however, he waived as a matter of comparatively small moment. It must be obvious, he said, that the addition of one million six hundred thousand dollars to the available funds of the United States will produce the extinguishment of an equivalent amount of the public debt, and consequently relieve the interest payable thereon, by which a saving would accrue of about one hundred thousand dollars per annum."

This was what Mr. Barbour said, at the time of offering the resolution. When it came up for consideration, a week after, he found his motion not only opposed, but his motives impeached, and the most sinister designs imputed to himself—to him! a Virginian country gentleman, honest and modest; ignorant of all indirection; upright and open; a stranger to all guile; and with the simplicity and integrity of a child. He deeply felt this impeachment of motives, certainly the first time in his life that an indecent imputation had ever fallen upon him; and he feelingly deprecated the intensity of the outrage. He said:

"We shall have fallen on evil times, indeed, if a member of this House might not, in the integrity of his heart, rise in his place, and offer for consideration a measure which he believed to be for the public weal, without having all that he said and did imputed to some hidden motive, and referred to some secret purpose which was never presented to the public eye."

His proposition was put to the vote, and received eight votes besides his own. They were: Messrs. Mark Alexander, John Floyd, John Roane, and himself, from Virginia; Thomas H. Hall, and Daniel Turner, of North Carolina; Tomlinson Foot of Connecticut; Joseph Lecompte, and Henry Daniel, of Kentucky. And this was the result of that first attempt to sell the United States stock in a bank chartered by itself and bearing its name. And now, why

resuscitate these buried recollections? I answer: for the benefit of posterity! that they may have the benefit of our experience without the humiliation of having undergone it, and know what kind of a master seeks to rule over them if another national bank shall ever seek incorporation at their hands.

78. Nullification Ordinance In South Carolina

It has been seen that the whole question of the American system, and especially its prominent feature of a high protective tariff, was put in issue in the presidential canvass of 1832; and that the long session of Congress of that year was occupied by the friends of this system in bringing forward to the best advantage all its points, and staking its fate upon the issue of the election. That issue was against the system; and the Congress elections taking place contemporaneously with the presidential were of the same character. The fate of the American system was sealed. Its domination in federal legislation was to cease. This was acknowledged on all hands; and it was naturally expected that all the States, dissatisfied with that system, would be satisfied with the view of its speedy and regular extinction, under the legislation of the approaching session of Congress; and that expectation was only disappointed in a single State—that of South Carolina. She had held aloof from the presidential election—throwing away her vote upon citizens who were not candidates—and doing nothing to aid the election of General Jackson, with whose success her interests and wishes were apparently identified. Instead of quieting her apprehensions, and moderating her passion for violent remedies, the success of the election seemed to inflame them; and the 24th of November, just a fortnight after the election which decided the fate of the tariff, she issued her ordinance of nullification against it, taking into her own hands the sudden and violent redress which she prescribed for herself. That ordinance makes an era in the history of our Union, which requires to be studied in order to understand the events of the times, and the history of subsequent events. It was in these words:

"ORDINANCE.

"*An ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities.*

"Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the constitution.

"We, therefore, the people of the State of South Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled 'An act in alteration of the several acts imposing duties on imports,' approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled 'An act to alter and amend

the several acts imposing duties on imports,' approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

"And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the legislature as may be passed or adopted in obedience thereto.

"And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

"And it is further ordained, that all persons now holding any office of honor, profit, or trust, civil or military, under this State (members of the legislature excepted), shall, within such time, and in such manner as the legislature shall prescribe, take an oath well and truly to obey, execute, and enforce this ordinance, and such act or acts of the legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military (members of the legislature excepted), shall, until the legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empannelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

"And we, the people of South Carolina, to the end that it may be fully understood by the government of the United States, and the people of the co-States, that we are determined to maintain this our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the federal government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her

constitutional authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the federal government, to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State wilt thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do.

"Done in convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the declaration of the independence of the United States of America."

This ordinance placed the State in the attitude of open, forcible resistance to the laws of the United States, to take effect on the first day of February next ensuing—a period within which it was hardly possible for the existing Congress, even if so disposed, to ameliorate obnoxious laws; and a period a month earlier than the commencement of the legal existence of the new Congress, on which all reliance was placed. And, in the mean time, if any attempt should be made in any way to enforce the obnoxious laws except through her own tribunals sworn against them, the fact of such attempt was to terminate the continuance of South Carolina in the Union—to absolve her from all connection with the federal government—and to establish her as a separate government, not only unconnected with the United States, but unconnected with any one State. This ordinance, signed by more than a hundred citizens of the greatest respectability, was officially communicated to the President of the United States; and a case presented to him to test his patriotism, his courage, and his fidelity to his inauguration oath—an oath taken in the presence of God and man, of Heaven and earth, "*to take care that the laws of the Union were faithfully executed*." That President was Jackson; and the event soon proved, what in fact no one doubted, that he was not false to his duty, his country, and his oath. Without calling on Congress for extraordinary powers, he merely adverted in his annual message to the attitude of the State, and proceeded to meet the exigency by the exercise of the powers he already possessed.

79. Proclamation Against Nullification

The ordinance of nullification reached President Jackson in the first days of December, and on the tenth of that month the proclamation was issued, of which the following are the essential and leading parts:

"Whereas a convention assembled in the State of South Carolina have passed an ordinance, by which they declare 'that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially' two acts for the same purposes, passed on the 29th of May, 1828, and on the 14th of July, 1832, 'are unauthorized by the constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law,' nor binding on the citizens of that State, or its officers: and by the said ordinance, it is further declared to be unlawful for any of the constituted authorities of the State or of the United States to enforce the payment of the duties imposed by the said acts within the same State, and that it is the duty of the legislature to pass such laws as may be necessary to give full effect to the said ordinance:

"And whereas, by the said ordinance, it is further ordained, that in no case of law or equity decided in the courts of said State, wherein shall be drawn in question the validity of the said ordinance, or of the acts of the legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal shall be punished as for a contempt of court:

"And, finally, the said ordinance declares that the people of South Carolina will maintain the said ordinance at every hazard; and that they will consider the passage of any act, by Congress, abolishing or closing the ports of the said State, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the federal government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of the said State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do:

"And whereas the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its constitution, and having for its object the destruction of the Union—that Union which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations: To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the constitution and laws applicable to the

measures adopted by the convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention.

"Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be, invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demanded, and will certainly justify, a full exposition to South Carolina and the nation of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

"The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the constitution; that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law, it must be palpably contrary to the constitution; but it is evident, that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For as, by the theory, there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress. There is, however, a restraint in this last case, which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous, when our social compact, in express terms, declares that the laws of the United States, its constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds 'that the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.' And it may be asserted without fear of refutation, that no federative government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected any where; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

"If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non-intercourse law in the Eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those States discovered that they had the right now claimed by South Carolina. The war, into

which we were forced to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace, instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure, had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

"If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our government.

"In our colonial state, although dependent on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and, before the declaration of independence, we were known in our aggregate character as the United Colonies of America. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts, and when the terms of our confederation were reduced to form, it was in that of a solemn league of several States, by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that Union is found an article which declares that 'every State shall abide by the determinations of Congress on all questions which, by that confederation, should be submitted to them.'

"Under the confederation, then, no State could legally annul a decision of the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The government could not operate on individuals. They had no judiciary, no means of collecting revenue.

"But the defects of the confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home, nor consideration abroad. This state of things could not be endured, and our present happy constitution was formed, but formed in vain, if this fatal doctrine prevail. It was formed for important objects that are announced in the preamble made in the name and by the authority of the people of the United States, whose delegates framed, and whose conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is 'to form a more perfect Union.' Now, is it possible that even if there were no express provision giving supremacy to the constitution and laws of the United States over those of the States—can it be conceived that an instrument made for the purpose of 'forming a more perfect Union' than that of the confederation, could be so constructed by the assembled wisdom of our country, as to substitute for that confederation a form of government dependent for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

"The constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the constitution and treaties shall be paramount to the State constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States: by appeal, when a State

tribunal shall decide against this provision of the constitution. The ordinance declares there shall be no appeal; makes the State law paramount to the constitution and laws of the United States; forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that State, to enforce the payment of duties imposed by the revenue laws within its limits.

"Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the constitution which is solemnly abrogated by the same authority.

"On such expositions and reasonings, the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union, if any attempt is made to execute them.

"This right to secede is deduced from the nature of the constitution, which, they say, is a compact between sovereign States, who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because they made the compact, they can break it when, in their opinion, it has been departed from, by the other States. Fallacious as this course of reasoning is, it enlists State pride, and finds advocates in the honest prejudices of those who have not studied the nature of our government sufficiently to see the radical error on which it rests.

"The people of the United States formed the constitution, acting through the State legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but, the terms used in its construction show it to be a government in which the people of all the States collectively are represented. We are one people in the choice of the President and Vice-President. Here the States have no other agency than to direct the mode in which the votes shall be given. Candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate, and yet another may be chosen. The people, then, and not the States, are represented in the executive branch.

"In the House of Representatives, there is this difference: that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State, nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents, when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

"The constitution of the United States, then, forms a government, not a league; and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State, having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the

Union, is to say that the United States are not a nation; because it would be a solecism to contend that any part of a nation might dissolve its connection with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but, to call it a constitutional right, is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

"Fellow-citizens of my native State, let me not only admonish you, as the First Magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason, on which you stand! First, a diminution of the value of your staple commodity, lowered by over production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws.

"The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burdens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submission to those laws was a state of vassalage, and that resistance to them was equal, in patriotic merit, to the oppositions our fathers offered to the oppressive laws of Great Britain. You were told this opposition might be peaceably, might be constitutionally made; that you might enjoy all the advantages of the Union, and bear none of its burdens. Eloquent appeals to your passions, to your State pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask, which concealed the hideous features of disunion, should be taken off. It fell, and you were made to look with complacency on objects which, not long since, you would have regarded with horror. Look back to the arts which have brought you to this state; look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you, that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive; it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it, made you receive with too much confidence the assertions that were made of the unconstitutionality of the law, and its oppressive effects. Mark, my fellow-citizens, that, by the admission of your leaders, the unconstitutionality must be palpable, or it will not justify either resistance or nullification! What is the meaning of the word palpable, in the sense in which it is here used? That which is apparent to every one; that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description? Let those among your leaders who once approved and advocated the principle of protective duties, answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence, and endeavoring to mislead you now. In either case they are unsafe guides in the perilous path they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty emulating the fame of our revolutionary fathers; nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage.

"You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally passed; but that inequality must necessarily be removed. At

the very moment when you were madly urged on to the unfortunate course you have begun, a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that, too, on some articles of general consumption in your State. The importance of this change was underrated, and you were authoritatively told that no further alleviation of your burdens was to be expected, at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and equitable scale. But, as if apprehensive of the effect of this change in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

"I adjure you, as you honor their memory; as you love the cause of freedom, to which they dedicated their lives; as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its convention; bid its members to reassemble, and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity and honor. Tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all. Declare that you will never take the field unless the star-spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the constitution of your country. Its destroyers you cannot be. You may disturb its peace, you may interrupt the course of its prosperity, you may cloud its reputation for stability, but its tranquillity will be restored, its prosperity will return, and the stain upon its national character will be transferred, and remain an eternal blot on the memory of those who caused the disorder.

"Fellow-citizens of the United States, the threat of unhallowed disunion, the names of those, once respected, by whom it is uttered the array of military force to support it, denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and, as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties, which has been expressed, I rely, with equal confidence, on your undivided support in my determination to execute the laws, to preserve the Union by all constitutional means, to arrest, if possible, by moderate, but firm measures, the necessity of a recourse to force; and, if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

"Fellow-citizens: The momentous case is before you. On your undivided support of your government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessings it secures to us as one people shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed, will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage which it will bring to their defence, will transmit them unimpaired and invigorated to our children."

80. Message On The South Carolina Proceedings

In his annual message to Congress at the opening of the session 1832-'33, the President had adverted to the proceedings in South Carolina, hinting at their character as inimical to the Union, expressing his belief that the action in reducing the duties which the extinction of the public debt would permit and require, would put an end to those proceedings; and if they did not, and those proceedings continued, and the executive government should need greater powers than it possessed to overcome them, he promised to make a communication to Congress, showing the state of the question,—what had been done to compose it,—and asking for the powers which the exigency demanded. The proceedings not ceasing, and taking daily a more aggravated form in the organization of troops, the collection of arms and of munitions of war, and in declarations hostile to the Union, he found himself required, early in January, to make the promised communication; and did so in a message to both Houses, of which the following are the essential parts which belong to history and posterity:

"Since the date of my last annual message, I have had officially transmitted to me by the Governor of South Carolina, which I now communicate to Congress, a copy of the ordinance passed by the convention which assembled at Columbia, in the State of South Carolina, in November last, declaring certain acts of Congress therein mentioned, within the limits of that State, to be absolutely null and void, and making it the duty of the legislature to pass such laws as would be necessary to carry the same into effect from and after the 1st of February next.

"The consequences to which this extraordinary defiance of the just authority of the government might too surely lead, were clearly foreseen, and it was impossible for me to hesitate as to my own duty in such an emergency.

"The ordinance had been passed, however, without any certain knowledge of the recommendation which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress; and a hope was indulged that, by frankly explaining his sentiments, and the nature of those duties which the crisis would devolve upon him, the authorities of South Carolina might be induced to retrace their steps. In this hope, I determined to issue my proclamation of the 10th of December last, a copy of which I now lay before Congress.

"I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the legislature of South Carolina, which I now lay before you, and which have, all and each of them, finally passed, after a knowledge of the desire of the administration to modify the laws complained of, are too well calculated, both in their positive enactments, and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

"Up to this period, neither the recommendation of the Executive in regard to our financial policy and impost system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will, in all parts of the Union, appears to have produced any relaxation in the measures of opposition adopted by the State of South Carolina; nor is there any reason to hope that the ordinance and laws will be abandoned.

"I have no knowledge that an attempt has been made, or that it is in contemplation, to reassemble either the convention or the legislature; and it will be perceived that the interval

before the 1st of February is too short to admit of the preliminary steps necessary for that purpose. It appears, moreover, that the State authorities are actively organizing their military resources, and providing the means, and giving the most solemn assurances of protection and support to all who shall enlist in opposition to the revenue laws.

“A recent proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the head quarters of the State announced his determination to accept the services of volunteers, and his belief that, should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in her defence. Under these orders, the forces referred to are directed to ‘hold themselves in readiness to take the field at a moment’s warning;’ and in the city of Charleston, within a collection district and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the magazine and municipal guard. Thus, South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence, if need be, to enforce her laws for preventing the collection of the duties within her limits.

“Proceedings thus announced and matured must be distinguished from menaces of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection, and the influence of public opinion, from the commission of actual outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.

“Under these circumstances, there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their ordinance and laws after the 1st of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom, may deem fit, shall be seasonably provided; and that it may be thereby understood that, while the government is disposed to remove all just cause of complaint, as far as may be practicable consistently with a proper regard to the interests of the community at large, it is, nevertheless, determined that the supremacy of the laws shall be maintained.

“In making this communication, it appears to me to be proper not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the due collection of the revenue, and with my views of the subject generally, that the suggestions which the constitution requires me to make, in regard to your future legislation, may be better understood.

“This subject, having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should particularly instruct the officers of the United States, in that part of the Union, as to the nature of the duties prescribed by the existing laws.

“Instructions were accordingly issued, on the sixth of November, to the collectors in that State, pointing out their respective duties, and enjoining upon each a firm and vigilant, but discreet performance of them in the emergency then apprehended.

“I herewith transmit copies of these instructions, and of the letter addressed to the district attorney, requesting his co-operation. These instructions were dictated in the hope that, as the opposition to the laws, by the anomalous proceeding of nullification, was represented to be of a pacific nature, to be pursued, substantially, according to the forms of the constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be

taken in conformity with that profession, and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

"It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead; but it certainly was not foreseen that the meditated obstruction to the laws would so soon openly assume its present character.

"Subsequently to the date of those instructions, however, the ordinance of the convention was passed, which, if complied with by the people of that State, must effectually render inoperative the present revenue laws within her limits.

"This solemn denunciation of the laws and authority of the United States has been followed up by a series of acts, on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self-defence which the paramount duty of the federal government requires; but, upon the adoption of which, that State will proceed to execute the purpose it has avowed in this ordinance, of withdrawing from the Union.

"On the 27th of November, the legislature assembled at Columbia; and, on their meeting, the Governor laid before them the ordinance of the convention. In his message, on that occasion, he acquaints them that 'this ordinance has thus become a part of the fundamental law of South Carolina;' that 'the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the general government, within the authorized grants of power, to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest, is neither to be concealed nor denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that, within the limits of this State, their will shall be obeyed.' 'The measure of legislation,' he says, 'which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified.' He proceeds: 'That you should arm every citizen with a civil process, by which he may claim, if he pleases, a restitution of his goods, seized under the existing imposts, on his giving security to abide the issue of a suit at law, and, at the same time, define what shall constitute treason against the State, and, by a bill of pains and penalties, compel obedience, and punish disobedience to your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits, your own courts of judicature must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States.'

"The Governor also asks for power to grant clearances, in violation of the laws of the Union; and, to prepare for the alternative which must happen, unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor 'be authorized to accept, for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or files;' and that they be formed into a legionary brigade, consisting of infantry, riflemen, cavalry, field and heavy artillery; and that they be 'armed and equipped, from the public arsenals, completely for the field; and that appropriations be made for supplying all deficiencies in our munitions of war.' In

addition to these volunteer draughts, he recommends that the Governor be authorized ‘to accept the services of ten thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades;’ the officers to be selected by the commander-in-chief; and that this whole force be called the ‘State Guard.’

“If these measures cannot be defeated and overcome, by the power conferred by the constitution on the federal government, the constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the government of the Union. They not only abrogate the acts of Congress, commonly called the tariff acts of 1828 and 1832, but they prostrate and sweep away, at once, and without exception, every act, and every part of every act, imposing any amount whatever of duty on any foreign merchandise; and, virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and, also, the collection law of 1799, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufactures that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States, in South Carolina, is obstructed and overthrown; and the government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth, not only the citizens of South Carolina and of the United States, but the subjects of foreign states, may import any description or quantity of merchandise into the ports of South Carolina, without the payment of any duty whatsoever. That State is thus relieved from the payment of any part of the public burdens, and duties and imposts are not only rendered not uniform throughout the United States, but a direct and ruinous preference is given to the ports of that State over those of all the other States of the Union, in manifest violation of the positive provisions of the constitution.

“In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They neither prescribe the period when they shall cease, nor indicate any conditions upon which those who have thus undertaken to arrest the operation of the laws are to retrace their steps, and rescind their measures. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties or imposts whatsoever.

“By these various proceedings, therefore, the State of South Carolina has forced the general government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State, solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

“In my opinion, both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by a usurpation of power, the constitutional authority of the federal government is openly defied and set aside, wants only the form to be independent of the Union.

“The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged. Such authority is

believed to be utterly repugnant both to the principles upon which the general government is constituted, and to the objects which it is expressly formed to attain.

“Against all acts which may be alleged to transcend the constitutional power of the government, or which may be inconvenient or oppressive in their operation, the constitution itself has prescribed the modes of redress. It is the acknowledged attribute of free institutions, that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made, consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield a patriotic submission.

“In deciding upon the course which a high sense of duty to all the people of the United States imposes upon the authorities of the Union, in this emergency, it cannot be overlooked that there is no sufficient cause for the acts of South Carolina, or for her thus placing in jeopardy the happiness of so many millions of people. Misrule and oppression, to warrant the disruption of the free institutions of the Union of these States, should be great and lasting, defying all other remedy. For causes of minor character, the government could not submit to such a catastrophe without a violation of its most sacred obligations to the other States of the Union who have submitted their destiny to its hands.

“There is, in the present instance, no such cause, either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The long sanction they have received from the proper authorities, and from the people, not less than the unexampled growth and increasing prosperity of so many millions of freemen, attest that no such oppression as would justify or even palliate such a resort, can be justly imputed either to the present policy or past measures of the federal government. The same mode of collecting duties, and for the same general objects, which began with the foundation of the government, and which has conducted the country, through its subsequent steps, to its present enviable condition of happiness and renown, has not been changed. Taxation and representation, the great principle of the American Revolution, have continually gone hand in hand; and at all times, and in every instance, no tax, of any kind, has been imposed without their participation; and in some instances, which have been complained of, with the express assent of a part of the representatives of South Carolina in the councils of the government. Up to the present period, no revenue has been raised beyond the necessary wants of the country, and the authorized expenditures of the government. And as soon as the burden of the public debt is removed, those charged with the administration have promptly recommended a corresponding reduction of revenue.

“That this system, thus pursued, has resulted in no such oppression upon South Carolina, needs no other proof than the solemn and official declaration of the late Chief Magistrate of that State, in his address to the legislature. In that he says, that ‘the occurrences of the past year, in connection with our domestic concerns, are to be reviewed with a sentiment of fervent gratitude to the Great Disposer of human events; that tributes of grateful acknowledgment are due for the various and multiplied blessings he has been pleased to bestow on our people; that abundant harvests, in every quarter of the State, have crowned the exertions of agricultural labor; that health, almost beyond former precedent, has blessed our homes; and that there is not less reason for thankfulness in surveying our social condition.’ It would, indeed, be difficult to imagine oppression where, in the social condition of a people, there was equal cause of thankfulness as for abundant harvests, and varied and multiplied blessings with which a kind Providence had favored them.

"Independently of these considerations, it will not escape observation that South Carolina still claims to be a component part of the Union, to participate in the national councils, and to share in the public benefits, without contributing to the public burdens; thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

"In this posture of affairs, the duty of the government seems to be plain. It inculcates a recognition of that State as a member of the Union, and subject to its authority; a vindication of the just power of the constitution; the preservation of the integrity of the Union; and the execution of the laws by all constitutional means.

"The constitution, which his oath of office obliges him to support, declares that the Executive 'shall take care that the laws be faithfully executed;' and, in providing that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws as may, from time to time, be found requisite.

"It being thus shown to be the duty of the Executive to execute the laws by all constitutional means, it remains to consider the extent of those already at his disposal, and what it may be proper further to provide.

"In the instructions of the Secretary of the Treasury to the collectors in South Carolina, the provisions and regulations made by the act of 1799, and also the fines, penalties, and forfeitures, for their enforcement, are particularly detailed and explained. It may be well apprehended, however, that these provisions may prove inadequate to meet such an open, powerful, organized opposition as is to be commenced after the first day of February next.

"Under these circumstances, and the provisions of the acts of South Carolina, the execution of the laws is rendered impracticable even through the ordinary judicial tribunals of the United States. There would certainly be fewer difficulties, and less opportunity of actual collision between the officers of the United States and of the State, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom-house beyond the immediate power of the county.

"For this purpose, it might be proper to provide that whenever, by any unlawful combination or obstruction in any State, or in any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorized to alter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom-house at some secure place within some port or harbor of such State; and, in such cases, it should be the duty of the collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law should be properly secured or paid in cash, deducting interest; that, in such cases it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that, in case of an attempt otherwise to take the property by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces, and militia, under provisions similar to those authorized by the 11th section of the act of the ninth of January, 1809.

"It may, therefore, be desirable to revive, with some modifications better adapted to the occasion, the 6th section of the act of the 3d of March, 1815, which expired on the 4th of March, 1817, by the limitation of that of the 27th of April, 1816; and to provide that, in any case where suit shall be brought against any individual in the courts of the State, for any act done under the laws of the United States, he should be authorized to remove the said cause,

by petition, into the Circuit Court of the United States, without any copy of the record, and that the courts should proceed to hear and determine the same as if it had been originally instituted therein. And that in all cases of injuries to the persons or property of individuals for disobedience to the ordinance, and laws of South Carolina in pursuance thereof, redress may be sought in the courts of the United States. It may be expedient, also, by modifying the resolution of the 3d of March, 1791, to authorize the marshals to make the necessary provision for the safe keeping of prisoners committed under the authority of the United States.

"Provisions less than these, consisting, as they do, for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected or enforced. It is believed these would prove adequate, unless the military forces of the State of South Carolina, authorized by the late act of the legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms, to adapt the act of 1795 to the present emergency, as, by the act, the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the President to give it operation during the session of Congress, and without the ceremony of a proclamation, whenever it shall be officially made known to him by the authority of any State, or by the courts of the United States, that, within the limits of such State, the laws of the United States will be openly opposed, and their execution obstructed, by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

"In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the government to perform its duty, and to co-operate in all measures necessary in the present emergency.

"The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman, not more in removing such portion of the public burden as may be necessary, than in preserving the good order of society, and in the maintenance of well-regulated liberty.

"While a forbearing spirit may, and I trust will be exercised towards the errors of our brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be executed with impunity."

Such was the message which President Jackson sent to the two Houses, in relation to the South Carolina proceedings, and his own to counteract them; and it was worthy to follow the proclamation, and conceived in the same spirit of justice and patriotism, and, therefore, wise and moderate. He knew that there was a deep feeling of discontent in the South, founded in a conviction that the federal government was working disadvantageously to that part of the Union in the vital points of the levy, and the expenditure of the federal revenue; and that it was upon this feeling that politicians operated to produce disaffection to the Union. That feeling of the masses he knew to be just and reasonable, and removable by the action of Congress in removing its cause; and when removed the politicians who stirred up discontent for "*personal and ambitious objects*," would become harmless for want of followers, or manageable by the ordinary process of law. His proclamation, his message, and all his proceedings therefore bore a two-fold aspect—one of relief and justice in reducing the revenue to the wants of the government in the economical administration of its affairs; the other of firm and mild authority in enforcing the laws against offenders. He drew no line between the honest discontented masses, wanting only relief and justice, and the ambitious politicians inflaming this discontent for ulterior and personal objects. He merely affirmed the

existence of these two classes of discontent, leaving to every one to classify himself by his conduct; and, certain that the honest discontents were the mass, and only wanted relief from a real grievance, he therefore pursued the measures necessary to extend that relief while preparing to execute the laws upon those who should violate them. Bills for the reduction of the tariff—one commenced in the Finance Committee of the Senate, and one reported from the Committee of Ways and Means of the House of Representatives—and both moved in the first days of the session, and by committees politically and personally favorable to the President, went hand in hand with the exhortations in the proclamation and the steady preparations for enforcing the laws, if the extension of justice and the appeals of reason and patriotism should prove insufficient. Many thought that he ought to relax in his civil measures for allaying discontent while South Carolina held the military attitude of armed defiance to the United States—and among them Mr. Quincy Adams. But he adhered steadily to his purpose of going on with what justice required for the relief of the South, and promoted, by all the means in his power, the success of the bills to reduce the revenue, especially the bill in the House; and which, being framed upon that of 1816 (which had the support of Mr. Calhoun), and which was (now that the public debt was paid), sufficient both for revenue and the incidental protection which manufactures required, and for the relief of the South, must have the effect of satisfying every honest discontent, and of exposing and estopping that which was not.

81. Reduction Of Duties.—Mr. Verplank's Bill

Reduction of duties to the estimated amount of three or four millions of dollars, had been provided for in the bill of the preceding session, passed in July, 1832, to take effect on the 4th of March, ensuing. The amount of reduction was not such as the state of the finances admitted, or the voice of the country demanded, but was a step in the right direction, and a good one, considering that the protective policy was still dominant in Congress, and on trial, as it were, for its life, before the people, as one of the issues of the presidential election. That election was over; the issue had been tried; had been found against the "American system," and with this finding, a further and larger reduction of duties was expected. The President had recommended it, in his annual message; and the recommendation, being referred to the Committee of Ways and Means, quickly produced a bill, known as Mr. Verplank's, because reported by the member of that name. It was taken up promptly by the House, and received a very perspicuous explanation from the reporter, who gave a brief view of the financial history of the country, since the late war and stated that—

"During the last six years, an annual average income of 27,000,000 of dollars had been received; the far greater part from the customs. That this sum had been appropriated, the one half towards the necessary expenses of the government, and the other half in the payment of the public debt. In reviewing the regular calls upon the treasury, during the last seven years, for the civil, naval, and military departments of the government, including all ordinary contingencies, about 13,000,000 of dollars a year had been expended. The amount of 13,000,000 of dollars would seem, even now, sufficient to cover the standing necessary expenses of government. A long delayed debt of public justice, for he would not call it bounty, to the soldiers of the Revolution, had added, for the present, since it could be but for a few years only, an additional annual million. Fourteen millions of dollars then covered the necessary expenditures of our government. But, however rigid and economical we ought to be in actual expenditures, in providing the sources of the revenue, which might be called upon for unforeseen contingencies, it was wise to arrange it on a liberal scale. This would be done by allowing an additional million, which would cover, not only extra expenses in time of peace, but meet those of Indian warfare, if such should arise, as well as those of increased naval expenditure, from temporary collisions with foreign powers, short of permanent warfare. We are not, therefore, justifiable in raising more than 15,000,000 dollars as a permanent revenue. In other words, at least 13,000,000 dollars of the revenue that would have been collected, under the tariff system of 1828, may now be dispensed with; and, in years of great importation, a much larger sum. The act of last summer removed a large portion of this excess; yet, taking the importation of the last year as a standard, the revenues derived from that source, if calculated according to the act of 1832, would produce 19,500,000, and, with the other sources of revenue, an income of 22,000,000 dollars. This is, at least, seven millions above the wants of the treasury."

This was a very satisfactory statement. The public debt paid off; thirteen millions (the one half) of our revenue rendered unnecessary; its reduction provided for in the bill; and the tariff of duties by that reduction brought down to the standard substantially of 1816. It was carrying back the protective system to the year of its commencement, a little increased in some particulars, as in the article of iron, but more than compensated for, in this increase, in the total abolition of the *minimums*, or arbitrary valuations—first introduced into that act, and afterwards greatly extended—by which goods costing below a certain sum were to be assumed to have cost that sum, and rated for duty accordingly. Such a bill, in the judgment of

the practical and experienced legislator (General Smith, of Maryland, himself a friend to the manufacturing interest), was entirely sufficient for the manufacturer—the man engaged in the business, and understanding it—though not sufficient for the capitalists who turned their money into that channel, under the stimulus of legislative protection, and lacked skill and care to conduct their enterprise with the economy which gives legitimate profit, and to such real manufacturers, it was bound to be satisfactory. To the great opponents of the tariff (the South Carolina school), it was also bound to be satisfactory, as it carried back the whole system of duties to the standard at which that school had fixed them, with the great amelioration of the total abolition of the arbitrary and injurious minimums. The bill, then, seemed bound to conciliate every fair interest: the government, because it gave all the revenue it needed; the real manufacturers, because it gave them an adequate incidental protection; the South, because it gave them their own bill, and that ameliorated. A prompt passage of the bill might have been expected; on the contrary, it lingered in the House, under interminable debates on systems and theories, in which ominous signs of conjunction were seen between the two extremes which had been lately pitted against each other, for and against the protective system. The immediate friends of the administration seemed to be the only ones hearty in the support of the bill; but they were no match, in numbers, for those who acted in concert against it—spinning out the time in sterile and vagrant debate. The 25th of February had arrived, and found the bill still afloat upon the wordy sea of stormy debate, when, all of a sudden, it was arrested, knocked over, run under, and merged and lost in a new one which expunged the old one and took its place. It was late in the afternoon of that day (Monday, the 25th of February), and within a week of the end of the Congress, when Mr. Letcher, of Kentucky, the fast friend of Mr. Clay, rose in his place, and moved to strike out the whole Verplank bill—every word, except the enacting clause—and insert, in lieu of it, a bill offered in the Senate by Mr. Clay, since called the "compromise," and which lingered at the door of the Senate, upon a question of leave for its admittance, and opposition to its entrance there, on account of its revenue character. This was offered in the House, without notice, without signal, without premonitory symptom, and just as the members were preparing to adjourn. Some were taken by surprise, and looked about in amazement; but the majority showed consciousness, and, what was more, readiness for action. The Northern members, from the great manufacturing States, were astounded, and asked for delay, which, not being granted, Mr. John Davis, of Massachusetts, one of their number, thus gave vent to his amazed feelings:

"He was greatly surprised at the sudden movement made in this House. One short hour ago, said he, we were collecting our papers, and putting on our outside garments to go home, when the gentleman from Kentucky rose, and proposed to send this bill to a Committee of the Whole on the state of the Union, with instructions to strike it all out, and insert, by way of amendment, an entire new bill formed upon entirely different principles; yes, to insert, I believe, the bill which the Senate now have under consideration. This motion was carried; the business has passed through the hands of the committee, is now in the House, and there is a cry of question, question, around me, upon the engrossment of the bill. Who that was not a party to this arrangement, could one hour ago have credited this? We have, I believe, been laboriously engaged for eight weeks upon this topic, discussing and amending the bill which has been before the House. Such obstacles and difficulties have been met at every move, that, I believe, very little hope has of late been entertained of the passage of any bill. But a gleam of light has suddenly burst upon us; those that groped in the dark seemed suddenly to see their course; those that halted, doubted, hesitated, are in a moment made firm; and even some of those that have made an immediate abandonment of the protective system a *sine qua non* of their approbation of any legislation, seem almost to favor this measure. I am obliged to acknowledge that gentlemen have sprung the proposition upon us at a moment when I did not

expect it. And as the measure is one of great interest to the people of the United States, I must, even at this late hour, when I know the House is both hungry and impatient, and when I perceive distinctly it is their pleasure to vote rather than debate, beg their indulgence for a few minutes while I state some of the reasons which impose on me the duty of opposing the passage of this act. [Cries from different parts of the House, 'go on, go on, we will hear.']

"Mr. Speaker, I do not approve of hasty legislation under any circumstances, but it is especially to be deprecated in matters of great importance. That this is a measure of great importance, affecting, more or less, the entire population of the United States, will not be denied, and ought, therefore, to be matured with care, and well understood by every gentleman who votes upon it. And yet, sir, a copy has, for the first time, been laid upon our tables, since I rose to address you; and this is the first opportunity we have had even to read it. I hope others feel well prepared to act in this precipitate matter; but I am obliged to acknowledge I do not; for I hold even the best of intentions will not, in legislation, excuse the errors of haste.

"I am aware that this measure assumes an imposing attitude. It is called a bill of compromise; a measure of harmony, of conciliation; a measure to heal disaffection, and to save the Union. Sir, I am aware of the imposing effect of these bland titles; men love to be thought generous, noble, magnanimous; but they ought to be equally anxious to acquire the reputation of being just. While they are anxious to compose difficulties in one direction, I entreat them not to oppress and wrong the people in another. In their efforts to save the Union, I hope their zeal will not go so far as to create stronger and better-founded discontents than those they compose. Peacemakers, mediators, men who allay excitements, and tranquillize public feeling, should, above all considerations, study to do it by means not offensive to the contending parties, by means which will not inflict a deeper wound than the one which is healed. Sir, what is demanded by those that threaten the integrity of the Union? An abandonment of the American system; a formal renunciation of the right to protect American industry. This is the language of the nullification convention; they declare they regard the abandonment of the principle as vastly more important than any other matter; they look to that, and not to an abatement of duties without it; and the gentleman from South Carolina [Mr. Davis], with his usual frankness, told us this morning it was not a question of dollars and cents; the money they regarded not, but they required a change of policy.

"This is a bill to tranquillize feeling, to harmonize jarring opinions; it is oil poured into inflamed wounds; it is to definitively settle the matters of complaint. What assurance have we of that? Have those who threatened the Union accepted it? Has any one here risen in his place, and announced his satisfaction and his determination to abide by it? Not a word has been uttered, nor any sign or assurance of satisfaction given. Suppose they should vote for the bill, what then? They voted for the bill of July last, and that was a bill passed expressly to save the Union; but did they not flout at it? Did they not spurn it with contempt? And did not South Carolina, in derision of that compromise, nullify the law? This is a practical illustration of the exercise of a philanthropic spirit of condescension to save the Union. Your folly and your imbecility was treated as a jest. It has already been said that this law will be no more binding than any other, and may be altered and modified at pleasure by any subsequent legislature. In what sense then is it a compromise? Does not a compromise imply an adjustment on terms of agreement? Suppose, then, that South Carolina should abide by the compromise while she supposes it beneficial to the tariff States, and injurious to her; and when that period shall close, the friends of protection shall then propose to re-establish the system. What honorable man, who votes for this bill, could sustain such a measure? Would not South Carolina say, you have no right to change this law, it was founded on compromise; you have had the benefit of your side of the bargains, and now I demand mine? Who could

answer such a declaration? If, under such circumstances, you were to proceed to abolish the law, would not South Carolina have much more just cause of complaint and disaffection than she now has?

"It has been said, we ought to legislate now, because the next Congress will be hostile to the tariff. I am aware that such a sentiment has been industriously circulated, and we have been exhorted to escape from the hands of that body as from a lion. But, sir, who knows the sentiments of that body on this question? Do you, or does any one, possess any information which justifies him in asserting that it is more unfriendly than this House? There is, in my opinion, little known about this matter. But suppose the members shall prove as ferocious towards the tariff as those who profess to know their opinions represent, will the passage of this bill stop their action? Can you tie their hands? Give what pledges you please, make what bargains you may, and that body will act its pleasure without respecting them. If you fall short of their wishes in warring upon the tariff, they will not stay their hand; but all attempts to limit their power by abiding compromises, will be considered by them as a stimulus to act upon the subject, that they may manifest their disapprobation. It seems to me, therefore, that if the next Congress is to be feared, we are pursuing the right course to rouse their jealousy, and excite them to action.

"Mr. Speaker, I rose to express my views on this very important question, I regret to say, without the slightest preparation, as it is drawn before us at a very unexpected moment. But, as some things in this bill are at variance with the principles of public policy which I have uniformly maintained, I could not suffer it to pass into a law without stating such objections as have hastily occurred to me.

"Let me, however, before sitting down, be understood on one point. I do not object to a reasonable adjustment of the controversies which exist. I have said repeatedly on this floor, that I would go for a gradual reduction on protected articles; but it must be very gradual, so that no violence shall be done to business; for all reduction is necessarily full of hazard. My objections to this bill are not so much against the first seven years, for I would take the consequences of that experiment, if the provisions beyond that were not of that fatal character which will at once stop all enterprise. But I do object to a compromise which destines the East for the altar. No victim, in my judgement, is required, none is necessary; and yet you propose to bind us, hand and foot, to pour out our blood upon the altar, and sacrifice us as a burnt offering, to appease the unnatural and unfounded discontent of the South; *a discontent, I fear, having deeper root than the tariff, and will continue when that is forgotten*. I am far from meaning to use the language of menace, when I say such a compromise cannot endure, nor can any adjustment endure, which disregards the interests, and sports with the rights of a large portion of the people of the United States. It has been said that we shall never reach the lowest point of reduction, before the country will become satisfied of the folly of the experiment, and will restore the protective policy; and it seems to me a large number in this body act under the influence of that opinion. But I cannot vote down my principles, on the ground that some one may come after me who will vote them up."

This is one of the most sensible speeches ever delivered in Congress; and, for the side on which it was delivered, perfect; containing also much that was valuable to the other side. The dangers of hasty legislation are well adverted to. The seductive and treacherous nature of compromise legislation, and the probable fate of the act of legislation then so called, so pointedly foretold, was only writing history a few years in advance. The folly of attempting to bind future Congresses by extending ordinary laws years ahead, with a prohibition to touch them, was also a judicious reflection; soon to become history; while the fear expressed that South Carolina would not be satisfied with the overthrow of the protective policy—"*that the*

root of her discontent lay deeper than the tariff, and would continue when that was forgotten"—was an apprehension felt in common with many others, and to which subsequent events gave a sad realization. But all in vain. The bill which made its first appearance in the House late in the evening, when members were gathering up their overcoats for a walk home to their dinners, was passed before those coats had got on the back; and the dinner which was waiting had but little time to cool before the astonished members, their work done, were at the table to eat it. A bill without precedent in the annals of our legislation, and pretending to the sanctity of a compromise, and to settle great questions for ever, went through to its consummation in the fragment of an evening session, without the compliance with any form which experience and parliamentary law have devised for the safety of legislation. This evasion of all salutary forms was effected under the idea of an amendment to a bill, though the substitute introduced was an entire bill in itself, no way amending the other, or even connecting with it, but rubbing it all out from the enacting clause, and substituting a new bill entirely foreign, inconsistent, and incongruous to it. The proceeding was a gross perversion of the idea of an amendment, which always implies an improvement and not a destruction of the bill to be amended. But there was a majority in waiting, ready to consummate what had been agreed upon, and the vote was immediately taken, and the substitute passed—105 to 71:—the mass of the manufacturing interest voting against it. And this was called a "compromise," a species of arrangement heretofore always considered as founded in the mutual consent of adversaries—an agreement by which contending parties voluntarily settle disputes or questions. But here one of the parties dissented, or rather was never asked for assent, nor had any knowledge of the compromise by which they were to be bound, until it was revealed to their vision, and executed upon their consciences, in the style of a surprise from a vigilant foe upon a sleeping adversary. To call this a "compromise" was to make sport of language—to burlesque misfortune—to turn force into stipulation—and to confound fraud and violence with concession and contract. It was like calling the rape of the Romans upon the Sabine women, a marriage. The suddenness of the movement, and the want of all time for reflection or concert—even one night for private communion—led to the most incongruous association of voters—to such a mixture of persons and parties as had never been seen confounded together before, or since: and the reading of which must be a puzzle to any man acquainted with the political actors of that day, the unravelling of which would set at defiance both his knowledge and his ingenuity. The following is the list—the voters with Mr. Clay, headed by Mr. Mark Alexander of Virginia, one of his stiffest opponents: the voters against him, headed by Mr. John Quincy Adams, for eight years past his indissoluble colleague in every system of policy, in every measure of public concern, and in every enterprise of political victory or defeat. Here is the list!

Yeas.—Messrs. Mark Alexander, Chilton Allan, Robert Allen, John Anderson, William G. Angel, William S. Archer, John S. Barbour, Daniel L. Barringer, James Bates, John Bell, John T. Bergen, Laughlin Bethune, James Blair, John Blair, Ratliff Boon, Joseph Bouck, Thomas T. Bouldin, John Branch, Henry A. Bullard, Churchill C. Cambreleng, John Carr, Joseph W. Chinn, Nathaniel H. Claiborne, Clement C. Clay, Augustin S. Clayton, Richard Coke, jr., Henry W. Connor, Thomas Corwin, Richard Coulter, Robert Craig, William Creighton, jr., Henry Daniel, Thomas Davenport, Warren R. Davis, Ulysses F. Doubleday, Joseph Draper, John M. Felder, James Findlay, William Fitzgerald, Nathan Gaither, John Gilmore, William F. Gordon, Thomas H. Hall, William Hall, Joseph M. Harper, Albert G. Hawes, Micajah T. Hawkins, Michael Hoffman, Cornelius Holland, Henry Horn, Benjamin C. Howard, Henry Hubbard, William W. Irvin, Jacob C. Isaacs, Leonard Jarvis, Daniel Jenifer, Richard M. Johnson, Cave Johnson, Joseph Johnson, Edward Kavanagh, John Leeds Kerr, Henry G. Lamar, Garret Y. Lansing, Joseph Lecompte, Robert P. Letcher, Dixon H. Lewis, Chittenden Lyon, Samuel W. Mardis, John Y. Mason, Thomas A. Marshall, Lewis

Maxwell, Rufus McIntire, James McKay, Thomas Newton, William T. Nuckolls, John M. Patton, Franklin E. Plummer, James K. Polk, Abraham Rencher, John J. Roane, Erastus Root, Charles S. Sewall, William B. Shepard, Augustine H. Shepperd, Samuel A. Smith, Isaac Southard, Jesse Speight, John S. Spence, William Stanberry, James Standefer, Francis Thomas, Wiley Thompson, John Thomson, Christopher Tompkins, Phineas L. Tracy, Joseph Vance, Gulian C. Verplanck, Aaron Ward, George C. Washington, James M. Wayne, John W. Weeks, Elisha Whittlesey, Campbell P. White, Charles A. Wickliffe, John T. H. Worthington.

Nays.—Messrs. John Q. Adams, Heman Allen, Robert Allison, Nathan Appleton, Thomas D. Arnold, William Babcock, John Banks, Noyes Barber, Gamaliel H. Barstow, Thomas Chandler, Bates Cooke, Richard M. Cooper, Joseph H. Crane, Thomas H. Crawford, John Davis, Charles Dayan, Henry A. S. Dearborn, Harmar Denny, Lewis Dewart, John Dickson, William W. Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, George Grennell, jr., Hiland Hall, William Heister, Michael Hoffman, Thomas H. Hughes, Jabez W. Huntington, Peter Ihrie, jr., Ralph I. Ingersoll, Joseph G. Kendall, Henry King, Humphrey H. Leavitt, Robert McCoy, Thomas M. T. McKennan, John J. Milligan, Henry A. Muhlenberg, Jeremiah Nelson, Dutee J. Pearce, Edmund H. Pendleton, Job Pierson, David Potts, jr., James F. Randolph, John Reed, Edward C. Reed, William Slade, Nathan Soule, William L. Storrs, Joel B. Sutherland, John W. Taylor, Samuel F. Vinton, Daniel Wardwell, John G. Watmough, Grattan H. Wheeler, Frederick Whittlesey, Ebenezer Young.

82. Reduction Of Duties.—Mr. Clay's Bill

On the 12th of February Mr. Clay asked leave to introduce a bill for the reduction of duties, styled by him a "compromise" measure; and prefaced the question with a speech, of which the following are parts:

"In presenting the modification of the tariff laws which I am now about to submit, I have two great objects in view. My first object looks to the tariff. I am compelled to express the opinion, formed after the most deliberate reflection, and on a full survey of the whole country, that, whether rightfully or wrongfully, the tariff stands in imminent danger. If it should even be preserved during this session, it must fall at the next session. By what circumstances, and through what causes, has arisen the necessity for this change in the policy of our country, I will not pretend now to elucidate. Others there are who may differ from the impressions which my mind has received upon this point. Owing, however, to a variety of concurrent causes, the tariff, as it now exists, is in imminent danger; and if the system can be preserved beyond the next session, it must be by some means not now within the reach of human sagacity. The fall of that policy, sir, would be productive of consequences calamitous indeed. When I look to the variety of interests which are involved, to the number of individuals interested, the amount of capital invested, the value of the buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing art which have sprung up under the fostering care of this government, I cannot contemplate any evil equal to the sudden overthrow of all those interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the Edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France were condemned to exile and ruin by that measure. But in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country. There is no evil, in my opinion, equal to the consequences which would result from such a catastrophe.

"I believe the American system to be in the greatest danger; and I believe it can be placed on a better and safer foundation at this session than at the next. I heard, with surprise, my friend from Massachusetts say that nothing had occurred within the last six months to increase its hazard. I entreat him to review that opinion. Is it correct? Is the issue of numerous elections, including that of the highest officer of the government, nothing? Is the explicit recommendation of that officer, in his message at the opening of the session sustained, as he is, by a recent triumphant election, nothing? Is his declaration in his proclamation, that the burdens of the South ought to be relieved, nothing? Is the introduction of the bill in the House of Representatives during this session, sanctioned by the head of the treasury and the administration, prostrating the greater part of the manufactures of the country, nothing? Are the increasing discontents, nothing? Is the tendency of recent events to unite the whole South, nothing? What have we not witnessed in this chamber? Friends of the administration bursting all the ties which seemed indissolubly to unite them to its chief, and, with few exceptions south of the Potomac, opposing, and vehemently opposing, a favorite measure of that administration, which three short months ago they contributed to establish? Let us not deceive ourselves. Now is the time to adjust the question in a manner satisfactory to both parties. Put it off until the next session, and the alternative may, and probably then would be, a speedy and ruinous reduction of the tariff, or a civil war with the entire South.

"It is well known that the majority of the dominant party is adverse to the tariff. There are many honorable exceptions, the senator from New Jersey [Mr. Dickerson] among them. But for the exertions of the other party, the tariff would have been long since sacrificed. Now let us look at the composition of the two branches of Congress at the next session. In this body we lose three friends of the protective policy, without being sure of gaining one. Here, judging from the present appearances, we shall, at the next session, be in the minority. In the House it is notorious that there is a considerable accession to the number of the dominant party. How, then, I ask, is the system to be sustained against numbers, against the whole weight of the administration, against the united South, and against the increased impending danger of civil war?

"I have been represented as the father of the system, and I am charged with an unnatural abandonment of my own offspring. I have never arrogated to myself any such intimate relation to it. I have, indeed, cherished it with parental fondness, and my affection is undiminished. But in what condition do I find this child? It is in the hands of the Philistines, who would strangle it. I fly to its rescue, to snatch it from their custody, and to place it on a bed of security and repose for nine years, where it may grow and strengthen, and become acceptable to the whole people. I behold a torch about being applied to a favorite edifice, and I would save it, if possible, before it was wrapt in flames, or at least preserve the precious furniture which it contains."

Mr. Clay further advanced another reason for his bill, and which was a wish to separate the tariff from politics and elections—a wish which admitted their connection—and which, being afterwards interpreted by events, was supposed to be the basis of the coalition with Mr. Calhoun; both of them having tried the virtue of the tariff question in elections, and found it unavailing either to friends or foes. Mr. Clay, its champion, could not become President upon its support. Mr. Calhoun, its antagonist, could not become President upon its opposition. To both it was equally desirable, as an unavailable element in elections, and as a stumbling-block to both in future, that it should be withdrawn for some years from the political arena; and Mr. Clay thus expressed himself in relation to that withdrawal:

"*I wish to see the tariff separated from the politics of the country, that business men may go to work in security, with some prospect of stability in our laws, and without every thing being staked on the issue of elections, as it were on the hazards of the die.*"

Mr. Clay then explained the principle of his bill, which was a series of annual reductions of one tenth per cent. on the value of all duties above twenty per cent. for eight successive years; and after that, the reduction of all the remainder above twenty per centum to that rate by two annual reductions of the excess: so as to complete the reduction to twenty per centum on the value of all imported goods on the 30th day of September, 1842; with a total abolition of duties on about one hundred articles after that time; and with a proviso in favor of the right of Congress, in the event of war with any foreign power to impose such duties as might be necessary to prosecute the war. And this was called a "*compromise*," although there was no stipulation for the permanency of the reduced, and of the abolished duties; and no such stipulation could be made to bind future Congresses; and the only equivalent which the South received from the party of protection, was the stipulated surrender of their principle in the clause which provided that after the said 30th of September, 1842, "*duties should only be laid for raising such revenue as might be necessary for an economical administration of the government*;" an attempt to bind future Congresses, the value of which was seen before the time was out. Mr. Clay proceeded to touch the tender parts of his plan—the number of years the protective policy had to run, and the guaranties for its abandonment at the end of the stipulated protection. On these points he said:

“Viewing it in this light, it appeared that there were eight years and a half, and nine years and a half, taking the ultimate time, which would be an efficient protection; the remaining duties would be withdrawn by a biennial reduction. The protective principle must be said to be, in some measure, relinquished at the end of eight years and a half. This period could not appear unreasonable, and he thought that no member of the Senate, or any portion of the country, ought to make the slightest objection. It now remained for him to consider the other objection—the want of a guaranty to there being an ulterior continuance of the duties imposed by the bill, on the expiration of the term which it prescribes. The best guaranties would be found in the circumstances under which the measure would be passed. If it were passed by common consent; if it were passed with the assent of a portion, a considerable portion, of those who had hitherto directly supported this system, and by a considerable portion of those who opposed it; if they declared their satisfaction with the measure, he had no doubt the rate of duties guarantied would be continued after the expiration of the term, if the country continued at peace.”

Here was a stipulation to continue the protective principle for nine years and a half, and the bill contained no stipulation to abandon it at that time, and consequently no guaranty that it would be abandoned; and certainly the guaranty would have been void if stipulated, as it is not in the power of one Congress to abridge by law the constitutional power of its successors. Mr. Clay, therefore, had recourse to moral guaranties; and found them good, and best in the circumstances in which the bill would be passed, and the common consent with which it was expected to be done—a calculation which found its value, as to the “common consent,” before the bill was passed, as to its binding force before the time fixed for its efficacy to begin.

Mr. Forsyth, of Georgia, replied to Mr. Clay, and said:

“The avowed object of the bill would meet with universal approbation. It was a project to harmonize the people, and it could have come from no better source than from the gentleman from Kentucky: for to no one were we more indebted than to him for the discord and discontent which agitate us. But a few months ago it was in the power of the gentleman, and those with whom he acted, to settle this question at once and for ever. The opportunity was not seized, but he hoped it was not passed. In the project now offered, he could not see the elements of success. The time was not auspicious. But fourteen days remained to the session; and we had better wait the action of the House on the bill before them, than by taking up this new measure here, produce a cessation of their action. Was there not danger that the fourteen days would be exhausted in useless debate? Why, twenty men, with a sufficiency of breath (for words they would not want), could annihilate the bill, though a majority in both Houses were in favor of it. He objected, too, that the bill was a violation of the constitution, because the Senate had no power to raise revenue. Two years ago, the same senator made a proposition, which was rejected on this very ground. The offer, however, would not be useless; it would be attended with all the advantages which could follow its discussion here. We shall see it, and take it into consideration as the offer of the manufacturers. The other party, as we are called, will view it as a scheme of diplomacy; not as their *ultimatum*, but as their first offer. But the bargain was all on one side. After they are defeated, and can no longer sustain a conflict, they come to make the best bargain they can. The senator from Kentucky says, the tariff is in danger; aye, sir, it is at its last gasp. It has received the immedicable wound; no hellebore can cure it. He considered the confession of the gentleman to be of immense importance. Yes, sir, the whole feeling of the country is opposed to the high protective system. The wily serpent that crept into our Eden has been touched by the spear of Ithuriel. The senator is anxious to prevent the ruin which a sudden abolition of the system will produce. No one desires to inflict ruin upon the manufacturers; but suppose the Southern

people, having the power to control the subject, should totally and suddenly abolish the system; what right would those have to complain who had combined to oppress the South? What has the tariff led us to already? From one end of the country to the other, it has produced evils which are worse than a thousand tariffs. The necessity of appealing now to fraternal feeling shows that that feeling is not sleeping, but nearly extinguished. He opposed the introduction of the bill as a revenue measure, and upon it demanded the yeas and nays: which were ordered."

The practical, clear-headed, straightforward Gen. Smith, of Maryland, put his finger at once upon the fallacy and insecurity of the whole scheme, and used a word, the point and application of which was more visible afterwards than at the time it was uttered. He said:

"That the bill was no cure at all for the evils complained of by the South. They wished to try the constitutionality of protecting duties. In this bill there was nothing but protection, from beginning to end. We had been told that if the bill passed with common consent, the system established by it would not be touched. But he had once been *cheated* in that way, and would not be *cheated* again. In 1816 it was said the manufacturers would be satisfied with the protection afforded by the bill of that year; but in a few years after they came and insisted for more, and got more. After the first four years, an attempt would be made to repeal all the balance of this bill. He would go no further than four years in prospective reduction. The reduction was on some articles too great."

He spoke history, except in the time. The manufacturers retained the benefits of the bill to the end of the protection which it gave them, and then re-established the protective system in more amplitude than ever.

"Mr. Calhoun rose and said, he would make but one or two observations. Entirely approving of the object for which this bill was introduced, he should give his vote in favor of the motion for leave to introduce it. He who loved the Union must desire to see this agitating question brought to a termination. Until it should be terminated, we could not expect the restoration of peace or harmony, or a sound condition of things, throughout the country. He believed that to the unhappy divisions which had kept the Northern and Southern States apart from each other, the present entirely degraded condition of the country (for entirely degraded he believed it to be) was solely attributable. The general principles of this bill received his approbation. He believed that if the present difficulties were to be adjusted, they must be adjusted on the principles embraced in the bill, of fixing ad valorem duties, except in the few cases in the bill to which specific duties were assigned. He said that it had been his fate to occupy a position as hostile as any one could, in reference to the protecting policy; but, if it depended on his will, he would not give his vote for the prostration of the manufacturing interest. A very large capital had been invested in manufactures, which had been of great service to the country; and he would never give his vote to suddenly withdraw all those duties by which that capital was sustained in the channel into which it had been directed. But he would only vote for the ad valorem system of duties, which he deemed the most beneficial and the most equitable. At this time, he did not rise to go into a consideration of any of the details of this bill, as such a course would be premature, and contrary to the practice of the Senate. There were some of the provisions which had his entire approbation, and there were some to which he objected. But he looked upon these minor points of difference as points in the settlement of which no difficulty would occur, when gentlemen meet together in that spirit of mutual compromise which, he doubted not, would be brought into their deliberations, without at all yielding the constitutional question as to the right of protection."

This union of Mr. Calhoun and Mr. Clay in the belief of the harmony and brotherly affection which this bill would produce, professing as it did, and bearing on its face the termination of

the American system, afforded a strong instance of the fallibility of political opinions. It was only six months before that the dissolution of the Union would be the effect, in the opinion of one of them, of the continuance of the American system—and of its abandonment in the opinion of the other. Now, both agreed that the bill which professed to destroy it would restore peace and harmony to a distracted country. How far Mr. Clay then saw the preservation, and not the destruction, of the American system in the compromise he was making, may be judged by what he said two weeks later, when he declared that he looked forward to a re-action which would restore the protective system at the end of the time.

The first news of Mr. Clay's bill was heard with dismay by the manufacturers. Niles' Register, the most authentic organ and devoted advocate of that class, heralded it thus: "*Mr. Clay's new tariff project will be received like a crash of thunder in the winter season, and some will hardly trust the evidence of their senses on a first examination of it—so radical and sudden is the change of policy proposed because of a combination of circumstances which, in the judgment of Mr. Clay, has rendered such a change necessary. It may be that our favorite systems are all to be destroyed. If so the majority determine—so be it.*" The manufacturers flocked in crowds to Washington City—leaving home to stop the bill—arriving at Washington to promote it. Those practical men soon saw that they had gained a reprieve of nine years and a half in the benefits of protection, with a certainty of the re-establishment of the system at the end of that time, from the revulsion which would be made in the revenue—in the abrupt plunge at the end of that time in the scale of duties from a high rate to an ad valorem of twenty per centum; and that leaving one hundred articles free. This nine years and a half reprieve, with the certain chance for the revulsion, they found to be a good escape from the possible passage of Mr. Verplank's bill, or its equivalent, at that session; and its certain passage, if it failed then, at the ensuing session of the new Congress. They found the protective system dead without this reprieve, and now received as a deliverance what had been viewed as a sentence of execution; and having helped the bill through, they went home rejoicing, and more devoted to Mr. Clay than ever.

Mr. Webster had not been consulted, in the formation of this bill, and was strongly opposed to it, as well as naturally dissatisfied at the neglect with which he had been treated. As the ablest champion of the tariff, and the representative of the chief seat of manufactures, he would naturally have been consulted, and made a party, and a leading one, in any scheme of tariff adjustment; on the contrary, the whole concoction of the bill between Mr. Clay and Mr. Calhoun had been entirely concealed from him. Symptoms of discontent appeared, at times, in their speeches; and, on the night of the 23d, some sharp words passed—composed the next day by their friends: but it was a strange idea of a "compromise," from which the main party was to be excluded in its formation, and bound in its conclusion. And Mr. Webster took an immediate opportunity to show that he had not been consulted, and would not be bound by the arrangement that had been made. He said:

"It is impossible that this proposition of the honorable member from Kentucky should not excite in the country a very strong sensation; and, in the relation in which I stand to the subject, I am anxious at an early moment, to say, that, as far as I understand the bill, from the gentleman's statement of it, there are principles in it to which I do not at present see how I can ever concur. If I understand the plan, the result of it will be a well-understood surrender of the power of discrimination, or a stipulation not to use that power, in the laying duties on imports, after the eight or nine years have expired. This appears to me to be matter of great moment. I hesitate to be a party to any such stipulation. The honorable member admits, that though there will be no positive surrender of the power, there will be a stipulation not to exercise it; a treaty of peace and amity, as he says, which no American statesman can, hereafter, stand up to violate. For one, sir, I am not ready to enter into the treaty. I propose, so

far as depends on me, to leave all our successors in Congress as free to act as we are ourselves.

“The honorable member from Kentucky says the tariff is in imminent danger; that, if not destroyed this session, it cannot hope to survive the next. This may be so, sir. This may be so. But, if it be so, it is because the American people will not sanction the tariff; and, if they will not, why, then, sir, it cannot be sustained at all. I am not quite so despairing as the honorable member seems to be. I know nothing which has happened, within the last six or eight months, changing so materially the prospects of the tariff. I do not despair of the success of an appeal to the American people, to take a just care of their own interest, and not to sacrifice those vast interests which have grown up under the laws of Congress.”

There was a significant intimation in these few remarks, that Mr. Webster had not been consulted in the preparation of this bill. He shows that he had no knowledge of it, except from Mr. Clay’s statement of its contents, on the floor, for it had not then been read; and the statement made by Mr. Clay was his only means of understanding it. This is the only public intimation which he gave of that exclusion of himself from all knowledge of what Mr. Clay and Mr. Calhoun were doing; but, on the Sunday after the sharp words between him and Mr. Clay, the fact was fully communicated to me, by a mutual friend, and as an injurious exclusion which Mr. Webster naturally and sensibly felt. On the next day, he delivered his opinions of the bill, in an unusually formal manner—in a set of resolutions, instead of a speech—thus:

“*Resolved*, That the annual revenues of the country ought not to be allowed to exceed a just estimate of the wants of the government; and that, as soon as it shall be ascertained, with reasonable certainty, that the rates of duties on imports, as established by the act of July, 1832, will yield an excess over those wants, provision ought to be made for their reduction; and that, in making this reduction, just regard should be had to the various interests and opinions of different parts of the country, so as most effectually to preserve the integrity and harmony of the Union, and to provide for the common defence, and promote the general welfare of the whole.

“But, whereas it is certain that the diminution of the rates of duties on some articles would increase, instead of reducing, the aggregate amount of revenue on such articles; and whereas, in regard to such articles as it has been the policy of the country to protect, a slight reduction on one might produce essential injury, and even distress, to large classes of the community, while another might bear a larger reduction without any such consequences; and whereas, also, there are many articles, the duties on which might be reduced, or altogether abolished, without producing any other effect than the reduction of revenue: Therefore,

“*Resolved*, That, in reducing the rates of duties imposed on imports, by the act of the 14th of July aforesaid, it is not wise or judicious to proceed by way of an equal reduction per centum on all articles; but that, as well the amount as the time of reduction ought to be fixed, in respect to the several articles, distinctly, having due regard, in each case, to the questions whether the proposed reduction will affect revenue alone, or how far it will operate injuriously on those domestic manufactures hitherto protected; especially such as are essential in time of war, and such, also, as have been established on the faith of existing laws; and, above all, how far such proposed reduction will affect the rates of wages and the earnings of American manual labor.

“*Resolved*, That it is unwise and injudicious, in regulating imposts, to adopt a plan, hitherto equally unknown in the history of this government, and in the practice of all enlightened nations, which shall, either immediately or prospectively, reject all discrimination on articles

to be taxed, whether they be articles of necessity or of luxury, of general consumption or of limited consumption; and whether they be or be not such as are manufactured and produced at home, and which shall confine all duties to one equal rate per centum on all articles.

"*Resolved*, That, since the people of the United States have deprived the State governments of all power of fostering manufactures, however indispensable in peace or in war, or however important to national independence, by commercial regulations, or by laying duties on imports, and have transferred the whole authority to make such regulations, and to lay such duties, to the Congress of the United States, Congress cannot surrender or abandon such power, compatibly with its constitutional duty; and, therefore,

"*Resolved*, That no law ought to be passed on the subject of imposts, containing any stipulation, express or implied, or giving any pledge or assurance, direct or indirect, which shall tend to restrain Congress from the full exercise, at all times hereafter, of all its constitutional powers, in giving reasonable protection to American industry, countervailing the policy of foreign nations, and maintaining the substantial independence of the United States."

These resolutions brought the sentiments of Mr. Webster, on the tariff and federal revenue, very nearly to the standard recommended by General Jackson, in his annual message; which was a limitation of the revenue to the wants of the government, with incidental protection to essential articles; and this approximation of policy, with that which had already taken place on the doctrine of nullification and its measures, and his present support of the "Force Bill," may have occasioned the exclusion of Mr. Webster from all knowledge of this "compromise." Certain it is, that, with these sentiments on the subject of the tariff and the revenue, and with the decision of the people, in their late elections against the American system, that Mr. Webster and his friends would have acted with the friends of General Jackson and the democratic party, in the ensuing Congress, in reducing the duties in a way to be satisfactory to every reasonable interest; and, above all, to be stable; and to free the country from the agitation of the tariff question, the manufacturers from uncertainty, and the revenue from fluctuations which alternately gave overflowing and empty treasuries. It was a consummation devoutly to be wished; and frustrated by the intervention of the delusive "compromise," concocted out of doors, and in conclave by two senators; and to be carried through Congress by their joint adherents, and by the fears of some and the interests of others.

Mr. Wright, of New-York, saw objections to the bill, which would be insurmountable in other circumstances. He proceeded to state these objections, and the reason which would outweigh them in his mind:

"He thought the reduction too slow for the first eight years, and vastly too rapid afterwards. Again, he objected to the inequality of the rule of reduction which had been adopted. It will be seen, at once, that on articles paying one hundred per cent. duty, the reduction is dangerously rapid. There was uniformity in the rule adopted by the bill, as regards its operation on existing laws. The first object of the bill was to effect a compromise between the conflicting views of the friends and the opponents of protection. It purports to extend relief to Southern interest; and yet it enhances the duty on one of the most material articles of Southern consumption—negro cloths. Again, while it increases this duty, it imposes no corresponding duty on the raw material from which the fabric is made.

"Another objection arose from his mature conviction that the principle of home valuation was absurd, impracticable, and of very unequal operation. The reduction on some articles of prime necessity—iron, for example—was so great and so rapid, that he was perfectly satisfied that it

would stop all further production before the expiration of eight years. The principle of discrimination was one of the points introduced into the discussion; and, as to this, he would say that the bill did not recognize, after a limited period, the power of Congress to afford protection by discriminating duties. It provides protection for a certain length of time, but does not ultimately recognize the principle of protection. The bill proposes ultimately to reduce all articles which pay duty to the same rate of duty. This principle of revenue was entirely unknown to our laws, and, in his opinion, was an unwarrantable innovation. Gentlemen advocating the principle and policy of free trade admit the power of Congress to lay and collect such duties as are necessary for the purpose of revenue; and to that extent they will incidentally afford protection to manufactures. He would, upon all occasions, contend that no more money should be raised from duties on imports than the government needs; and this principle he wished now to state in plain terms. He adverted to the proceedings of the Free Trade Convention to show that, by a large majority, (120 to 7,) they recognized the constitutional power of Congress to afford incidental protection to domestic manufactures. They expressly agreed that the principle of discrimination was in consonance with the constitution.

"Still another objection he had to the bill. It proposed on its face, and, as he thought, directly, to restrict the action of our successors. We had no power, he contended, to bind our successors. We might legislate prospectively, and a future Congress could stop the course of this prospective legislation. He had, however, no alternative but to vote for the bill, with all its defects, because it contained some provisions which the state of the country rendered indispensably necessary."

He then stated the reason which would induce him to vote for the bill notwithstanding these objections. It was found in the attitude of South Carolina, and in the extreme desire which he had to remove all cause of discontent in that State, and to enable her to return to the state of feeling which belonged to an affectionate member of the Union. For that reason he would do what was satisfactory to her, though not agreeable to himself.

While the bill was still depending before the Senate, the bill itself for which the leave was being asked, made its appearance at the door of the chamber, with a right to enter it, in the shape of an act passed by the House, and sent to the Senate for concurrence. This was a new feature in the game, and occasioned the Senate bill to be immediately dropped, and the House bill put in its place; and which, being quickly put to the vote, was passed, 29 to 16.

"Yeas.—Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hill, Holmes, Johnston, King, Mangum, Miller, Moore, Maudain, Poindexter, Rives, Robinson, Sprague, Tomlinson, Tyler, Waggaman, White, Wright.

"Nays.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Hendricks, Knight, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Tipton, Webster, Wilkins."

And the bill was then called a "compromise," which the dictionaries define to be an "agreement without the intervention of arbitrators;" and so called, it was immediately proclaimed to be sacred and inviolable, as founded on mutual consent, although the only share which the manufacturing States (Pennsylvania, New Jersey, Maryland, Massachusetts, Rhode Island, Vermont) had in making this "compromise," was to see it sprung upon them without notice, executed upon them as a surprise, and forced upon them by anti-tariff votes, against the strenuous resistance of their senators and representatives in both Houses of Congress.

An incident which attended the discussion of this bill shows the manner in which great measures—especially a bill of many particulars, like the tariff, which affords an opportunity of gratifying small interests—may be worked through a legislative body, even the Senate of the United States, by other reasons than those derived from its merits. The case was this: There were a few small manufactories in Connecticut and some other New England States, of a coarse cloth called, not Kendall green, but Kendall cotton—quite antithetically, as the article was made wholly of wool—of which much was also imported. As it was an article exclusively for the laboring population, the tariff of the preceding session made it virtually free, imposing only a duty of five per centum on the value of the cloth and the same on the wool of which it was made. Now this article was put up in this "compromise" bill which was to reduce duties, to fifty per centum, aggravated by an arbitrary minimum valuation, and by the legerdemain of retaining the five per centum duty on the foreign wool which they used, and which was equivalent to making it free, and reduced to that low rate to harmonize the duty on the raw material and the cloth. General Smith, of Maryland, moved to strike out this duty, so flagrantly in contrast to the professed objects of the bill, and in fraud of the wool duty; and that motion brought out the reason why it was put there—which was, that it was necessary to secure the passage of the bill. Mr. Foot, of Connecticut, said: "*This was an important feature of the bill, in which his constituents had a great interest. Gentlemen from the South had agreed to it; and they were competent to guard their own interest.*" Mr. Clay said: "*The provision proposed to be stricken out was an essential part of the compromise, which, if struck out, would destroy the whole.*" Mr. Bell of New Hampshire, said: "*The passage of the bill depended upon it. If struck out, he should feel himself compelled to vote against the bill.*" So it was admitted by those who knew what they said, that this item had been put into the bill while in a state of concoction out of doors, and as a *douceur* to conciliate the votes which were to pass it. Thereupon Mr. Benton stood up, and

"Animadverted on the reason which was alleged for this extraordinary augmentation of duties in a bill which was to reduce duties. The reason was candidly expressed on this floor. There were a few small manufactories of these woollens in Connecticut; and unless these manufactories be protected by an increase of duties, certain members avow their determination to vote against the whole bill! This is the secret—no! not a secret, for it is proclaimed. It was a secret, but is not now. Two or three little factories in Connecticut must be protected; and that by imposing an annual tax upon the wearers of these coarse woollens of four or five times the value of the fee-simple estate of the factories. Better far, as a point of economy and justice, to purchase them and burn them. The whole American system is to be given up in the year 1842; and why impose an annual tax of near five hundred thousand dollars, upon the laboring community, to prolong, for a few years, a few small branches of that system, when the whole bill has the axe to the root, and nods to its fall? But, said Mr. B., these manufactories of coarse woollens, to be protected by this bill, are not even American; they are rather Asiatic establishments in America; for they get their wool from Asia, and not from America. The importation of this wool is one million two hundred and fifty thousand pounds weight; it comes chiefly from Smyrna, and costs less than eight cents a pound. It was made free of duty at the last session of Congress, as an equivalent to these very manufactories for the reduction of the duty on coarse woollens to five per cent. The two measures went together, and were, each, a consideration for the other. Before that time, and by the act of 1828, this coarse wool was heavily dutied for the benefit of the home wool growers. It was subjected to a double duty, one of four cents on the pound, and the other of fifty per cent. on the value. As a measure of compromise, this double duty was abolished at the last session. The wool for these factories was admitted duty free, and, as an equivalent to the community, the woollens made out of the corresponding kind of wool were admitted at a nominal duty. It was a bargain, entered into in open Congress, and sealed with all the forms of law. Now, in

six months after the bargain was made, it is to be broken. The manufacturers are to have the duty on woollens run up to fifty per cent. for protection, and are still to receive the foreign wool free of duty. In plain English, they are to retain the pay which was given them for reducing the duties on these coarse woollens, and they are to have the duties restored.

"He said it was contrary to the whole tenor and policy of the bill, and presented the strange contradiction of multiplying duties tenfold, upon an article of prime necessity, used exclusively by the laboring part of the community, while reducing duties or abolishing them *in toto*, upon every article used by the rich and luxurious. Silks were to be free; cambrics and fine linens were to be free; muslins, and casimeres, and broad cloths were to be reduced; but the coarse woollens, worn by the laborers of every color and every occupation, of every sex and of every age, bond or free—these coarse woollens, necessary to shelter the exposed laborer from cold and damp, are to be put up tenfold in point of tax, and the cost of procuring them doubled to the wearer.

"The American value, and not the foreign cost, will be the basis of computation for the twenty per cent. The difference, when all is fair, is about thirty-five per cent. in the value; so that an importation of coarse woollens, costing one million in Europe, and now to pay five per cent. on that cost, will be valued, if all is fair, at one million three hundred and fifty thousand dollars; and the twenty per cent. will be calculated on that sum, and will give two hundred and seventy thousand dollars, instead of two hundred thousand dollars, for the quantum of the tax. It will be near sixfold, instead of four-fold, and that if all is fair; but if there are gross errors or gross frauds in the valuation, as every human being knows there must be, the real tax may be far above sixfold. On this very floor, and in this very debate, we hear it computed, by way of recommending this bill to the manufacturers, that the twenty per cent. on the statute book will exceed thirty in the custom-house.

"Mr. B. took a view of the circumstances which had attended the duties on these coarse woollens since he had been in Congress. Every act had discriminated in favor of these goods, because they were used by the poor and the laborer. The act of 1824 fixed the duties upon them at a rate one third less than on other woollens; the act of 1828 fixed it at upwards of one half less; the act of 1832 fixed it nine tenths less. All these discriminations in favor of coarse woollens were made upon the avowed principle of favoring the laborers, bond and free,—the slave which works the field for his master, the mariner, the miner, the steamboat hand, the worker in stone and wood, and every out-door occupation. It was intended by the framers of all these acts, and especially by the supporters of the act of 1832, that this class of our population, so meritorious from their daily labor, so much overlooked in the operations of the government, because of their little weight in the political scale, should at least receive one boon from Congress—they should receive their working clothes free of tax. This was the intention of successive Congresses; it was the performance of this Congress in its act of the last session; and now, in six short months since this boon was granted, before the act had gone into effect, the very week before the act was to go into effect, the boon so lately granted, is to be snatched away, and the day laborer taxed higher than ever; taxed fifty per cent. upon his working clothes! while gentlemen and ladies are to have silks and cambrics, and fine linen, free of any tax at all!

"In allusion to the alleged competency of the South to guard its own interest, as averred by Mr. Foot, Mr. Benton said that was a species of ability not confined to the South, but existent also in the North—whether indigenous or exotic he could not say—but certainly existent there, at least in some of the small States; and active when duties were to be raised on Kendal cotton cloth, and the wool of which it was made to remain free."

The motion of General Smith was rejected, of course, and by the same vote which passed the bill, no one of those giving way an inch of ground in the House who had promised out of doors to stand by the bill. Another incident to which the discussion of this bill gave rise, and the memory of which is necessary to the understanding of the times, was the character of "*protection*" which Mr. Clay openly claimed for it; and the peremptory manner in which he and his friends vindicated that claim in open Senate, and to the face of Mr. Calhoun. The circumstances were these: Mr. Forsyth objected to the leave asked by Mr. Clay to introduce his bill, because it was a revenue bill, the origination of which under the constitution exclusively belonged to the House of Representatives, the immediate representative of the people. And this gave rise to an episodical debate, in which Mr. Clay said: "*The main object of the bill is not revenue, but protection.*"—In answer to several senators who said the bill was an abandonment of the protective principle, Mr. Clay said: "*The language of the bill authorized no such construction, and that no one would be justified in inferring that there was to be an abandonment of the system of protection.*"—And Mr. Clayton, of Delaware, a supporter of the bill, said: "*The government cannot be kept together if the principle of protection were to be discarded in our policy; and declared that he would pause before he surrendered that principle, even to save the Union.*"—Mr. Webster said: "*The bill is brought forward by the distinguished senator from Kentucky, who professes to have renounced none of his former opinions as to the constitutionality and expediency of protection.*"—And Mr. Clay said further: "*The bill assumes, as a basis, adequate protection for nine years, and less (protection) beyond that term. The friends of protection say to their opponents, we are willing to take a lease of nine years, with the long chapter of accidents beyond that period, including the chance of war, the restoration of concord, and along with it a conviction common to all, of the utility of protection; and in consideration of it, if, in 1842 none of these contingencies shall have been realized, we are willing to submit, as long as Congress may think proper, with a maximum of twenty per centum*," &c.—"*He avowed his object in framing the bill was to secure that protection to manufactures which every one foresaw must otherwise soon be swept away.*" So that the bill was declared *to be one of protection* (*and upon sufficient data*), upon a lease of nine years and a half, with many chances for converting the lease into a fee simple at the end of its run; which, in fact, was done; but with such excess of protection as to produce a revulsion, and another tariff catastrophe in 1846. The continuance of protection was claimed in argument by Mr. Clay and his friends throughout the discussion, but here it was made a point on which the fate of the bill depended, and on which enough of its friends to defeat it declared they would not support it except as a protective measure. Mr. Calhoun in other parts of the debate had declared the bill to be an abandonment of protection; but at this critical point, when such a denial from him would have been the instant death warrant of the bill, he said nothing. His desire for its passage must have been overpowering when he could hear such declarations without repeating his denial.

On the main point, that of the constitutionality of originating the bill in the Senate, Mr. Webster spoke the law of Parliament when he said:

"It was purely a question of privilege, and the decision of it belonged alone to the other House. The Senate, by the constitution, could not originate bills for raising revenue. It was of no consequence whether the rate of duty were increased or decreased; if it was a money bill it belonged to the House to originate it. In the House there was a Committee of Ways and Means organized expressly for such objects. There was no such committee in the Senate. The constitutional provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the constitution, with the modification that the Senate might alter and amend money bills, which was denied by the House of Commons to the Lords. This subject belongs exclusively to the House of Representatives. The attempt to

evade the question, by contending that the present bill was intended for protection and not for revenue, afforded no relief, for it was protection by means of revenue. It was not the less a money bill from its object being protection. After 1842 this bill would raise the revenue, or it would not be raised by existing laws. He was altogether opposed to the provisions of this bill; but this objection was one which belonged to the House of Representatives."

Another incident which illustrates the vice and tyranny of this outside concoction of measures between chiefs, to be supported in the House by their adherents as they fix it, occurred in the progress of this bill. Mr. Benton, perceiving that there was no corresponding reduction of drawback provided for on the exportation of the manufactured article made out of an imported material on which duty was to be reduced, and supposing it to have been an oversight in the framing of the bill, moved an amendment to that effect; and meeting resistance, stood up, and said:

"His motion did not extend to the general system of drawbacks, but only to those special cases in which the exporter was authorized to draw from the treasury the amount of money which he had paid into it on the importation of the materials which he had manufactured. The amount of drawback to be allowed in every case had been adjusted to the amount of duty paid, and as all these duties were to be periodically reduced by the bill, it would follow, as a regular consequence, that the drawback should undergo equal reductions at the same time. Mr. B. would illustrate his motion by stating a single case—the case of refined sugar. The drawback payable on this sugar was five cents a pound. These five cents rested upon a duty of three cents, now payable on the importation of foreign brown sugar. It was ascertained that it required nearly two pounds of brown sugar to make a pound of refined sugar, and five cents was held to be the amount of duty paid on the quantity of brown sugar which made the pound of refined sugar. It was simply a reimbursement of what he had paid. By this bill the duty of foreign brown sugar will be reduced immediately to two and a half cents a pound, and afterwards will be periodically reduced until the year 1842, when it will be but six-tenths of a cent, very little more than one-sixth of the duty when five cents the pound were allowed for a drawback. Now, if the drawback is not reduced in proportion to the reduction of the duty on the raw sugar, two very injurious consequences will result to the public: first, that a large sum of money will be annually taken out of the treasury in gratuitous bounties to sugar refiners; and next, that the consumers of refined sugar will have to pay more for American refined sugar than foreigners will; for the refiners getting a bounty of five cents a pound on all that is exported, will export all, unless the American consumer will pay the bounty also. Mr. B. could not undertake to say how much money would be drawn from the treasury, as a mere bounty, if this amendment did not prevail. It must, however, be great. The drawback was now frequently a hundred thousand dollars a year, and great frauds were committed to obtain it. Frauds to the amount of forty thousand dollars a year had been detected, and this while the inducement was small and inconsiderable; but, as fast as that inducement swells from year to year, the temptation to commit frauds must increase; and the amount drawn by fraud, added to that drawn by the letter of the law, must be enormous. Mr. B. did not think it necessary to illustrate his motion by further examples, but said there were other cases which would be as strong as that of refined sugar; and justice to the public required all to be checked at once, by adopting the amendment he had offered."

This amendment was lost, although its necessity was self-evident, and supported by Mr. Calhoun's vote; but Mr. Clay was inexorable, and would allow of no amendment which was not offered by friends of the bill: a qualification which usually attends all this class of outside legislation. In the end, I saw the amendment adopted, as it regarded refined sugars, after it began to take hundreds of thousands per annum from the treasury, and was hastening on to millions per annum. The vote on its rejection in the compromise bill, was:

“Yeas.—Messrs. Benton, Buckner, Calhoun, Dallas, Dickerson, Dudley, Forsyth, Johnson, Kane, King, Rives, Robinson, Seymour, Tomlinson, Webster, White, Wilkins, Wright—18.

“Nays.—Messrs. Bell, Bibb, Black, Clay, Clayton, Ewing, Foot, Grundy, Hendricks, Holmes, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Tipton, Troup, Tyler.—24.”

But the protective feature of the bill, which sat hardest upon the Southern members, and, at one time, seemed to put an end to the “compromise,” was a proposition, by Mr. Clay, to substitute home valuations for foreign on imported goods; and on which home valuation, the duty was to be computed. This was no part of the bill concocted by Mr. Clay and Mr. Calhoun; and, when offered, evidently took the latter gentleman by surprise, who pronounced it unconstitutional, unequal, and unjust; averred the objections to the proposition to be insurmountable; and declared that, if adopted, would compel him to vote against the whole bill. On the other hand, Mr. Clayton and others, declared the adoption of the amendment to be indispensable; and boldly made known their determination to sacrifice the bill, if it was not adopted. A brief and sharp debate took place, in the course of which Mr. Calhoun declared his opinions to remain unaltered, and Mr. Clayton moved to lay the bill upon the table. Its fate seemed, at that time, to be sealed; and certainly would have been, if the vote on its passage had then been taken; but an adjournment was moved, and carried; and, on the next day, and after further debate, and the question on Mr. Clay’s proposition about to be taken, Mr. Calhoun declared that it had become necessary for him to determine whether he would vote for or against it; said he would vote for it, otherwise the bill would be lost. He then called upon the reporters in the gallery to notice well what he said, as he intended his declaration to be part of the proceedings: and that he voted upon the conditions: first, that no valuation should be adopted, which would make the duties unequal in different parts; and secondly, that the duties themselves should not become an element in the valuation. The practical sense of General Smith immediately exposed the futility of these conditions, which were looked upon, on all sides, as a mere salvo for an inevitable vote, extorted from him by the exigencies of his position; and several senators reminded him that his intentions and motives could have no effect upon the law, which would be executed according to its own words. The following is the debate on this point, very curious in itself, even in the outside view it gives of the manner of affecting great national legislation; and much more so in the inside view of the manner of passing this particular measure, so lauded in its day; and to understand which, the outside view must first be seen. It appears thus, in the prepared debates:

“Mr. Clay now rose to propose the amendment, of which he had previously given notice. The object was, that, after the period prescribed by the bill, all duties should thereafter be assessed on a valuation made at the port in which the goods are first imported, and under ‘such regulations as may be prescribed by law.’ Mr. C. said it would be seen, by this amendment, that, in place of having a foreign valuation, it was intended to have a home one. It was believed by the friends of the protective system, that such a regulation was necessary. It was believed by many of the friends of the system, that, after the period of nine and a half years, the most of our manufactures will be sufficiently grown to be able to support themselves under a duty of twenty per cent., if properly laid; but that, under a system of foreign valuation, such would not be the case. They say that it would be more detrimental to their interests than the lowest scale of duties that could be imposed; and you propose to fix a standard of duties. They are willing to take you at your word, provided you regulate this in a way to do them justice.

“Mr. Smith opposed the amendment, on the ground that it would be an increase of duties; that it had been tried before; that it would be impracticable, unequal, unjust, and productive of confusion, inasmuch as imported goods were constantly varying in value, and were well known to be, at all times, cheaper in New-York than in the commercial cities south of it. This would have the effect of drawing all the trade of the United States to New-York.

“Mr. Clay said he did not think it expedient, in deciding this question, to go forward five or six years, and make that an obstacle to the passage of a great national measure, which is not to go into operation until after that period. The honorable senator from Maryland said that the measure would be impracticable. Well, sir, if so, it will not be adopted. We do not adopt it now, said Mr. C.; we only adopt the principle, leaving it to future legislation to adjust the details. Besides, it would be the restoration of an ancient principle, known since the foundation of the government. It was but at the last session that the discriminating duty on goods coming from this side, and beyond the Cape of Good Hope, ten per cent. on one, and twenty per cent. on the other, was repealed. On what principle was it, said he, that this discrimination ever prevailed? On the principle of the home value. Were it not for the fraudulent invoices which every gentleman in this country was familiar with, he would not urge the amendment; but it was to detect and prevent these frauds that he looked upon the insertion of the clause as essentially necessary.

“Mr. Smith replied that he had not said that the measure was impracticable. He only intended to say that it would be inconvenient and unjust. Neither did he say that it would be adopted by a future Congress; but he said, if the principle was adopted now, it would be an entering wedge that might lead to the adoption of the measure. We all recollect, said Mr. S., that appropriations were made for surveys for internal improvements; and that these operated as entering wedges, and led to appropriations for roads and canals. The adoption of the principle contended for, by the senator from Kentucky, would not, in his (Mr. S.’s) opinion, prevent frauds in the invoices. That very principle was the foundation of all the frauds on the revenue of France and Spain, where the duties were assessed according to the value of the goods in the ports where entered. He again said that the effect of the amendment would be to draw the principal commerce of the country to the great city of New-York, where goods were cheaper.

“Mr. Forsyth understood, from what had fallen from the senator from Kentucky, that this was a vital question, and on it depended the success of this measure of conciliation and compromise, which was said to settle the distracted condition of the country. In one respect, it was said to be a vital question; and the next was, it was useful; and a strange contradiction followed: that the fate of this measure, to unite the jarrings of brother with brother, depended on the adoption of a principle which might or might not be adopted. He considered the amendment wrong in principle, because it would be both unequal and unjust in its operation, and because it would raise the revenue: as the duties would be assessed, not only on the value of the goods at the place whence imported, but on their value at the place of importation. He would, however, vote for the bill, even if the amendment were incorporated in it, provided he had the assurances, from the proper quarter, that it would effect the conciliation and compromise it was intended for.

“Mr. Clay had brought forward this measure, with the hope that, in the course of its discussion, it would ultimately assume such a shape as to reconcile all parties to its adoption, and tend to end the agitation of this unsettled question. If there be any member of this Congress (Mr. C. said), who says that he will take this bill now for as much as it is worth, and that he will, at the next Congress, again open the question, for the purpose of getting a better bill, of bringing down the tariff to a lower standard, without considering it as a final measure

of compromise and conciliation, calculated also to give stability to a man of business, the bill, in his eyes, would lose all its value, and he should be constrained to vote against it.

“It was for the sake of conciliation, of nine years of peace, to give tranquility to a disturbed and agitated country, that he had, even at this late period of the session, introduced this measure, which, his respect for the other branch of the legislature, now sitting in that building, and who had a measure, looking to the same end, before them, had prevented him from bringing forward at an earlier period. But, when he had seen the session wearing away, without the prospect of any action in that other body, he felt himself compelled to come forward, though contrary to his wishes, and the advice of some of his best friends, with whom he had acted in the most perilous times.

“Mr. Calhoun said, he regretted, exceedingly, that the senator from Kentucky had felt it his duty to move the amendment. According to his present impressions, the objections to it were insurmountable; and, unless these were removed, he should be compelled to vote against the whole bill, should the amendment be adopted. The measure proposed was, in his opinion, unconstitutional. The constitution expressly provided that no preference should be given, by any regulation of commerce, to the ports of one State over those of another; and this would be the effect of adopting the amendment. Thus, great injustice and inequality must necessarily result from it; for the price of goods being cheaper in the Northern than in the Southern cities, a home valuation would give to the former a preference in the payment of duties. Again, the price of goods being higher at New Orleans and Charleston than at New-York, the freight and insurance also being higher, together with the increased expenses of a sickly climate, would give such advantages in the amount of duties to the Northern city, as to draw to it much of the trade of the Southern ones. In his view of the subject, this was not all. He was not merchant enough to say what would be the extent of duties under this system of home valuation; but, as he understood it, they must, of consequence, be progressive. For instance, an article is brought into New-York, value there 100 dollars. Twenty per cent. on that would raise the value of the article to one hundred and twenty dollars, on which value a duty of twenty per cent. would be assessed at the next importation, and so on. It would, therefore, be impossible to say to what extent the duties would run up. He regretted the more that the senator from Kentucky had felt it his duty to offer this amendment, as he was willing to leave the matter to the decision of a future Congress, though he did not see how they could get over the insuperable constitutional objections he had glanced at. Mr. C. appealed to the senator from Kentucky, whether, with these views, he would press his amendment, when he had eight or nine years in advance before it could take effect. He understood the argument of the senator from Kentucky to be an admission that the amendment was not now absolutely necessary. With respect to the apprehension of frauds on the revenue, Mr. C. said that every future Congress would have the strongest disposition to guard against them. The very reduction of duties, he said, would have that effect; it would strike at the root of the evil. Mr. C. said he agreed with the senator from Kentucky, that this bill will be the final effort at conciliation and compromise; and he, for one, was not disposed, if it passed, to violate it by future legislation.

“Mr. Clayton said that he could not vote for this bill without this amendment, nor would he admit any idea of an abandonment of the protective system; while he was willing to pass this measure, as one of concession from the stronger to the weaker party, he never could agree that twenty per cent. was adequate protection to our domestic manufactures. He had been anxious to do something to relieve South Carolina from her present perilous position; though he had never been driven by the taunts of Southern gentlemen to do that, which he now did, for the sake of conciliation. I vote for this bill, said Mr. C., only on the ground that it may save South Carolina from herself.

“Here Mr. C. yielded the floor to Mr. Calhoun, who said he hoped the gentleman would not touch that question. He entreated him to believe that South Carolina had no fears for herself. The noble and disinterested attitude she had assumed was intended for the whole nation, while it was also calculated to relieve herself, as well as them, from oppressive legislation. It was not for them to consider the condition of South Carolina only, in passing on a measure of this importance.

“Mr. Clayton resumed. Sir, said he, I must be permitted to explain, in my own way, the reasons which will govern me in the vote I am about to give. As I said before, I never have permitted the fears of losing the protective system, as expressed by the senator from Georgia, when he taunted us with the majority that they would have in the next Congress, when they would get a better bill, to influence my opinion upon this occasion. That we have been driven by our fears into this act of concession, I will not admit. Sir, I tell gentlemen that they may never get such another offer as the present; for, though they may think otherwise, I do not believe that the people of this country will ever be brought to consent to the abandonment of the protective system.

“Does any man believe that fifty per cent. is an adequate protection on woollens? No, sir; the protection is brought down to twenty per cent.; and when gentlemen come to me and say that this is a compromise, I answer, with my friend from Maine, that I will not vote for it, unless you will give me the fair twenty per cent.; and this cannot be done without adopting the principle of a home valuation. I do not vote for this bill because I think it better than the tariff of 1832, nor because I fear nullification or secession; but from a motive of concession, yielding my own opinions. But if Southern gentlemen will not accept this measure in the spirit for which it was tendered, I have no reason to vote for it. I voted, said Mr. C., against the bill of ‘32, for the very reason that Southern gentlemen declared that it was no concession; and I may vote against this for the same reasons. I thought it bad policy to pass the bill of ‘32. I thought it a bad bargain, and I think so now. I have no fear of nullification or secession; I am not to be intimidated by threats of Southern gentlemen, that they will get a better bill at the next session. “Rebellion made young Harry Percy’s spurs grow cold.” I will vote for this measure as one of conciliation and compromise; but if the clause of the senator from Kentucky is not inserted, I shall be compelled to vote against it. The protective system never can be abandoned; and I, for one, will not now, or at any time, admit the idea.

“Mr. Dallas was opposed to the proposition from the committee, and agreed with Mr. Calhoun. He would state briefly his objection to the proposition of the committee. Although he was from a State strongly disposed to maintain the protective policy, he labored under an impression, that if any thing could be done to conciliate the Southern States, it was his duty to go for a measure for that purpose; but he should not go beyond it. He could do nothing in this way, as representing his particular district of the country, but only for the general good. He could not agree to incorporate in the bill any principle which he thought erroneous or improper. He would sanction nothing in the bill as an abandonment of the principle of protection. Mr. D. then made a few remarks on home and foreign valuation, to show the ground of his objections to the amendment of Mr. Clay, though it did not prevent his strong desire to compromise and conciliation.

“Mr. Clay thought it was premature to agitate now the details of a legislation which might take place nine years hence. The senator from South Carolina had objected to the amendment on constitutional grounds. He thought he could satisfy him, and every senator, that there was no objection from the constitution.

“He asked if it was probable that a valuation in Liverpool could escape a constitutional objection, if a home valuation were unconstitutional? There was a distinction in the foreign value, and in the thing valued. An invoice might be made of articles at one price in one port of England, and in another port at another price. The price, too, must vary with the time. But all this could not affect the rule. There was a distinction which gentlemen did not observe, between the value and the rule of valuation; one of these might vary, while the other continued always the same. The rule was uniform with regard to direct taxation; yet the value of houses and lands of the same quality are very different in different places. One mode of home valuation was, to give the government, or its officers, the right to make the valuation after the one which the importer had given. It would prevent fraud, and the rule would not violate the constitution. It was an error that it was unconstitutional; the constitution said nothing about it. It was absurd that all values must be established in foreign countries; no other country on earth should assume the right of judging. Objections had been made to leaving the business of valuation in the hands of a few executive officers; but the objections were at least equally great to leaving it in the hands of foreigners. He thought there was nothing in the constitutional objection, and hoped the measure would not be embarrassed by such objections.

“Mr. Calhoun said that he listened with great care to the remarks of the gentleman from Kentucky, and other gentlemen, who had advocated the same side, in hopes of having his objection to the mode of valuation proposed in the amendment removed; but he must say, that the difficulties he first expressed still remained. Passing over what seemed to him to be a constitutional objection, he would direct his observation to what appeared to him to be its unequal operation. If by the home valuation be meant the foreign price, with the addition of freight, insurance, and other expenses at the port of destination, it is manifest that as these are unequal between the several ports in the Union—for instance, between the ports New-York and New Orleans—the duty must also be unequal in the same degree, if laid on value thus estimated. But if, by the home valuation be meant the prices current at the place of importation, then, in addition to the inequality already stated, there would have to be added the additional inequality resulting from the different rates of profits, and other circumstances, which must necessarily render prices very unequal in the several ports of this widely-extended country. There would, in the same view, be another and a stronger objection, which he alluded to in his former remarks, which remained unanswered—that the duties themselves constitute part of the elements of the current prices of the imported articles; and that, to impose a duty on a valuation ascertained by the current prices, would be to impose, in reality, a duty upon a duty, and must necessarily produce that increased progression in duties, which he had already attempted to illustrate.

“He knew it had been stated, in reply, that a system which would produce such absurd results could not be contemplated; that Congress, under the power of regulating, reserved in the amendment, would adopt some mode that would obviate these objections; and, if none such could be devised, that the provisions of the amendment would be simply useless. His difficulty was not removed by the answer to the objection. He was at a loss to understand what mode could be devised free from objection; and, as he wished to be candid and explicit, he felt the difficulty, as an honest man, to assent to a general measure, which, in all the modifications under which he had viewed it, was objectionable. He again repeated, that he regretted the amendment had been offered, as he felt a solicitude that the present controversy should be honorably and fairly terminated. It was not his wish that there should be a feeling of victory on either side. But, in thus expressing his solicitude for an adjustment, he was not governed by motives derived from the attitude which South Carolina occupied, and which the senator from Delaware stated to influence him. He wished that senator, as well as all others,

to understand that that gallant and patriotic State was far from considering her situation as one requiring sympathy, and was equally far from desiring that any adjustment of this question should take place with the view of relieving her, or with any other motive than a regard to the general interests of the country. So far from requiring commiseration, she regarded her position with very opposite light, as one of high responsibility, and exposing her to no inconsiderable danger; but a position voluntarily and firmly assumed, with a full view of consequences, and which she was determined to maintain till the oppression under which she and the other Southern States were suffering was removed.

"In wishing, then, to see a termination to the present state of things, he turned not his eyes to South Carolina, but to the general interests of the country. He did not believe it was possible to maintain our institutions and our liberty, under the continuance of the controversy which had for so long a time distracted us, and brought into conflict the two great sections of the country. He was in the last stage of madness who did not see, if not terminated, that this admirable system of ours, reared by the wisdom and virtue of our ancestors—virtue, he feared, which had fled forever—would fall under its shocks. It was to arrest this catastrophe, if possible, by restoring peace and harmony to the Union, that governed him in desiring to see an adjustment of the question.

"Mr. Clayton said, this point had been discussed in the committee; and it was because this amendment was not adopted that he had withheld his assent from the bill. They had now but seven business days of this session remaining; and it would require the greatest unanimity, both in that body and in the other House, to pass any bill on this subject. Were gentlemen coming from the opposite extremes of the Union, and representing opposite interests, to agree to combine together, there would hardly be time to pass this bill into a law; yet if he saw that it could be done, he would gladly go on with the consideration of the bill, and with the determination to do all that could be done. The honorable member from South Carolina had found insuperable obstacles where he (Mr. C.) had found none. On their part, if they agreed to this bill, it would only be for the sake of conciliation; if South Carolina would not accept the measure in that light, then their motive for arrangement was at an end. He (Mr. C.) apprehended, however, that good might result from bringing the proposition forward at that time. It would be placed before the view of the people, who would have time to reflect and make up their minds upon it against the meeting of the next Congress. He did not hold any man as pledged by their action at this time. If the arrangement was found to be a proper one, the next Congress might adopt it. But, for the reasons he had already stated, he had little hope that any bill would be passed at this session; and, to go on debating it, day after day, would only have the effect of defeating the many private bills and other business which were waiting the action of Congress. He would therefore propose to lay the bill for the present on the table; if it were found, at a future period, before the expiration of the session, that there was a prospect of overcoming the difficulties which now presented themselves, and of acting upon it, the bill might be again taken up. If no other gentleman wished to make any observations on the amendment, he would move to lay the bill on the table.

"Mr. Bibb requested the senator from Delaware to withdraw his motion, whilst he (Mr. B.) offered an amendment to the amendment, having for its object to get rid of that interminable series of duties of which gentlemen had spoken.

"Mr. Clayton withdrew his motion.

"Mr. Bibb proceeded to say, that his design was to obviate the objection of the great increase that would arise from a system of home valuation. He hoped that something satisfactory would be done this session yet. He should vote for every respectable proposition calculated to settle the difficulty. He hoped there would be corresponding concessions on both sides; he

wished much for the harmony of the country. It was well known that he (Mr. B.) was opposed to any tariff system other than one for revenue, and such incidental protection as that might afford. His hope was to strike out a middle course; otherwise, he would concur in the motion that had been made by the senator from Delaware [Mr. Clayton]. Mr. B. then submitted his amendment, to insert the words 'before payment of,' &c.

"Mr. Clay was opposed to the amendment, and he hoped his worthy colleague would withdraw it. If one amendment were offered and debated, another, and another would follow; and thus, the remaining time would be wasted. To fix any precise system would be extremely difficult at present. He only wished the principle to be adopted.

"Mr. Bibb acceded to the wish of the senator from Kentucky, and withdrew his amendment accordingly.

"Mr. Tyler was opposed to the principle of this home valuation. The duties would be taken into consideration in making the valuations; and thus, after going down hill for nine and a half years, we would as suddenly rise up again to prohibition. He complained that there were not merchants enough on this floor from the South; and, in this respect, the Northern States had the advantage. But satisfy me, said Mr. T., that the views of the senator from South Carolina [Mr. Calhoun] are not correct, and I shall vote for the proposition.

"Mr. Moore said he would move an amendment which he hoped would meet the views of the gentlemen on the other side; it was to this effect:

"*Provided*, That no valuation be adopted that will operate unequally in different ports of the United States.

"Mr. Calhoun also wished that the amendment would prevail, though he felt it would be ineffectual to counteract the inequality of the system. But he would raise no cavilling objections; he wished to act in perfect good faith; and he only wished to see what could be done.

"Mr. Moore said he had but two motives in offering the amendment to the amendment of the senator. The first was, to get rid of the constitutional objections to the amendment of the senator from Kentucky; and the second was, to do justice to those he had the honor to represent. The honorable gentleman said that Mobile and New Orleans would not pay higher duties, because the goods imported there would be of more value; and this was the very reason, Mr. M. contended, why the duties would be higher. Did not every one see that if the same article was valued in New-York at one hundred dollars, and in Mobile at one hundred and thirty-five dollars, the duty of twenty per cent. would be higher at the latter place? He had nothing but the spirit of compromise in view, and hoped gentlemen would meet him in the same spirit. He would now propose, with the permission of the senator from Maine, to vary his motion, and offer a substitute in exact conformity with the language of the constitution. This proposition being admitted by general consent, Mr. Moore modified his amendment accordingly. (It was an affirmation of the constitution, that all duties should be uniform, &c).

"Mr. Forsyth supported the amendment of the senator from Alabama, and hoped it would meet the approbation of the Senate. It would get rid of all difficulty about words. No one, he presumed, wished to violate the constitution; and if the measure of the senator from Kentucky was consistent with the constitution, it would prevail; if not, it would not be adopted.

"Mr. Holmes moved an adjournment.

“Mr. Moore asked for the yeas and nays on the motion to adjourn, and they were accordingly ordered, when the question was taken and decided in the affirmative—Yeas 22, nays 19, as follows:

“Yeas.—Messrs. Bell, Clayton, Dallas, Dickerson, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Kane, Knight, Naudain, Prentiss, Robbins, Robinson, Silsbee, Smith, Tipton, Tomlinson, Waggaman, Webster, Wilkins.—22.

“Nays.—Messrs. Bibb, Black, Buckner, Calhoun, Clay, Dudley, Grundy, Hendricks, Hill, King, Miller, Moore, Poindexter, Sprague, Rives, Troup, Tyler, White, Wright.—19.

“The Senate then, at half-past four o’clock, adjourned.

“*Friday, February 22.*

“Mr. Smith (of Md.) said, the motion to amend by the word ‘uniform’ was unnecessary. That was provided for by the constitution. ‘All duties must be uniform.’ An addition to the cost of goods of forty, fifty, or sixty per cent. would be uniform, but would not prevent fraud, nor the certainty of great inequality in the valuation in the several ports. The value of goods at New Orleans particularly, and at almost every other port, will be higher than at New-York. I have not said that such mode was unconstitutional, nor have I said that it was impracticable; few things are so. But I have said, and do now say, that the mode is open to fraud, and more so than the present. At present the merchant enters his goods, and swears to the truth of his invoice. One package in every five or ten is sent to the public warehouse, and there carefully examined by two appraisers on oath. If they find fraud, or suspect fraud, then all the goods belonging to such merchants are sent to the appraisers; and if frauds be discovered, the goods are forfeited. No American merchant has ever been convicted of such fraud. Foreigners have even been severely punished by loss of their property. The laws are good and sufficiently safe as they now stand on our statutes. I wish no stronger; we know the one, we are ignorant how the other will work. Such a mode of valuation is unknown to any nation except Spain, where the valuation is arbitrary; and the goods are valued agreeably to the amount of the bribe given. This is perfectly understood and practised. It is in the nature of such mode of valuation to be arbitrary. No rule can be established that will make such mode uniform throughout the Union, and some of the small ports will value low to bring business to their towns. A scene of connivance and injustice will take place that no law can prevent.

“The merchant will be put to great inconvenience by the mode proposed. All his goods must be sent to the public warehouses, and there opened piece by piece; by which process they will sustain essential injury. The goods will be detained from the owners for a week or a month, or still more, unless you have one or two hundred appraisers in New-York, and proportionately in other ports; thus increasing patronage; and with such a host, can we expect either uniformity or equality in the valuation? All will not be honest, and the Spanish mode will be adopted. One set of appraisers, who value low, will have a priority. In fact, if this mode should ever be adopted, it will cause great discontent, and must soon be changed. As all understand the cause to be to flatter the manufacturers with a plan which they think will be beneficial to them, but which, we all know, can never be realized, it is deception on its face, as is almost the whole of the bill now under our consideration.

“Remember, Mr. President, that the senators from Kentucky and South Carolina [Mr. Clay and Mr. Calhoun], have declared this bill (if it should become a law), to be permanent, and that no honorable man who shall vote for it can ever attempt a change; yet, sir, the pressure against it will be such at the next session that Congress will be compelled to revise it; and as the storm may then have passed over Congress, a new Congress, with better feelings, will be able to act with more deliberation, and may pass a law that will be generally approved.

Nearly all agree that this bill is a bad bill. A similar opinion prevailed on the passage of the tariff of 1828, and yet it passed, and caused all our present danger and difficulties. All admit that the act of 1828, as it stands on our statutes, is constitutional. But the senator [Mr. Calhoun] has said that it is unconstitutional, because of the motive under which it passed; and he said that that motive was protection to the manufacturers. How, sir, I ask, are we to know the motives of men? I thought then, and think now, that the approaching election for President tended greatly to the enactments of the acts of 1824 and 1828; many of my friends thought so at the time. I have somewhere read of the minister of a king or emperor in Asia, who was anxious to be considered a man of truth, and always boasted of his veracity. He hypocritically prayed to God that he might always speak the truth. A genii appeared and told him that his prayer had been heard, touched him with his spear, and said, hereafter you will speak truth on all occasions. The next day he waited on his majesty and said, Sire, I intended to have assassinated you yesterday, but was prevented by the nod of the officer behind you, who is to kill you to-morrow. The result I will not mention. Now, Mr. President, if the same genii was to touch with his spear each of the senators who voted for the act of 1828, and an interrogator was appointed, he would ask, what induced you to give that vote? Why sir, I acted on sound principles. I believe it is the duty of every good government to promote the manufactures of the nation; all historians eulogize the kings who have done so, and censure those kings who have neglected them. I refer you to the history of Alfred. It is known that the staple of England was wool, which was sent to Flanders to be exchanged for cloths. The civil wars, by the invasions of that nation, kept them long dependent on the Flemings for the cloths they wore. At length a good king governed; and he invited Flemish manufacturers to England, and gave them great privileges. They taught the youth of England, the manufacture succeeded, and now England supplies all the world with woollen cloth. The interrogator asked another the same question. His answer might have been, that he thought the passing of the law would secure the votes of the manufacturers in favor of his friend who wanted to be the President. Another answer might have been, a large duty was imposed on an article which my constituents raised; and I voted for it, although I disliked all the residue of the bill. Sir, the motives, no doubt, were different that induced the voting for that bill, and were, as we all know, not confined to the protective system. Many voted on political grounds, as many will on this bill, and as they did on the enforcing bill. We cannot declare a bill unconstitutional, because of the motives that may govern the voters. It is idle to assign such a cause for the part that is now acting in South Carolina. I know, Mr. President, that no argument will have any effect on the passage of this bill. The high contracting parties have agreed. But I owed it to myself to make these remarks.

“Mr. Webster said, that he held the home valuation to be, to any extent, impracticable; and that it was unprecedented, and unknown in any legislation. Both the home and foreign valuation ought to be excluded as far as possible, and specific duties should be resorted to. This keeping out of view specific duties, and turning us back to the principle of a valuation was, in his view, the great vice of this bill. In England five out of six, or nine out of ten articles, pay specific duties, and the valuation is on the remnant. Among the articles which pay *ad valorem* duties in England are silk goods, which are imported either from India, whence they are brought to one port only; or from Europe, in which case there is a specific and an *ad valorem* duty; and the officer has the option to take either the one or the other. He suggested that the Senate, before they adopted the *ad valorem* principle, should look to the effects on the importation of the country.

“He took a view of the iron trade, to show that evil would result to that branch from a substitution of the *ad valorem* for the specific system of duties. He admitted himself to be unable to comprehend the elements of a home valuation, and mentioned cases where it would

be impossible to find an accurate standard of valuation of this character. The plan was impracticable and illusory.

“Mr. Clayton said, I would go for this bill only for the sake of concession. The senator from South Carolina can tell whether it is likely to be received as such, and to attain the object proposed; if not, I have a plain course to pursue; I am opposed to the bill. Unless I can obtain for the manufacturers the assurance that the principle of the bill will not be disturbed, and that it will be received in the light of a concession, I shall oppose it.

“Mr. Benton objected to the home valuation, as tending to a violation of the constitution of the United States, and cited the following clause: ‘Congress shall have power to lay and collect taxes, duties, imposts, and excises; but all duties, imposts, and excises shall be uniform throughout the United States.’ All uniformity of duties and imposts, he contended, would be destroyed by this amendment. No human judgment could fix the value of the same goods at the same rate, in all the various ports of the United States. If the same individual valued the goods in every port, and every cargo in every port, he would commit innumerable errors and mistakes in the valuation; and, according to the diversity of these errors and mistakes, would be the diversity in the amount of duties and imposts laid and collected in the different ports.

“Mr. B. objected to the home valuation, because it would be injurious and almost fatal to the southern ports. He confined his remarks to New Orleans. The standard of valuation would be fifteen or twenty per cent. higher in New Orleans than in New-York, and other northern ports. All importers will go to the northeastern cities, to evade high duties at New Orleans; and that great emporium of the West will be doomed to sink into a mere exporting city, while all the money which it pays for exports must be carried off and expended elsewhere for imports. Without an import trade, no city can flourish, or even furnish a good market for exports. It will be drained of its effective cash, and deprived of its legitimate gains, and must languish far in the rear of what it would be, if enriched with the profits of an import trade. As an exporter, it will buy; as an importer, it will sell. All buying, and no selling, must impoverish cities as well as individuals. New Orleans is now a great exporting city; she exports more domestic productions than any city in the Union; her imports have been increasing, for some years; and, with fair play, would soon become next to New-York, and furnish the whole valley of the Mississippi with its immense supplies of foreign goods; but, under the influence of a home valuation, it must lose a greater part of the import trade which it now possesses. In that loss, its wealth must decline; its capacity to purchase produce for exportation must decline; and as the western produce must go there, at all events, every western farmer will suffer a decline in the value of his own productions, in proportion to the decline of the ability of New Orleans to purchase it. It was as a western citizen that he pleaded the cause of New Orleans, and objected to this measure of home valuation, which was to have the most baneful effect upon her prosperity.

“Mr. B. further objected to the home valuation, on account of the great additional expense it would create; the amount of patronage it would confer; the rivalry it would beget between importing cities; and the injury it would occasion to merchants, from the detention and handling of their goods; and concluded with saying, that the home valuation was the most obnoxious feature ever introduced into the tariff acts; that it was itself equivalent to a separate tariff of ten per cent.; that it had always been resisted, and successfully resisted, by the anti-tariff interest, in the highest and most palmy days of the American system, and ought not now to be introduced when that system is admitted to be nodding to its fall; when its death is actually fixed to the 30th day of June, 1842, and when the restoration of harmonious feelings is proclaimed to be the whole object of this bill.

“Mr. B. said this was a strange principle to bring into a bill to reduce duties. It was an increase, in a new form—an indefinable form—and would be tax upon tax, as the whole cost of getting the goods ready for a market valuation here, would have to be included: original cost, freight, insurance, commissions, duties here. It was new protection, in a new form, and in an extraordinary form, and such as never could be carried before. It had often been attempted, as as a part of the American system, but never received countenance before.

“Mr. Calhoun rose and said:

“As the question is now about to be put on the amendment offered by the senator from Kentucky, it became necessary for him to determine whether he should vote for or against it. He must be permitted again to express his regret that the senator had thought proper to move it. His objection still remained strong against it; but, as it seemed to be admitted, on all hands, that the fate of the bill depended on the fate of the amendment, feeling, as he did, a solicitude to see the question terminated, he had made up his mind, not, however, without much hesitation, not to interpose his vote against the adoption of the amendment; but, in voting for it, he wished to be distinctly understood, he did it upon two conditions: first, that no valuation would be adopted that should come in conflict with the provision in the constitution which declares that duties, excises, and imposts shall be uniform; and, in the next place, that none would be adopted which would make the duties themselves a part of the element of a home valuation. He felt himself justified in concluding that none such would be adopted; as it had been declared by the supporters of the amendment, that no such regulation was contemplated; and, in fact, he could not imagine that any such could be contemplated, whatever interpretation might be attempted hereafter to be given to the expression of the home market. The first could scarcely be contemplated, as it would be in violation of the constitution itself; nor the latter, as it would, by necessary consequence, restore the very duties, which it was the object of this bill to reduce, and would involve the glaring absurdity of imposing duties on duties, taxes on taxes. He wished the reporters for the public press to notice particularly what he said, as he intended his declaration to be part of the proceedings.

“Believing, then, for the reasons which he had stated, that it was not contemplated that any regulation of the home valuation should come in conflict with the provisions of the constitution which he had cited, nor involve the absurdity of laying taxes upon taxes, he had made up his mind to vote in favor of the amendment.

“Mr. Smith said, any declaration of the views and motives, under which any individual senator might now vote, could have no influence, in 1842; they would be forgotten long before that time had arrived. The law must rest upon the interpretation of its words alone.

“Mr. Calhoun said he could not help that; he should endeavor to do his duty.

“Mr. Clayton said there was certainly no ambiguity whatever in the phraseology of the amendment. In advocating it, he had desired to deceive no man; he sincerely hoped no one would suffer himself to be deceived by it.

“Mr. Wilkins said, if it had been his intention to have voted against the amendment, he should have remained silent; but, after the explicit declaration of the honorable gentleman from South Carolina [Mr. Calhoun] of the reason of his vote, and believing, himself, that the amendment would have a different construction from that given it by the gentleman, he [Mr. W.] would as expressly state, that he would vote on the question, with the impression that it would not hereafter be expounded by the declaration of any senator on this floor, but by the plain meaning of the words in the text.

“The amendment of Mr. Clay, fixing the principle of home valuation as a part of the bill, was then adopted, by the following vote:

“Yeas.—Messrs. Bell, Black, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Frelinghuysen, Hill, Holmes, Johnson, King, Knight, Miller, Moore, Naudain, Poindexter, Prentiss, Rives, Robbins, Sprague, Tomlinson, Tyler, Wilkins.—26.

“Nays.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Forsyth, Grundy, Kane, Robinson, Seymour, Silsbee, Smith, Waggaman, Webster, White, Wright.—16.”

And thus a new principle of protection, never before engrafted on the American system, and to get at which the constitution had to be violated in the article of the uniformity of duties, was established! and established by the aid of those who declared all protection to be unconstitutional, and just cause for the secession of a State from the Union! and were then acting on that assumption.

83. Revenue Collection, Or Force Bill

The President in his message on the South Carolina proceedings had recommended to Congress the revival of some acts, heretofore in force, to enable him to execute the laws in that State; and the Senate's committee on the Judiciary had reported a bill accordingly early in the session. It was immediately assailed by several members as violent and unconstitutional, tending to civil war, and denounced as "the bloody bill"—"the force bill," &c. Mr. Wilkins of Pennsylvania, the reporter of the bill, vindicated it from this injurious character, showed that it was made out of previous laws, and contained nothing novel but the harmless contingent authority to remove the office of the customs from one building to another in the case of need. He said:

"The Judiciary Committee, in framing it, had been particularly anxious not to introduce any novel principle—any which could not be found on the statute book. The only novel one which the bill presented was one of a very simple nature. It was that which authorized the President, under the particular circumstances which were specified in the bill, to remove the custom-house. This was the only novel principle, and care was taken that in providing for such removal no authority was given to use force.

"The committee were apprehensive that some collision might take place after the 1st of February, either between the conflicting parties of the citizens of South Carolina, or between the officers of the federal government and the citizens. And to remove, as far as possible, all chance of such collision, provision was made that the collector might, at the moment of imminent danger, remove the custom-house to a place of security; or, to use a plain phrase, put it out of harm's way. He admitted the importance of this bill; but he viewed its importance as arising not out of the provisions of the bill itself, but out of the state of affairs in South Carolina, to which the bill had reference. In this view, it was of paramount importance.

"It had become necessary to legislate on this subject; whether it was necessary to pass the bill or not, he would not say; but legislation, in reference to South Carolina, previous to the 1st of February, had become necessary. Something must be done; and it behooves the government to adopt every measure of precaution, to prevent those awful consequences which all must foresee as necessarily resulting from the position which South Carolina has thought proper to assume.

"Here nullification is declaimed, on one hand, unless we abolish our revenue system. We consenting to do this, they remain quiet. But if we go a hair's breadth towards enforcing that system, they present secession. We have secession on one hand, and nullification on the other. The senator from South Carolina admitted the other day that no such thing as constitutional secession could exist. Then civil war, disunion, and anarchy must accompany secession. No one denies the right of revolution. That is a natural, indefeasible, inherent right—a right which we have exercised and held out, by our example, to the civilized world. Who denies it? Then we have revolution by force, not constitutional secession. That violence must come by secession is certain. Another law passed by the legislature of South Carolina, is entitled a bill to provide for the safety of the people of South Carolina. It advises them to put on their armor. It puts them in military array; and for what purpose but for the use of force? The provisions of these laws are infinitely worse than those of the feudal system, so far as they apply to the citizens of Carolina. But with its operations on their own citizens he had nothing to do. Resistance was just as inevitable as the arrival of the day on the calendar. In

addition to these documents, what did rumor say—rumor, which often falsifies, but sometimes utters truth. If we judge by newspaper and other reports, more men were now ready to take up arms in Carolina, than there were during the revolutionary struggle. The whole State was at this moment in arms, and its citizens are ready to be embattled the moment any attempt was made to enforce the revenue laws. The city of Charleston wore the appearance of a military depot."

The Bill was opposed with a vehemence rarely witnessed, and every effort made to render it odious to the people, and even to extend the odium to the President, and to all persons instrumental in bringing it forward, or urging it through. Mr. Tyler of Virginia, was one of its warmest opposers, and in the course of an elaborate speech, said:

"In the course of the examination I have made into this subject, I have been led to analyze certain doctrines which have gone out to the world over the signature of the President. I know that my language may be seized on by those who are disposed to carp at my course and to misrepresent me. Since I have held a place on this floor, I have not courted the smiles of the Executive; but whenever he had done any act in violation of the constitutional rights of the citizen, or trenching on the rights of the Senate, I have been found in opposition to him. When he appointed corps of editors to office, I thought it was my duty to oppose his course. When he appointed a minister to a foreign court without the sanction of the law, I also went against him, because, on my conscience, I believed that the act was wrong. Such was my course, acting, as I did, under a sense of the duty I owed to my constituents; and I will now say, I care not how loudly the trumpet may be sounded, nor how low the priests may bend their knees before the object of their idolatry, I will be at the side of the President, crying in his ear, 'Remember, Philip, thou art mortal!'

"I object to the first section, because it confers on the President the power of closing old ports of entry and establishing new ones. It has been rightly said by the gentleman from Kentucky [Mr. Bibb] that this was a prominent cause which led to the Revolution. The Boston port bill, which removed the custom-house from Boston to Salem, first roused the people to resistance. To guard against this very abuse, the constitution had confided to Congress the power to regulate commerce; the establishment of ports of entry formed a material part of this power, and one which required legislative enactment. Now I deny that Congress can deputize its legislative powers. If it may one, it may all; and thus, a majority here can, at their pleasure, change the very character of the government. The President might come to be invested with authority to make all laws which his discretion might dictate. It is vain to tell me (said Mr. T.) that I imagine a case which will never exist. I tell you, sir, that power is cumulative, and that patronage begets power. The reasoning is unanswerable. If you can part with your power in one instance, you may in another and another. You may confer upon the President the right to declare war; and this very provision may fairly be considered as investing him with authority to make war at his mere will and pleasure on cities, towns, and villages. The prosperity of a city depends on the position of its custom-house and port of entry. Take the case of Norfolk, Richmond, and Fredericksburg, in my own State; who doubts but that to remove the custom-house from Norfolk to Old Point Comfort, of Richmond to the mouth of Chickahominy, or of Fredericksburg to Tappahannock or Urbanna, would utterly annihilate those towns? I have no tongue to express my sense of the probable injustice of the measure. Sir, it involves the innocent with the guilty. Take the case of Charleston; what if ninety-nine merchants were ready and willing to comply with your revenue laws, and that but one man could be found to resist them; would you run the hazard of destroying the ninety-nine in order to punish one? Trade is a delicate subject to touch; once divert it out of its regular channels, and nothing is more difficult than to restore it. This measure may involve the actual property of every man, woman, and child in that city; and this, too, when you have a redundancy of millions in your

treasury, and when no interest can sustain injury by awaiting the actual occurrence of a case of resistance to your laws, before you would have an opportunity to legislate.

"He is further empowered to employ the land and naval forces, to put down all 'aiders and abettors.' How far will this authority extend? Suppose the legislature of South Carolina should happen to be in session: I will not blink the question, suppose the legislature to be in session at the time of any disturbance, passing laws in furtherance of the ordinance which has been adopted by the convention of that State; might they not be considered by the President as aiders and abettors? The President might not, perhaps, march at the head of his troops, with a flourish of drums and trumpets, and with bayonets fixed, into the state-house yard, at Columbia; but, if he did so, he would find a precedent for it in English history.

"There was no ambiguity about this measure. The prophecy had already gone forth; the President has said that the laws will be obstructed. The President had not only foretold the coming difficulties, but he has also assembled an army. The city of Charleston, if report spoke true, was now a beleagured city; the cannon of Fort Pinckney are pointing at it; and although they are now quietly sleeping, they are ready to open their thunders whenever the voice of authority shall give the command. And shall these terrors be let loose because some one man may refuse to pay some small modicum of revenue, which Congress, the day after it came into the treasury, might vote in satisfaction of some unfounded claim? Shall we set so small a value upon the lives of the people? Let us at least wait to see the course of measures. We can never be too tardy in commencing the work of blood.

"If the majority shall pass this bill, they must do it on their own responsibility; I will have no part in it. When gentlemen recount the blessings of union; when they dwell upon the past, and sketch out, in bright perspective, the future, they awaken in my breast all the pride of an American; my pulse beats responsive to theirs, and I regard union, next to freedom, as the greatest of blessings. Yes, sir, 'the federal Union must be preserved.' But how? Will you seek to preserve it by force? Will you appease the angry spirit of discord by an oblation of blood? Suppose that the proud and haughty spirit of South Carolina shall not bend to your high edicts in token of fealty; that you make war upon her, hang her Governor, her legislators, and judges, as traitors, and reduce her to the condition of a conquered province—have you preserved the Union? This Union consists of twenty-four States; would you have preserved the Union by striking out one of the States—one of the old thirteen? Gentlemen had boasted of the flag of our country, with its thirteen stars. When the light of one of these stars shall have been extinguished, will the flag wave over us, under which our fathers fought? If we are to go on striking out star after star, what will finally remain but a central and a burning sun, blighting and destroying every germ of liberty? The flag which I wish to wave over me, is that which floated in triumph at Saratoga and Yorktown. It bore upon it thirteen States, of which South Carolina was one. Sir, there is a great difference between preserving Union and preserving government; the Union may be annihilated, yet government preserved; but, under such a government, no man ought to desire to live."

Mr. Webster, one of the committee which reported the bill, justly rebuked all this vituperation, and justified the bill, both for the equity of its provisions, and the necessity for enacting them. He said:

"The President, charged by the constitution with the duty of executing the laws, has sent us a message, alleging that powerful combinations are forming to resist their execution; that the existing laws are not sufficient to meet the crisis; and recommending sundry enactments as necessary for the occasion. The message being referred to the Judiciary Committee, that committee has reported a bill in compliance with the President's recommendation. It has not gone beyond the message. Every thing in the bill, every single provision, which is now

complained of, is in the message. Yet the whole war is raised against the bill, and against the committee, as if the committee had originated the whole matter. Gentlemen get up and address us, as if they were arguing against some measure of a factious opposition. They look the same way, sir, and speak with the same vehemence, as they used to do when they raised their patriotic voices against what they called a 'coalition.'

"Now, sir, let it be known, once for all, that this is an administration measure; that it is the President's own measure; and I pray gentlemen to have the goodness, if they call it hard names, and talk loudly against its friends, not to overlook its source. Let them attack it, if they choose to attack it, in its origin.

"Let it be known, also, that a majority of the committee reporting the bill are friends and supporters of the administration; and that it is maintained in this house by those who are among his steadfast friends, of long standing.

"It is, sir, as I have already said, the President's own measure. Let those who oppose it, oppose it as such. Let them fairly acknowledge its origin, and meet it accordingly.

"The honorable member from Kentucky, who spoke first against the bill, said he found in it another Jersey prison-ship; let him state, then, that the President has sent a message to Congress, recommending a renewal of the sufferings and horrors of the Jersey prison-ship. He says, too, that the bill snuffs of the alien and sedition law. But the bill is fragrant of no flower except the same which perfumes the message. Let him, then, say, if he thinks so, that General Jackson advises a revival of the principles of the alien and sedition laws.

"The honorable member from Virginia [Mr. Tyler], finds out a resemblance between this bill and the Boston port bill. Sir, if one of these be imitated from the other, the imitation is the President's. The bill makes the President, he says, sole judge of the constitution. Does he mean to say that the President has recommended a measure which is to make him sole judge of the constitution? The bill, he declares, sacrifices every thing to arbitrary power—he will lend no aid to its passage—he would rather 'be a dog, and bay the moon, than such a Roman.' He did not say 'the old Roman.' Yet the gentleman well knows, that if any thing is sacrificed to arbitrary power, the sacrifice has been demanded by the 'old Roman,' as he and others have called him; by the President whom he has supported, so often and so ably, for the chief magistracy of the country. He says, too, that one of the sections is an English Botany Bay law, except that it is much worse. This section, sir, whatever it may be, is just what the President's message recommended. Similar observations are applicable to the remarks of both the honorable gentlemen from North Carolina. It is not necessary to particularize those remarks. They were in the same strain.

"Therefore, sir, let it be understood, let it be known, that the war which these gentlemen choose to wage, is waged against the measures of the administration, against the President of their own choice. The controversy has arisen between him and them, and, in its progress, they will probably come to a distinct understanding.

"Mr. President, I am not to be understood as admitting that these charges against the bill are just, or that they would be just if made against the message. On the contrary, I think them wholly unjust. No one of them, in my opinion, can be made good. I think the bill, or some similar measure, had become indispensable, and that the President could not do otherwise than to recommend it to the consideration of Congress. He was not at liberty to look on and be silent, while dangers threatened the Union, which existing laws were not competent, in his judgment, to avert.

"Mr. President, I take this occasion to say, that I support this measure, as an independent member of the Senate, in the discharge of the dictates of my own conscience. I am no man's

leader; and, on the other hand, I follow no lead, but that of public duty, and the star of the constitution. I believe the country is in considerable danger; I believe an unlawful combination threatens the integrity of the Union. I believe the crisis calls for a mild, temperate, forbearing, but inflexibly firm execution of the laws. And, under this conviction, I give a hearty support to the administration, in all measures which I deem to be fair, just, and necessary. And in supporting these measures, I mean to take my fair share of responsibility, to support them frankly and fairly, without reflections on the past, and without mixing other topics in their discussion.

"Mr. President, I think I understand the sentiment of the country on this subject. I think public opinion sets with an irresistible force in favor of the Union, in favor of the measures recommended by the President, and against the new doctrines which threaten the dissolution of the Union. I think the people of the United States demand of us, who are intrusted with the government, to maintain that government; to be just, and fear not; to make all and suitable provisions for the execution of the laws, and to sustain the Union and the constitution against whatsoever may endanger them. For one, I obey this public voice; I comply with this demand of the people. I support the administration in measures which I believe to be necessary; and, while pursuing this course, I look unhesitatingly, and with the utmost confidence, for the approbation of the country."

The support which Mr. Webster gave to all the President's measures in relation to South Carolina, and his exposure of the doctrine of nullification, being the first to detect and denounce that heresy, made him extremely obnoxious to Mr. Calhoun, and his friends; and must have been the main cause of his exclusion from the confidence of Mr. Clay and Mr. Calhoun in the concoction of their bill, called a compromise. His motives as well as his actions were attacked, and he was accused of subserviency to the President for the sake of future favor. At the same time all the support which he gave to these measures was the regular result of the principles which he laid down in his first speeches against nullification in the debate with Mr. Hayne, and he could not have done less without being derelict to his own principles then avowed. It was a proud era in his life, supporting with transcendent ability the cause of the constitution and of the country, in the person of a chief magistrate to whom he was politically opposed bursting the bonds of party at the call of duty, and displaying a patriotism worthy of admiration and imitation. General Jackson felt the debt of gratitude and admiration which he owed him; the country, without distinction of party, felt the same; and the universality of the feeling was one of the grateful instances of popular applause and justice when great talents are seen exerting themselves for the good of the country. He was the colossal figure on the political stage during that eventful time; and his labors, splendid in their day, survive for the benefit of distant posterity.

84. Mr. Calhoun's Nullification Resolutions

Simultaneously with the commencement of the discussions on the South Carolina proceedings, was the introduction in the Senate of a set of resolutions by Mr. Calhoun, entitled by him, "*Resolutions on the powers of the government*;" but all involving the doctrine of nullification; and the debate upon them deriving its point and character from the discussion of that doctrine. The following were the resolutions:

"*Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification; and that the Union, of which the said compact is the bond, is a union between the States ratifying the same.

"*Resolved*, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a general government to carry into effect the objects for which they were formed, delegated to that government, for that purpose, certain definite powers, to be exercised jointly, reserving at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate government; and that whenever the general government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well as of the infraction as of the mode and measure of redress.

"*Resolved*, That the assertions that the people of these United States, taken collectively as individualss, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens has been transferred to the general government; that they have parted with the right of punishing treason through their respective State governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and, of consequence, of those delegated; are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the dearest deductions of reason; and that all exercise of power on the part of the general government, or any of its departments, claiming authority from so erroneous assumptions, must of necessity be unconstitutional, must tend directly and inevitably to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

To which Mr. Grundy offered a counter set, as follows:

"1. *Resolved*, That by the constitution of the United States, certain powers are delegated to the general government, and those not delegated, or prohibited to the States, are reserved to the States respectively, or to the people.

"2. *Resolved*, That one of the powers expressly granted by the constitution to the general government, and prohibited to the States, is that of laying duties on imports.

"3. *Resolved*, That the power to lay imposts is by the constitution wholly transferred from the State authorities to the general government, without any reservation of power or right on the part of the State.

"4. *Resolved*, That the tariff laws of 1828 and 1832 are exercises of the constitutional power possessed by the Congress of the United States, whatever various opinions may exist as to their policy and justice.

"5. *Resolved*, That an attempt on the part of a State to annul an act of Congress passed upon any subject exclusively confided by the constitution to Congress, is an encroachment on the rights of the general government.

"6. *Resolved*, That attempts to obstruct or prevent the execution of the several acts of Congress imposing duties on imports, whether by ordinances of conventions or legislative enactments, are not warranted by the constitution and are dangerous to the political institutions of the country."

It was in the discussion of these resolutions, and the kindred subjects of the "force bill" and the "revenue collection bill," that Mr. Calhoun first publicly revealed the source from which he obtained the seminal idea of nullification as a remedy in a government. The Virginia resolutions of '98-'99, were the assumed source of the power itself as applicable to our federal and State governments; but the essential idea of nullification as a peaceful and lawful mode of arresting a measure of the general government by the action of one of the States, was derived from the *veto* power of the tribunes of the people in the Roman government. I had often heard him talk of that tribunitian power, and celebrate it as the perfection of good government—as being for the benefit of the weaker part, and operating negatively to prevent oppression, and not positively to do injustice—but I never saw him carry that idea into a public speech but once, and that was on the discussion of his resolutions of this session; for though actually delivered while the "force bill" was before the Senate, yet all his doctrinal argument on that bill was the amplification of his nullification resolutions. On that occasion he traced the Roman tribunitian power, and considered it a cure for all the disorders to which the Roman state had been subject, and the cause to which all her subsequent greatness was to be attributed. This remarkable speech was delivered February 15th, 1833, and after depicting a government of the majority—a majority unchecked by a right in the minority of staying their measures—to be unmitigated despotism, he then proceeded to argue in favor of the excellence of the *veto* and the *secession* power; and thus delivered himself:

"He might appeal to history for the truth of these remarks, of which the Roman furnished the most familiar and striking. It was a well-known fact, that, from the expulsion of the Tarquins, to the time of the establishment of the tribunitian power, the government fell into a state of the greatest disorder and distraction, and, he might add, corruption. How did this happen? The explanation will throw important light on the subject under consideration. The community was divided into two parts, the patricians and the plebeians, with the powers of the state principally in the hands of the former, without adequate check to protect the rights of the latter. The result was as might be expected. The patricians converted the powers of the government into the means of making money, to enrich themselves and their dependants. They, in a word, had their American system, growing out of the peculiar character of the government and condition of the country. This requires explanation. At that period, according to the laws of nations, when one nation conquered another, the lands of the vanquished belonged to the victors; and, according to the Roman law the lands thus acquired were divided into parts, one allotted to the poorer class of the people, and the other assigned to the use of the treasury, of which the patricians had the distribution and administration. The patricians abused their power, by withholding from the people that which ought to have been

allotted to them, and by converting to their own use that which ought to have gone to the treasury. In a word, they took to themselves the entire spoils of victory, and they had thus the most powerful motive to keep the state perpetually involved in war, to the utter impoverishment and oppression of the people. After resisting the abuse of power, by all peaceable means, and the oppression becoming intolerable, the people at last withdrew from the city; they, in a word, seceded; and, to induce them to reunite, the patricians conceded to the plebeians, as the means of protecting their separate interests, the very power which he contended is necessary to protect the rights of the States, but which is now represented as necessarily leading to disunion. They granted to the people the right of choosing three tribunes from among themselves, whose persons should be sacred, and who should have the right of interposing their veto, not only against the passage of laws, but even against their execution; a power which those who take a shallow insight into human nature would pronounce inconsistent with the strength and unity of the state, if not utterly impracticable. Yet, so far from that being the effect, from that day the genius of Rome became ascendant, and victory followed her steps till she had established an almost universal dominion.

"How can a result so contrary to all anticipation be explained? The explanation appeared to him to be simple. No measure or movement could be adopted without the concurring consent of both the patricians and plebeians, and each thus became dependent on the other, and, of consequence, the desire and objects of neither could be effected without the concurrence of the other. To obtain this concurrence, each was compelled to consult the good will of the other, and to elevate to office not simply those who might have the confidence of the order to which he belonged, but also that of the other. The result was, that men possessing those qualities which would naturally command confidence, moderation, wisdom, justice, and patriotism, were elevated to office; and these, by the weight of their authority and the prudence of their counsel, together with that spirit of unanimity necessarily resulting from the concurring assent of the two orders, furnishes the real explanation of the power of the Roman state, and of that extraordinary wisdom, moderation, and firmness, which in so remarkable a degree characterized her public men. He might illustrate the truth of the position which he had laid down, by a reference to the history of all free states, ancient and modern, distinguished for their power and patriotism; and conclusively show not only that there was not one which had not some contrivance, under some form, by which the concurring assent of the different portions of the community was made necessary in the action of government, but also that the virtue, patriotism, and strength of the state were in direct proportion to the strength of the means of securing such assent. In estimating the operation of this principle in our system, which depends, as he had stated, on the right of interposition on the part of the State, we must not omit to take into consideration the amending power, by which new powers may be granted, or any derangement of the system be corrected, by the concurring assent of three-fourths of the States; and thus, in the same degree, strengthening the power of repairing any derangement occasioned by the executive action of a State. In fact, the power of interposition, fairly understood, may be considered in the light of an appeal against the usurpations of the general government, the joint agent of all the States, to the States themselves, to be decided, under the amending power, affirmatively, in favor of the government, by the voice of three-fourths of the States, as the highest power known under the system.

"Mr. C. said that he knew the difficulty, in our country, of establishing the truth of the principle for which he contended, though resting upon the clearest reason, and tested by the universal experience of free nations. He knew that the governments of the several States would be cited as an argument against the conclusion to which he had arrived, and which, for the most part, were constructed on the principle of the absolute majority; but, in his opinion, a

satisfactory answer could be given; that the objects of expenditure which fell within the sphere of a State government were few and inconsiderable; so that, be their action ever so irregular, it could occasion but little derangement. If, instead of being members of this great confederacy, they formed distinct communities, and were compelled to raise armies, and incur other expenses necessary for their defence, the laws which he had laid down as necessarily controlling the action of a State, where the will of an absolute and unchecked majority prevailed, would speedily disclose themselves in faction, anarchy, and corruption. Even as the case is, the operation of the causes to which he had referred were perceptible in some of the larger and more populous members of the Union, whose governments had a powerful central action, and which already showed a strong tendency to that moneyed action which is the invariable forerunner of corruption and convulsions.

"But to return to the general government; we have now sufficient experience to ascertain that the tendency to conflict in this action is between Southern and other sections. The latter, having a decided majority, must habitually be possessed of the powers of the government, both in this and in the other House; and, being governed by that instinctive love of power so natural to the human breast, they must become the advocates of the power of government, and in the same degree opposed to the limitations; while the other and weaker section is as necessarily thrown on the side of the limitations. In one word, the one section is the natural guardian of the delegated powers, and the other of the reserved; and the struggle on the side of the former will be to enlarge the powers, while that on the opposite side will be to restrain them within their constitutional limits. The contest will, in fact, be a contest between power and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions, and situation, has at stake all that can be dear to freemen. Should they be able to maintain in their full vigor their reserved rights, liberty and prosperity will be their portion; but if they yield, and permit the stronger interest to consolidate within itself all the powers of the government, then will its fate be more wretched than that of the aborigines whom they have expelled, or of their slaves. In this great struggle between the delegated and reserved powers, so far from repining that his lot and that of those whom he represented is cast on the side of the latter, he rejoiced that such is the fact; for though we participate in but few of the advantages of the government, we are compensated, and more than compensated, in not being so much exposed to its corruption. Nor did he repine that the duty, so difficult to be discharged, as the defence of the reserved powers against, apparently, such fearful odds, had been assigned to them. To discharge successfully this high duty requires the highest qualities, moral and intellectual; and, should you perform it with a zeal and ability in proportion to its magnitude, instead of being mere planters, our section will become distinguished for its patriots and statesmen. But, on the other hand, if we prove unworthy of this high destiny, if we yield to the steady encroachment of power, the severest and most debasing calamity and corruption will overspread the land. Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be for ever excluded from the honors and emoluments of this government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen Asylum."

In this extract from that remarkable speech, the first one in which Mr. Calhoun defended nullification and secession in the Senate, and in which every word bears the impress of intense thought, there is distinctly to be seen his opinion of the defects of our duplicate form of government (State and federal), and of the remedy for those defects. I say, in our form of government; for his speech had a practical application to ourselves, and was a defence, or justification of the actual measures of the State he represented. And this defect was, *the unchecked authority of a majority*; and the remedy was, *an authority in the minority to check*

that majority, and to secede. This clearly was an absolute condemnation of the fundamental principle upon which the administration of the federal constitution, and of the State constitutions rested. But he did not limit himself to the benefits of the *veto* and of *secession*, as shown in Roman history; he had recourse to the Jewish for the same purpose—and found it—not in a *veto* in each of the twelve tribes, but in the right of secession; and found it, not in the minority, but the majority, in the reign of Jeroboam, when ten tribes seceded. That example is thus introduced:

"Among the few exceptions in the Asiatic nations, the government of the twelve tribes of Israel, in its early period, was the most striking. Their government, at first, was a mere confederation, without any central power, till a military chieftain, with the title of king, was placed at its head, without, however, merging the original organization of the twelve distinct tribes. This was the commencement of that central action among that peculiar people, which, in three generations, terminated in a permanent division of their tribes. It is impossible even for a careless reader to peruse the history of that event without being forcibly struck with the analogy in the causes which led to their separation, and those which now threaten us with a similar calamity. With the establishment of the central power in the king commenced a system of taxation, which, under king Solomon, was greatly increased, to defray the expense of rearing the temple, of enlarging and embellishing Jerusalem, the seat of the central government, and the other profuse expenditures of his magnificent reign. Increased taxation was followed by its natural consequences—discontent and complaint, which before his death began to excite resistance. On the succession of his son, Rehoboam, the ten tribes, headed by Jeroboam, demanded a reduction of the taxes; the temple being finished, and the embellishment of Jerusalem completed, and the money which had been raised for that purpose being no longer required, or, in other words, the debt being paid, they demanded a reduction of the duties—a repeal of the tariff. The demand was taken under consideration, and, after consulting the old men (the counsellors of '98), who advised a reduction, he then took the opinion of the younger politicians, who had since grown up, and knew not the doctrines of their fathers. He hearkened unto their counsel, and refused to make the reduction; and the secession of the ten tribes, under Jeroboam, followed. The tribes of Judah and Benjamin, which had received the disbursements, alone remained to the house of David."

This example also had a practical application, and a squint at the Virginia resolutions of '98-'99, and at the military chieftain then at the head of our government, with a broad intimation of what was to happen if the taxes were not reduced; and that happened to be *secession*. And all this, and the elaborate speech from which it is taken, and many others of the same character at the same time, was delivered at a time when the elections had decided for a reduction of the taxes—when a bill in the House was under consideration for that purpose—and when his own "compromise" bill was in a state of concoction, and advanced to a stage to assure its final passing. Strong must have been Mr. Calhoun's desire for his favorite remedy, when he could contend for it under such circumstances—under circumstances which showed that it could not be wanted for the purpose which he then avowed. Satisfied of the excellence, and even necessity in our system, of this remedy, the next question was to create it, or to find it; create it, by an amendment to the constitution; or find it already existing there; and this latter was done by a new reading of the famous Virginia resolutions of '98-'99. The right in any State to arrest an act of Congress, and to stay it until three fourths of the States ordered it to proceed, and with a right forcibly to resist if any attempt was made in the mean time to enforce it, with the correlative right of secession and permanent separation, were all found by him in these resolutions—the third especially, which was read, and commented upon for the purpose. Mr. Rives, of Virginia, repulsed that interpretation of the act of his State, and showed that an appeal to public opinion was all that was intended; and quoted the message of

Governor Monroe to show that the judgment of the federal court, under one of the acts declared to be unconstitutional, was carried into effect in the capital of Virginia with the order and tranquillity of any other judgment. He said:

"But, sir, the proceedings of my State, on another occasion of far higher importance, have been so frequently referred to, in the course of this debate, as an example to justify the present proceedings of South Carolina, that I may be excused for saying something of them. What, then, was the conduct of Virginia, in the memorable era of '98 and '99? She solemnly protested against the alien and sedition acts, as 'palpable and alarming infractions of the constitution;' she communicated that protest to the other States of the Union, and earnestly appealed to them to unite with her in a like declaration, that this deliberate and solemn expression of the opinion of the States, as parties to the constitutional compact, should have its proper effect on the councils of the nation, in procuring a revision and repeal of the obnoxious acts. This was 'the head and front of her offending'—no more. The whole object of the proceedings was, by the peaceful force of public opinion, embodied through the organ of the State legislatures, to obtain a repeal of the laws in question, not to oppose or arrest their execution, while they remained unrepealed. That this was the true spirit and real purpose of the proceeding, is abundantly manifested by the whole of the able debate which took place in the legislature of the State, on the occasion. All the speakers, who advocated the resolutions which were finally adopted, distinctly placed them on that legitimate, constitutional ground. I need only refer to the emphatic declaration of John Taylor, of Caroline, the distinguished mover and able champion of the resolutions. He said 'the appeal was to public opinion; if that is against us, we must yield.' The same sentiment was avowed and maintained by every friend of the resolutions, throughout the debate.

"But, sir, the real intentions and policy of Virginia were proved, not by declarations and speeches merely, but by facts. If there ever was a law odious to a whole people, by its daring violation of the fundamental guaranties of public liberty, the freedom of speech and freedom of the press, it was the sedition law to the people of Virginia. Yet, amid all this indignant dissatisfaction, after the solemn protest of the legislature, in '98, and the renewal of that protest, in '99, this most odious and arbitrary law was peaceably carried into execution, in the capital of the State, by the prosecution and punishment of Callender, who was fined and imprisoned for daring to canvass the conduct of our public men (as Lyon and Cooper had been elsewhere), and was still actually imprisoned, when the legislature assembled, in December, 1800. Notwithstanding the excited sensibility of the public mind, no popular tumult, no legislative interference, disturbed, in any manner, the full and peaceable execution of the law. The Senate will excuse me, I trust, for calling their attention to a most forcible commentary on the true character of the Virginia proceedings of '98 and '99 (as illustrated in this transaction), which was contained in the official communication of Mr. Monroe, then Governor of the State, to the legislature, at its assembling, in December, 1800. After referring to the distribution which had been ordered to be made among the people, of Mr. Madison's celebrated report, of '99, he says 'In connection with this subject, it is proper to add, that, since your last session, the sedition law, one of the acts complained of, has been carried into effect, in this commonwealth, by the decision of a federal court. I notice this event, not with a view of censuring or criticising it. The transaction has gone to the world, and the impartial will judge of it as it deserves. I notice it for the purpose of remarking that the decision was executed with the same order and tranquil submission, on the part of the people, as could have been shown by them, on a similar occasion, to any the most necessary, constitutional and popular acts of the government.'"

Mr. Webster, in denying the derivation of nullification and secession from the constitution, said:

“The constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must bring these consequences with it, is revolutionary. And nullification is equally revolutionary. What is revolution? Why, sir, that is revolution which overturns, or controls, or successfully resists the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the state. Now, sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the Executive Magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, a revolution will have commenced in South Carolina. She will have thrown off the authority to which her citizens have, heretofore, been subject. She will have declared her own opinions and her own will to be above the laws, and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power as the American Revolution, of 1776. That revolution did not subvert government, in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it, by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress—if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases—she will relieve herself from a paramount power, as distinctly as did the American colonies, in 1776. In other words, she will achieve, as to herself, a revolution.”

The speaker then proceeded to show what nullification was, as reduced to practice in the ordinance, and other proceedings of South Carolina; and said:

“But, sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the constitution, as to all the other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire government, appears to me the wildest illusion and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullification, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half-way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

“Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a general government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and, if the laws cannot be executed every where, they cannot long be executed any where. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South

Carolina, and another for other States. He must see, therefore, and does see—every man sees—that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded, because a single State interposes her veto, and threatens resistance! The result of the gentleman's opinions, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This was precisely the evil experienced under the old confederation, and for remedy of which this constitution was adopted. The leading object in establishing this government, an object forced on the country by the condition of the times, and the absolute necessity of the law, was to give to Congress power to lay and collect imposts without the consent of particular States. The revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the States neglected them; there was no power of coercion but war; Congress could not lay imposts, or other taxes, by its own authority; the whole general government, therefore, was little more than a name. The articles of confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a government which should have power of itself to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, without asking the consent of the State governments. This was the very power on which the new constitution was to depend for all its ability to do good; and, without it, it can be no government, now or at any time. Yet, sir, it is precisely against this power, so absolutely indispensable to the very being of the government, that South Carolina directs her ordinance. She attacks the government in its authority to raise revenue, the very mainspring of the whole system; and, if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufactures. It is a revenue law; it is the very law by force of which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the government for the means of maintaining itself and performing its duties."

Mr. Webster condensed into four brief and pointed propositions his opinion of the nature of our federal government, as being a Union in contradistinction to a League, and as acting upon INDIVIDUALS in contradistinction to States, and as being, in these features discriminated from the old confederation.

"1. That the constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

"2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

"3. That there is a supreme law, consisting of the constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

“4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general government, and on the equal rights of other States; a plain violation of the constitution, and a proceeding essentially revolutionary in its character and tendency.”

Mr. Webster concluded his speech, an elaborate and able one, in which he appeared in the high character of patriot still more than that of orator, in which he intimated that some other cause, besides the alleged one, must be at the bottom of this desire for secession. He was explicit that the world could hardly believe in such a reason, and that we ourselves who hear and see all that is said and done, could not believe it. He concluded thus:

“Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppression, without evils, such as may not only be pretended, but felt and experienced; evils not slight or temporary, but deep, permanent, and intolerable; a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world’s last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the constitution; that she has a sovereign right to decide this matter; and, that, having so decided, she is authorized to resist their execution, by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.”

Mr. Davis, of Massachusetts, had been still more explicit, in the expression of the belief already given (in the extract from his speech contained in this work), that the discontent in South Carolina had a root deeper than that of the tariff; and General Jackson intimated the same thing in his message to the two Houses on the South Carolina proceedings, and in which he alluded to the ambitious and personal feelings which might be involved in them. Certainly it was absolutely incomprehensible that this doctrine of nullification and secession, prefigured in the Roman secession to the sacred mount, and the Jewish disruption of the twelve tribes, should be thus enforced, and impressed, for that cause of the tariff alone; when, to say nothing of the intention of the President, the Congress and the country to reduce it, Mr. Calhoun himself had provided for its reduction, satisfactorily to himself, in the act called a “compromise;” to which he was a full contracting party. It was impossible to believe in the soleness of that reason, in the presence of circumstances which annulled it; and Mr. Calhoun himself, in a part of his speech which had been quoted, seemed to reveal a glimpse of two others—slavery, about which there was at that time no agitation—and the presidency, to which patriotic Southern men could not be elected. The glimpse exhibited of the first of these

causes, was in this sentence: "*The contest* (between the North and the South) *will, in fact, be a contest between power and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions and situation, has at stake all that is dear to freemen.*" Here is a distinct declaration that there was then a contest between the two sections of the Union, and that that contest was between power and liberty, in which the freedom and the slave property of the South were at stake. This declaration at the time attracted but little attention, there being then no sign of a slavery agitation; but to close observers it was an ominous revelation of something to come, and an apparent laying an anchor to windward for a new agitation on a new subject, after the tariff was done with. The second intimation which he gave out, and which referred to the exclusion of the patriotic men of the South from the presidency was in this sentence: "*Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be forever excluded from the honors and emoluments of this government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen asylum.*" This was bitter; and while revealing his own feelings at the prospect of his own failure for the presidency (which from the brightness of the noon-day sun was dimming down to the obscurity of dark night), was, at the same time, unjust, and contradicted by all history, previous and subsequent, of our national elections; and by his own history in connection with them. The North had supported Southern men for President—a long succession of them—and even twice concurred in dropping a Northern President at the end of a single term, and taking a Southern in his place. He himself had had signal proofs of good will from the North in his two elections to the vice-presidency; in which he had been better supported in the North than in the South, getting the whole party vote in the former while losing part of it in the latter. It was evident then, that the protective tariff was not the sole, or the main cause of the South Carolina discontent; that nullification and secession were to continue, though their ostensible cause ceased; that resistance was to continue on a new ground, upon the same principle, until a new and impossible point was attained. This was declared by Mr. Calhoun in his place, on the day of the passage of the "compromise" bill, and on hearing that the "force bill" had finally passed the House of Representatives. He then stood up, and spoke thus:

"He had said, that as far as this subject was concerned, he believed that peace and harmony would follow. But there is another connected with it, which had passed this House, and which had just been reported as having passed the other, which would prevent the return of quiet. He considered the measure to which he referred as a virtual repeal of the constitution; and, in fact, worse than a positive and direct repeal; as it would leave the majority without any shackles on its power, while the minority, hoping to shelter itself under its protection, and having still some respect left for the instrument, would be trammelled without being protected by its provisions. It would be idle to attempt to disguise that the bill will be a practical assertion of one theory of the constitution against another—the theory advocated by the supporters of the bill, that ours is a consolidated government, in which the States have no rights, and in which, in fact, they bear the same relation to the whole community as the counties do to the States; and against that view of the constitution which considers it as a compact formed by the States as separate communities, and binding between the States, and not between the individual citizens. No man of candor, who admitted that our constitution is a compact, and was formed and is binding in the manner he had just stated, but must acknowledge that this bill utterly overthrows and prostrates the constitution; and that it leaves the government under the control of the will of an absolute majority.

"If the measure be acquiesced in, it will be the termination of that long controversy which began in the convention, and which has been continued under various fortunes until the

present day. But it ought not—it will not—it cannot be acquiesced in—unless the South is dead to the sense of her liberty, and blind to those dangers which surround and menace them; she never will cease resistance until the act is erased from the statute book. To suppose that the entire power of the Union may be placed in the hands of this government, and that all the various interests in this widely extended country may be safely placed under the will of an unchecked majority, is the extreme of folly and madness. The result would be inevitable, that power would be exclusively centered in the dominant interest north of this river, and that all the south of it would be held as subjected provinces, to be controlled for the exclusive benefit of the stronger section. Such a state of things could not endure; and the constitution and liberty of the country would fall in the contest, if permitted to continue.

"He trusted that that would not be the case, but that the advocates of liberty every where, as well in the North as in the South; that those who maintained the doctrines of '98, and the sovereignties of the States; that the republican party throughout the country would rally against this attempt to establish, by law, doctrines which must subvert the principles on which free institutions could be maintained."

Here was a new departure, upon a new point, as violent as the former complaint, looking to the same remedy, and unfounded and impossible. This force bill, which was a repeal of the constitution, in the eyes of Mr. Calhoun, was a mere revival of formerly existing statutes, and could have no operation, if resistance to the tariff laws ceased. Yet, nullification and secession were to proceed until it was erased from the statute book; and all the morbid views of the constitution, and of the Virginia resolutions of '98 and '99, were to hold their places in Mr. Calhoun's imagination, and dominate his conduct in all his political action, until this statute was erased. But it is due to many of his friends and followers, to say that, while concurring in his complaints against the federal government, and in his remedies, they dissented from his source of derivation of these remedies. He found them in the constitution, shown to be there by the '98-'99 Virginia resolutions; the manly sense of McDuffie, and some others, rejected that sophistry, and found their justification wholly in the revolutionary right of self-defence from intolerable oppression.

85. Secret History Of The “Compromise” Of 1833

Mr. Calhoun and Mr. Clay were early, and long, rival aspirants for the Presidency, and antagonistic leaders in opposite political systems; and the coalition between them in 1833 was only a hollow truce (embittered by the humiliations to which Mr. Calhoun was subjected in the protective features of the “compromise”) and only kept alive for a few years by their mutual interest with respect to General Jackson and Mr. Van Buren. A rupture was foreseen by every observer; and in a few years it took place, and in open Senate, and in a way to give the key to the secret motives which led to that compromise. It became a question between them which had the upper hand of the other—in their own language—which was master of the other—on that occasion. Mr. Calhoun declared that he had Mr. Clay down—had him on his back—was his master. Mr. Clay retorted: He my master! I would not own him for the meanest of my slaves. Of course, there were calls to order about that time; but the question of mastery, and the causes which produced the passage of the act, were still points of contestation between them, and came up for altercation in other forms. Mr. Calhoun claimed a controling influence for the military attitude of South Carolina, and its intimidating effect upon the federal government. Mr. Clay ridiculed this idea of intimidation, and said the little boys that muster in the streets with their tiny wooden swords, had as well pretend to terrify the grand army of Bonaparte: and afterwards said he would tell how it happened, which was thus: His friend from Delaware (Mr. John M. Clayton), said to him one day—these South Carolinians act very badly, but they are good fellows, and it is a pity to let Jackson hang them. This was after Mr. Clay had brought in his bill, and while it lingered without the least apparent chance of passing—paralyzed by the vehement opposition of the manufacturers: and he urged Mr. Clay to take a new move with his bill—to get it referred to a committee—and by them got into a shape in which it could pass. Mr. Clay did so—had the reference made—and a committee appointed suitable for the measure—some of strong will, and earnest for the bill, and some of gentle temperament, inclined to easy measures on hard occasions. They were: Messrs. Clay, Calhoun, Clayton, Dallas, Grundy, Rives.

This was the movement, and the inducing cause on one side: now for the cause on the other. Mr. Letcher, a representative from Kentucky, was the first to conceive an idea of some compromise to release South Carolina from her position; and communicated it to Mr. Clay; who received it at first coolly and doubtfully. Afterwards, beginning to entertain the idea, he mentioned it to Mr. Webster, who repulsed it entirely, saying—”It would be yielding great principles to faction; and that the time had come to test the strength of the constitution and the government.” After that he was no more consulted. Mr. Clay drew up his bill, and sent it to Mr. Calhoun through Mr. Letcher—he and Mr. Calhoun not being on speaking terms. He objected decidedly to parts of the bill; and said, if Mr. Clay knew his reasons, he certainly would yield the objectionable parts. Mr. Letcher undertook to arrange an interview;—which was effected—to take place in Mr. Clay’s room. The meeting was cold, distant and civil. Mr. Clay rose, bowed to his visitor, and asked him to take a seat. Mr. Letcher, to relieve the embarrassment, immediately opened the business of the interview: which ended without results. Mr. Clay remained inflexible, saying that if he gave up the parts of the bill objected to, it could not be passed; and that it would be better to give it up at once. In the mean time Mr. Letcher had seen the President, and sounded him on the subject of a compromise: the President answered, he would have no negotiation, and would execute the laws. This was told by Mr. Letcher to Mr. McDuffie, to go to Mr. Calhoun. Soon after, Mr. Letcher found himself required to make a direct communication to Mr. Calhoun. Mr. Josiah S. Johnson, senator from Louisiana, came to his room in the night, after he had gone to bed—and

informed him of what he had just learnt:—which was, that General Jackson would admit of no further delay, and was determined to take at once a decided course with Mr. Calhoun (an arrest and trial for high treason being understood). Mr. Johnson deemed it of the utmost moment that Mr. Calhoun should be instantly warned of his danger; and urged Mr. Letcher to go and apprise him. He went—found Mr. Calhoun in bed—was admitted to him—informed him. "He was evidently disturbed." Mr. Letcher and Mr. Clay were in constant communication with Mr. Clayton.

After the committee had been appointed, Mr. Clayton assembled the manufacturers, for without their consent nothing could be done; and in the meeting with them it was resolved to pass the bill, provided the Southern senators, including the nullifiers, should vote both for the amendments which should be proposed, and for the passage of the bill itself—the amendments being the same afterwards offered in the Senate by Mr. Clay, and especially the home valuation feature. When these amendments, thus agreed upon by the friends of the tariff, were proposed in the committee, they were voted down; and not being able to agree upon any thing, the bill was carried back to the senate without alteration. But Mr. Clayton did not give up. Moved by a feeling of concern for those who were in peril, and for the state of the country, and for the safety of the protective system of which he was the decided advocate, he determined to have the same amendments, so agreed upon by the friends of the tariff and rejected by the committee, offered in the Senate; and, to help Mr. Clay with the manufacturers, he put them into his hands to be so offered—notifying Mr. Calhoun and Mr. Clay that unless the amendments were adopted, and that by the Southern vote, every nullifier inclusively, that the bill should not pass—that he himself would move to lay it on the table. His reasons for making the nullification vote a *sine qua non* both on the amendments and on the bill, and for them all, separately and collectively, was to cut them off from pleading their unconstitutionality after they were passed; and to make the authors of disturbance and armed resistance, after resistance, parties upon the record to the measures, and every part of the measures, which were to pacify them. Unless these leaders were thus bound, he looked upon any pacification as a hollow truce, to be succeeded by some new disturbance in a short time; and therefore he was peremptory with both Mr. Clay and Mr. Calhoun, denouncing the sacrifice of the bill if his terms were not complied with; and letting them know that he had friends enough bound to his support. They wished to know the names of the senators who were to stand by him in this extreme course—which he refused to give; no doubt restrained by an injunction of secrecy, there being many men of gentle temperaments who are unwilling to commit themselves to a measure until they see its issue, that the eclat of success may consecrate what the gloom of defeat would damn. Being inexorable in his claims, Mr. Clay and Mr. Calhoun agreed to the amendments, and all voted for them, one by one, as Mr. Clay offered them, until it came to the last—that revolting measure of the home valuation. As soon as it was proposed, Mr. Calhoun and his friends met it with violent opposition, declaring it to be unconstitutional, and an insurmountable obstacle to their votes for the bill if put into it. It was then late in the day, and the last day but one of the session, and Mr. Clayton found himself in the predicament which required the execution of his threat. He executed it, and moved to lay it on the table, with the declaration that it was to lie there. Mr. Clay went to him and besought him to withdraw the motion; but in vain. He remained inflexible; and the bill then appeared to be dead. In this extremity, the Calhoun wing retired to the colonnade behind the Vice-President's chair, and held a brief consultation among themselves: and presently Mr. Bibb, of Kentucky, came out, and went to Mr. Clayton and asked him to withdraw his motion to give him time to consider the amendment. Seeing this sign of yielding, Mr. Clayton withdrew his motion—to be renewed if the amendment was not voted for. A friend of the parties immediately moved an adjournment, which was carried; and that night's reflections brought them to the conclusion that the amendment must be passed; but still with the belief,

that, there being enough to pass it without him, Mr. Calhoun should be spared the humiliation of appearing on the record in its favor. This was told to Mr. Clayton, who declared it to be impossible—that Mr. Calhoun's vote was indispensable, as nothing would be considered secured by the passage of the bill unless his vote appeared for every amendment separately, and for the whole bill collectively. When the Senate met, and the bill was taken up, it was still unknown what he would do; but his friends fell in, one after the other, yielding their objections upon different grounds, and giving their assent to this most flagrant instance (and that a new one), of that protective legislation, against which they were then raising troops in South Carolina! and limiting a day, and that a short one, on which she was to be, *ipso facto*, a seceder from the Union. Mr. Calhoun remained to the last, and only rose when the vote was ready to be taken, and prefaced a few remarks with the very notable declaration that he had then to "determine" which way he would vote. He then declared in favor of the amendment, but upon conditions which he desired the reporters to note; and which being futile in themselves, only showed the desperation of his condition, and the state of impossibility to which he was reduced. Several senators let him know immediately the futility of his conditions; and without saying more, he voted on ayes and noes for the amendment; and afterwards for the whole bill. And this concluding scene appears quite correctly reported in the authentic debates. And thus the question of mastery in this famous "compromise," mooted in the Senate by Mr. Clay and Mr. Calhoun as a problem between themselves, is shown by the inside view of this bit of history, to belong to neither of them, but to Mr. John M. Clayton, under the instrumentality of Gen. Jackson, who, in the presidential election, had unhorsed Mr. Clay and all his systems; and, in his determination to execute the laws upon Mr. Calhoun, had left him without remedy, except in the resource of this "compromise." Upon the outside history of this measure which I have compiled, like a chronicler, from the documentary materials, Mr. Calhoun and Mr. Clay appear as master spirits, appeasing the storm which they had raised; on the inside view they appear as subaltern agents dominated by the necessities of their condition, and providing for themselves instead of their country—Mr. Clay, in saving the protective policy, and preserving the support of the manufacturers; and Mr. Calhoun, in saving himself from the perils of his condition: and both, in leaving themselves at liberty to act together in future against General Jackson and Mr. Van Buren.

86. Compromise Legislation; And The Act, So Called, Of 1833

This is a species of legislation which wears a misnomer—which has no foundation in the constitution—and which generally begets more mischief than it assumes to prevent; and which, nevertheless, is very popular—the name, though fictitious, being generally accepted for the reality. There are compromises in the constitution, founded upon what gives them validity, namely, mutual consent; and they are sacred. All compromises are agreements, made voluntarily by independent parties—not imposed by one upon another. They may be made by compact—not by votes. The majority cannot subject the minority to its will, except in the present decision—cannot bind future Congresses—cannot claim any sanctity for their acts beyond that which grows out of the circumstances in which they originate, and which address themselves to the moral sense of their successors, and to reasons of justice or policy which should exempt an act from the inherent fate of all legislation. The act of 1820, called the Missouri Compromise, is one of the most respectable and intelligible of this species of legislation. It composed a national controversy, and upon a consideration. It divided a great province, and about equally, between slaveholding and non-slaveholding States. It admitted a State into the Union; and that State accepted that admission upon the condition of fidelity to that compromise. And being founded in the material operation of a line drawn upon the earth under an astronomical law, subject to no change and open to all observation, visible and tangible, it became an object susceptible of certainty, both in its breach and in its observance. That act is entitled to respect, especially from the party which imposed it upon the other; and has been respected; for it has remained inviolate for thirty years—neither side attempting to break or abolish it—each having the advantage of it—and receiving all the while, like the first *magna charta*, many confirmations from successive Congresses, and from State legislatures.

The act of 1833, called a "compromise," was a breach of all the rules, and all the principles of legislation—concocted out of doors, managed by politicians dominated by an outside interest—kept a secret—passed by a majority pledged to its support, and pledged against any amendment except from its managers;—and issuing from the conjunction of rival politicians who had lately, and long, been in the most violent state of legislative as well as political antagonism. It comprised every title necessary to stamp a vicious and reprehensible act—bad in the matter—foul in the manner—full of abuse—and carried through upon the terrors of some, the interests of others, the political calculations of many, and the dupery of more; and all upon a plea which was an outrage upon representative government—upon the actual government—and upon the people of the States. That plea was, that the elections (presidential and congressional), had decided the fate of the protective system—had condemned it—had sentenced it to death—and charged a new Congress with the execution of the sentence; and, therefore, that it should be taken out of the hands of that new Congress, withdrawn from it before it met—and laid away for nine years and a half under the sanction of a, so called, compromise—intangible to the people—safe in its existence during all that time; and trusting to the chapter of accidents, and the skill of management, for its complete restoration at the end of the term. This was an outrage upon popular representation—an estoppel upon the popular will—the arrest of a judgment which the people had given—the usurpation of the rights of ensuing Congresses. It was the conception of some rival politicians who had lately distracted the country by their contention, and now undertook to compose it by their conjunction; and having failed in the game of agitation, threw it up for the game of

pacification; and, in this new character, undertook to settle and regulate the affairs of their country for a term only half a year less than the duration of the siege of Troy; and long enough to cover two presidential elections. This was a bold pretension. Rome had existed above five hundred years, and citizens had become masters of armies, and the people humbled to the cry of *panem et circenses*—bread and the circus—before two or three rivals could go together in a corner, and arrange the affairs of the republic for five years: now this was done among us for double that time, and in the forty-fourth year of our age, and by citizens neither of whom had headed, though one had raised, an army. And now how could this be effected, and in a country so vast and intelligent? I answer: The inside view which I have given of the transaction explains it. It was an operation upon the best, as well as upon the worst feelings of our nature—upon the patriotic alarms of many, the political calculations of others, the interested schemes of more, and the proclivity of multitudes to be deceived. Some political rivals finding tariff no longer available for political elevation, either in its attack or defence; and, from a ladder to climb on, become a stumbling-block to fall over, and a pit to fall into, agree to lay it aside for the term of two presidential elections; upon the pretext of quieting the country which they had been disturbing; but in reality to get the crippled hobby out of the way, and act in concert against an old foe in power, and a new adversary, lately supposed to have been killed off, but now appearing high in the political firmament, and verging to its zenith. That new adversary was Mr. Van Buren, just elected Vice-President, and in the line of old precedents for the presidency; and the main object to be able to work against him, and for themselves, with preservation to the tariff, and extrication of Mr. Calhoun. The masses were alarmed at the cry of civil war, concerted and spread for the purpose of alarm; and therefore ready to hail any scheme of deliverance from that calamity. The manufacturers saw their advantage in saving their high protecting duties from immediate reduction. The friends of Mr. Clay believed that the title of pacificator, which he was to earn, would win for him a return of the glory of the Missouri compromise. Mr. Calhoun's friends saw, for him, in any arrangement, a release from his untenable and perilous position. Members of gentle temperaments in both Houses, saw relief in middle courses, and felt safety in the very word "compromise," no matter how fictitious and fallacious. The friends of Mr. Van Buren saw his advantage at getting the tariff out of his way also; and General Jackson felt a positive relief in being spared the dire necessity of enforcing the laws by the sword and by criminal prosecutions. All these parties united to pass the act; and after it was passed, to praise it; and so it passed easily, and was ushered into life in the midst of thundering applause. Only a few of the well-known senators voted against it—Mr. Webster, Mr. Dickerson, General Samuel Smith, Mr. Benton.

My objections to this bill, and its mode of being passed, were deep and abiding, and went far beyond its own obnoxious provisions, and all the transient and temporary considerations connected with it. As a friend to popular representative government, I could not see, without insurmountable repugnance, two citizens set themselves up for a *power* in the State, and undertake to regulate, by their private agreement (to be invested with the forms of law), the public affairs for years to come. I admit no man to stand for a *power* in our country, and to assume to be able to save the Union. Its safety does not depend upon the bargains of any two men. Its safety is in its own constitution—in its laws—and in the affections of the people; and all that is wanted in public men is to administer the constitution in its integrity, and to enforce the laws without fear or affection. A compromise made with a State in arms, is a capitulation to that State; and in this light, Mr. Calhoun constantly presented the act of 1833 and if it had emanated from the government, he would have been right in his fact, and in his inductions; and all discontented States would have been justified, so far as successful precedent was concerned, in all future interpositions of its *fiat* to arrest the action of the federal government. But it did not emanate from the government. It (the government) was proceeding wisely,

justly, constitutionally in settling with South Carolina, by removing the cause of her real grievance, and by enforcing the laws against their violators. It (the constituted government) was proceeding regularly in this way, with a prospect of a successful issue at the actual session, and a certainty of it at the next one, when the whole subject was taken out of its hands by an arrangement between a few members. The injury was great then, and of permanent evil example. It remitted the government to the condition of the old confederation, acting upon sovereignties instead of individuals. It violated the feature of our Union which discriminated it from all confederacies which ever existed, and which was wisely and patriotically put into the constitution to save it from the fate which had attended all confederacies, ancient and modern. All these previous confederacies in their general, or collective capacity, acted upon communities, and met organized resistance as often as they decreed any thing disagreeable to one of its strong members. This opposition could only be subdued by force; and the application of force has always brought on civil war; which has ended in the destruction of the confederacy. The framers of our constitutional Union knew all this, and had seen the danger of it in history, and felt the danger of it in our confederation; and therefore established a Union instead of a League—to be sovereign and independent within its sphere, acting upon persons through its own laws and courts, instead of acting on communities through persuasion or force. It was the crowning wisdom of the new constitution; and the effect of this compromise legislation, was to destroy that great feature of our Union—to bring the general and State governments into conflict—and to substitute a sovereign State for an offending individual as often as a State chose to make the cause of that individual her own. A State cannot commit treason, but a citizen can, and that against the laws of the United States; and so, if a citizen commits treason against the United States he may (if this interposition be admitted), be shielded by a State. Our whole frame of government is unhinged when the federal government shifts from its foundation, and goes to acting upon States instead of individuals and, therefore, the "compromise," as it was called, with South Carolina in 1833 was in violation of the great Union principle of our government—remitting it to the imbecility of the old confederation, giving inducement of the Nashville convention of the present year (1850); and which has only to be followed up to see the States of this Union, like those of the Mexican republic, issuing their *pronunciamientos* at every discontent; and bringing the general government to a fight, or a capitulation, as often as they please.

I omit all consideration of the minor vices of the act—great and flagrant in themselves, but subordinate in comparison to the mischiefs done to the frame of our government. At any other time these vices of matter, and manner, would have been crushing to a bill. No bill containing a tithe of the vices, crowded into this one, could ever have got through Congress before. The overthrow of the old revenue principle, that duties were to be levied on luxuries, and not on necessaries—substitution of universal *ad valorems* to the exclusion of all specific duties—the substitution of the home for the foreign valuation—the abolition of all discrimination upon articles in the imposition of duties—the preposterous stipulation against protection, while giving protection, and even in new and unheard of forms; all these were flagrant vices of the bill, no one of which could ever have been carried through in a bill before; and which perished in this one before they arrived at their period of operation. The year 1842 was to have been the jubilee of all these inventions, and set them all off in their career of usefulness; but that year saw all these fine anticipations fail! saw the high protective policy re-established, more burthensome than ever: but of this hereafter. Then the vices in the passage of the bill, being a political, not a legislative action—dominated by an outside interest of manufacturers—and openly carried in the Senate by a *douceur* to some men, not in "Kendal Green," but Kendal cotton. Yet it was received by the country as a deliverance, and the ostensible authors of it greeted as public benefactors; and their work declared by

legislatures to be sacred and inviolable, and every citizen doomed to political outlawry that did not give in his adhesion, and bind himself to the perpetuity of the act. I was one of those who refused this adhesion—who continued to speak of the act as I thought—and who, in a few years, saw it sink into neglect and oblivion—die without the solace of pity or sorrow—and go into the grave without mourners or witnesses, or a stone to mark the place of its interment.

87. Virginia Resolutions Of ‘98-’99—Disabused Of Their South Carolina Interpretation—1. Upon Their Own Words—2. Upon Contemporaneous Interpretation

The debate in the Senate, in 1830, on Mr. Foot’s resolutions, has been regarded as the dawn of those ideas which, three years later, under the name of “nullification,” but with the character and bearing the seeds of disorganization and civil war, agitated and endangered the Union. In that debate, Mr. Hayne, as heretofore stated, quoted the third clause of the Virginia resolutions of 1798, as the extent of the doctrines he intended to avow. Though Mr. Webster, at the time, gave a different and more portentous interpretation to Mr. Hayne’s course of argument, I did not believe that Mr. Hayne purposed to use those resolutions to any other effect than that intended by their authors and adopters; and they, I well knew, never supposed any right in a State of the Union, of its own motion, to annul an act of Congress, or resist its operation. Soon after the discussion of 1830, however, nullification assumed its name, with a clear annunciation of its purpose, namely, to maintain an inherent right in a State to annul the acts of the federal government, and resist their operation, in any case in which the State might judge an act of Congress to exceed the limits of the constitution. And to support this disorganizing doctrine, the resolutions of 1798, were boldly and perseveringly appealed to, and attempted to be wrested from their real intent. Nor is this effort yet abandoned; nor can we expect it to be whilst nullification still exists, either avowed or covert. The illustrious authorship of the Resolutions of 1798; the character and reputation of the legislators who adopted them; their general acceptance by the republican party, the influence they exercised, not only on questions of the day, but on the fate of parties, and in shaping the government itself, all combine to give them importance, and a high place in public esteem; and would go far to persuade the country that nullification was right, if *they* were nullification. In connection, therefore, with the period and events in which nullification had its rise, the necessity is imposed of an examination into the scope and objects of those resolutions; and the same reasons that have made, and make, the partisans of nullification so urgent to identify their fallacies with the resolutions, must make every patriot solicitous for the *vindication* of them and their author and adopters from any such affinity.

Fortunately, the material is at hand, and abundant. The resolutions are vindicated on their text alone; and contemporaneous authentic interpretation, and the reiterated, earnest—even indignant—disclaimers of the illustrious author himself, utterly repudiate the intent that nullification attempts to impute to them. I propose, therefore, to treat them in these three aspects:

I. *Vindicated on their text.*

The clause of the resolutions, chiefly relied on as countenancing nullification, is the third resolution of the series, and is as follows:

“That this assembly doth explicitly and peremptorily declare that it views the powers of the federal government, as resulting from the compact, to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are the parties thereto, have the right, and are in duty bound, to

interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them."

The right and duty of interposition is certainly here claimed for the States, in case of a "deliberate, palpable, and dangerous assumption of powers, by the federal government;" but, looking alone to the words of the text, it is an unreasonable inference, that forcible or nullifying interposition is meant. The word does not import resistance, but rather the contrary; and can only be understood in a hostile sense, when the connection in which it is used necessarily implies force. Such is not the case in this resolution; and no one has a right to suppose that, if its authors had intended to assert a principle of such transcendent importance, as that the States were severally possessed of the right to annul an act of Congress, and resist its execution, they would not have used words to declare that meaning explicitly, or, that they would intimate covertly a doctrine they dared not avow.

The constitution itself suggests several modes of interposition, competent for either the States or the people. It provides for the election (by a mixed system, popular and State), at brief intervals, of all the functionaries of the federal government; and hence, the interposition of the will of the States and people to effect a change of rulers; hence, of policy. It provides that freedom of speech and the press, shall not be abridged, which is equivalent to a provision that those powerful means be perpetually interposed to affect the public conscience and sentiment—to counsel and alarm the public servants; to influence public policy—to restrain and remedy government abuses. It recognizes the right, and provides that it shall not be abridged, of the people "to assemble and petition the government for the redress of grievances;" hence, contemplating that there may be grievances on the part of the government, and suggesting a means of meeting and overcoming them. Finally, it provides that, on the application of a designated proportion of the States, Congress shall cause a convention to be called, to provide, in the constitution itself, should it be judged necessary, additional securities to the States and the people, and additional restraints on the government.

To act on the sentiments of the country then; to bring to their aid the potent engines of the press and public harangues; to move the people to petition and remonstrance against the obnoxious measures; to draw the attention of other States to the abuses complained of, and to the latitudinous construction the federal authorities were giving to their powers; and thus bring those States, in like manner, to act on their senators and representatives, and on the public voice, so as to produce an immediate remedy, or to co-operate in calling a convention to provide further securities—one or both; these alone are the modes of "interposition" the Virginia resolutions of 1798 contemplated; all they professed; all they attempted; all that the resolutions, or their history, warrant to be imputed to them. These modes of interposition are all consistent with peace and order; with obedience to the laws, and respect to the lawful authorities; the very means, as was well argued by the supporters of the resolutions, to prevent civil strife, insubordination, or revolution; in all respects, the antipodes of nullification.

To enlarge somewhat on the force of the words of the resolutions: The right and duty of "the States" to interpose, certainly does not mean the right of "a State" to nullify and set at nought. The States—less than the whole number—have a right to interpose, secured, as already shown, in the constitution; and this, not only persuasively, but peremptorily; to compel the action they may desire; and it is demonstrable, that it was this constitutional provision that the Virginia legislature had in mind, as a last resort. The resolutions do not speak any where of the right of a State; but use the plural number, States. Virginia exercises the right that pertains to a State—all the right that, in the premises, she pretends to—in passing the resolutions, declaring her views, and inviting the like action of her co-States. Instead, therefore, of the

resolutions being identical with nullification, the two doctrines are not merely hostile, but exactly opposites; the sum of the Virginia doctrine being, that it belongs to a State to take, as Virginia does in this instance, the initiative in impeaching any objectionable action of the federal government, and to ask her co-States to co-operate in procuring the repeal of a law, a change of policy, or an amendment of the constitution—according as one or the other, or all, may be required to remedy the evil complained of; whereas, nullification claims, that a single State may, of its own motion, nullify any act of the federal government it objects to, and stay its operation, until three fourths of all the States come to the aid of the national authority, and re-enact the nullified measure. One submits to the law, till a majority repeal it, or a convention provides a constitutional remedy for it; the other undertakes to annul the law, and suspend its operation, so long as three fourths of the States are not brought into active co-operation to declare it valid. The resolutions maintain the government in all its functions, only seeking to call into use the particular function of repeal or amendment: nullification would stop the functions of government, and arrest laws indefinitely; and is incapable of being brought to actual experiment, in a single instance, without a subversion of authority, or civil war. To this essential, radical, antagonistic degree do the Virginia resolutions and the doctrine of nullification differ, one from the other; and thus unjustly are the Virginia republicans, of 1798, accused of planting the seeds of dissolution—a "deadly poison," as Mr. Madison, himself, emphatically calls the doctrine of nullification—in the institutions they had so labored to construct.

II. *Upon their contemporaneous interpretation.*

The contemporaneous construction of the resolutions is found in the debates on their adoption; in the responses to them of other State legislatures; and in the confirmatory report prepared by the same author, and adopted by the Virginia general assembly, in January, 1800; and by the conduct of the State, in the case of Callender. And it is remarkable (when we consider the uses to which the resolutions have subsequently been turned), that, while the friends of the resolutions nowhere claim more than a declaratory right for the legislature, and deny all idea of force or resistance, their adversaries, in the heat of debate, nor the States which manifested the utmost bitterness in their responses, have not attributed to the resolutions any doctrine like that of nullification. Both in the debates and in the State responses, the opponents of the resolutions denounce them as inflamatory, and "tending" to produce insubordination, and whatever other evil could then be thought of, concerning them; but no one attributes to them the absurdity of claiming for the State a right to arrest, of its own motion, the operation of the acts of Congress.

The principal speakers, in the Virginia legislature, in opposition to the resolutions, were: Mr. George Keith Taylor, Mr. Magill, Mr. Brooke, Mr. Cowan, Gen. Henry Lee, and Mr. Cureton. Nearly the whole debate turned, not on the abstract propriety or expediency of such resolutions, on the question whether the acts of Congress, which were specially complained of, were, in fact, unconstitutional. It was admitted, indeed, by Gen. Lee, who spoke elaborately and argumentatively against the resolutions, that, if the acts were unconstitutional, it was "proper to interfere;" but the extreme notions of the powers of the federal government that then prevailed in the federal party, led them to contend that those powers extended to the acts in question, though, at this day, they are universally acknowledged to be out of the pale of federal legislation. Beyond the discussion of this point, and one or two others not pertinent to the present matter, the speakers dwelt only on the supposed "tendency" of such declarations to excite the people to insubordination and non-submission to the law.

Mr. George K. Taylor complained at the commencement of his speech, that the resolutions "contained a declaration, not of opinion, but of fact;" and he apprehended that "the

consequences of pursuing the advice of the resolutions would be insurrection, confusion, and anarchy;" but the legal effect and character that he attributed to the resolutions, is shown in his concluding sentence, as follows:

"The members of that Congress which had passed those laws, had been, so far as he could understand, since generally re-elected; therefore he thought the people of the United States had decided in favor of their constitutionality, and that such an attempt as they were then making to induce Congress to repeal the laws would be nugatory."

Mr. Brooke thought resolutions "declaring laws which had been made by the government of the United States to be unconstitutional, null and void," were "dangerous and improper;" that they had a "tendency to inflame the public mind;" to lessen the confidence that ought to subsist between the representatives of the people in the general government and their constituents; and to "sap the very foundations of the government, by producing resistance to its laws." But that he did not apprehend the resolutions to be, or to intend, any thing beyond an expression of sentiment, is evident from his further declaration, that he was opposed to the resolutions, and equally opposed to any modification of them, that should be "intended as an expression of the general sentiment on the subject, because he conceived it to be an improper mode by which to express the wishes of the people of the State on the subject."

General Lee thought the alien and sedition laws "not unconstitutional;" but if they were unconstitutional he "admitted the right of interposition on the part of the general assembly." But he thought these resolutions showed "indecorum and hostility," and were "not the likeliest way to obtain a repeal of the laws." He "suspected," in fact, that "the repeal of the laws was not the leading point in view," but that they "covered" the objects of "promotion of disunion and separation of the States." The resolutions "struck him as recommending resistance. They declared the laws null and void. Our citizens thus thinking would disobey the laws." His plan would be, if he thought the laws unconstitutional, to let the people petition, or that the legislature come forward at once, "with a proposition for amending the doubtful parts of the constitution;" or with a "respectful or friendly memorial, urging Congress to repeal the laws." But he "admitted" the only right which the resolutions assert for the State, namely, the right "to interpose." The remarks of the other opponents to the resolutions were to the same effect.

On behalf of the resolutions, the principal speakers were, Mr. John Taylor, of Caroline, who had introduced them, Mr. Ruffin, Mr. Mercer, Mr. Pope, Mr. Foushee, Mr. Daniel, Mr. Peter Johnston, Mr. Giles, Mr. James Barbour.

They obviated the objection of the speakers on the other side, that the resolutions "contained a declaration, not of opinion, but of fact," by striking out the words which, in the original draft, declared the acts in question to be "null, void, and of no force or effect;" so as to make it manifest, as the advocates of the resolutions maintained, that they intended nothing beyond an expression of sentiment. They obviated another objection which appeared in the original draft, which asserted the States *alone* to be the parties to the constitution, by striking out the word "alone." They thoroughly and successfully combated both the "suspicion" that they hid any ulterior object of dissension or disunion, and the "apprehension" that the resolutions would encourage insubordination among the people. They acceded to and affirmed, that their object was to obtain a repeal of the offensive measures, that the resolutions might ultimately lead to a convention for amending the constitution, and that they were intended both to express and to affect public opinion; but nothing more.

Says Mr. Taylor, of Caroline:

"If Congress should, as was certainly possible, legislate unconstitutionally, it was evident that in theory they have done wrong, and it only remained to consider whether the constitution is so defective as to have established limitations and reservations, without the means of enforcing them, in a mode by which they could be made practically useful. Suppose a clashing of opinion should exist between Congress and the States, respecting the true limits of their constitutional territories, it was easy to see, that if the right of decision had been vested in either party, that party, deciding in the spirit of party, would inevitably have swallowed up the other. The constitution must not only have foreseen the possibility of such a clashing, but also the consequence of a preference on either side as to its construction. And out of this foresight most have arisen the fifth article, by which two thirds of Congress may call upon the States for an explanation of any such controversy as the present; and thus correct an erroneous construction of its own acts by a minority of the States, whilst two thirds of the States are also allowed to compel Congress to call a convention, in case so many should think an amendment necessary for the purpose of checking the unconstitutional acts of that body.... Congress is the creature of the States and the people; but neither the States nor the people are the creatures of Congress. It would be eminently absurd, that the creature should exclusively construe the instrument of its own existence; and therefore this construction was reserved indiscriminately to one or the other of those powers, of which Congress was the joint work; namely, to the people whenever a convention was resorted to, or to the States whenever the operation should be carried on by three fourths."

"Mr. Taylor then proceeded to apply these observations to the threats of war, and the apprehension of civil commotion, 'towards which the resolutions were said to have a tendency.' Are the republicans, said he, possessed of fleets and armies? If not, to what could they appeal for defence and support? To nothing, except public opinion. If that should be against them, they must yield; if for them, did gentlemen mean to say, that public will should be assailed by force?... And against a State which was pursuing the only possible and ordinary mode of ascertaining the opinion of two thirds of the States, by declaring its own and asking theirs?"

"He observed that the resolutions had been objected to, as couched in language too strong and offensive; whilst it had also been said on the same side, that if the laws were unconstitutional, the people ought to fly to arms and resist them. To this he replied that he was not surprised to hear the enemies of the resolutions recommending measures which were either feeble or rash. Timidity only served to invite a repetition of injury, whilst an unconstitutional resort to arms would not only justly exasperate all good men, but invite those who differed from the friends of the resolutions to the same appeal, and produce a civil war. Hence, those who wished to preserve the peace, as well as the constitution, had rejected both alternatives, and chosen the middle way. They had uttered what they conceived to be truth, and they had pursued a system which was only an appeal to public opinion; because that appeal was warranted by the constitution and by principle."

Mr. Mercer, in reply to Mr. G. K. Taylor, said:

"The gentleman from Prince George had told the committee that the resolutions were calculated to rouse the people to resistance, to excite the people of Virginia against the federal government. Mr. Mercer did not see how such consequences could result from their adoption. They contained nothing more than the sentiment which the people in many parts of the State had expressed, and which had been conveyed to the legislature in their memorials and resolutions then lying on the table. He would venture to say that an attention to the resolutions from the committee would prove that the qualities attempted to be attached to them by the gentleman could not be found."

“The right of the State government to interfere in the manner proposed by the resolutions, Mr. Mercer contended was clear to his mind.... The State believed some of its rights had been invaded by the late acts of the general government, and proposed a remedy whereby to obtain a repeal of them. The plan contained in the resolutions appeared to Mr. Mercer the most advisable. Force was not thought of by any one.... The States were equally concerned, as their rights had been equally invaded; and nothing seemed more likely to produce a temper in Congress for a repeal.”

“The object (of the friends of the resolutions), in addressing the States, is to obtain a similar declaration of opinion, with respect to several late acts of the general government, ... and thereby to obtain a repeal.”

Mr. Barbour, likewise, in reply to Mr. G. K. Taylor, said:

“The gentleman from Prince George had remarked that those resolutions invited the people to insurrection and to arms; but, if he could conceive that the consequences foretold would grow out of the measure, he would become its bitterest enemy.”... The resolutions were “addressed, not to the people but to the sister States; praying, in a pacific way, their co-operation, in arresting the tendency and effect of unconstitutional laws.

“For his part, he was for using no violence. It was the peculiar blessing of the American people to have redress within their reach, by constitutional and peaceful means.”

On the same point, Mr. Daniel spoke as follows:

“If the other States think, with this, that the laws are unconstitutional, the laws will be repealed, and the constitutional question will be settled by this declaration of a majority of the States.”... “If, on the contrary, a sufficient majority of the States should declare their opinion, that the constitution gave Congress authority to pass these laws, the constitutional question would still be settled; but an attempt might be made so to amend the constitution as to take from Congress this authority.”

And, finally, Mr. Taylor of Caroline, in closing the debate, and in explanation of his former remarks in respect to calling a convention, said:

“He would explain, in a few words, what he had before said. That the plan proposed by the resolutions would not eventuate in war, but might in a convention. He did not admit, or contemplate, that a convention would be called. He only said, that if Congress, upon being addressed to have these laws repealed, should persist, they might, by a concurrence of three fourths of the States, be compelled to call a convention.”

It is seen, then, by these extracts, that the opposers of the resolutions did not charge upon them, nor their supporters in any manner contend for, any principle like that of nullification; that, on the contrary, the supporters of the resolutions, so far from the absurd proposition that each State could, for itself, annul the acts of Congress, and to that extent stop the operation of the federal government, they did not recognize that power in a majority of the States, nor even in all the States together, by any extra-constitutional combination or process, or to annul a law otherwise than through the prescribed forms of legislative repeal, or constitutional amendment.

The resolutions were, however, vigorously assailed by the federal party throughout the Union, especially in the responses of several of the States; and at the ensuing session of the Virginia legislature, those State responses were sent to a committee, who made an elaborate examination of the resolutions, and of the objections that had been made to them, concluding by a justification of them in all particulars, and reiterating their declarations. This report was

adopted by the general assembly and is a part of the contemporaneous and authentic interpretation of the resolutions. The report says:

"A declaration that proceedings of the federal government are not warranted by the constitution, is a novelty neither among the citizens, nor among the legislatures of the States.

"Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the federal government, or whether made before or after judicial decisions thereon, be deemed, in any point of view, an assumption of the office of judge. The declarations, in such cases, are expressions of opinion, unaccompanied by any other effect than what they may produce on opinion, by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force."

Again: "In the example given by the State, of declaring the alien and sedition acts to be unconstitutional, and of communicating the declaration to other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported too, by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

"It is no less certain that other means might have been employed, which are strictly within the limits of the constitution. The legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or they might have represented to their respective senators in Congress their wish, that two-thirds thereof would propose an explanatory amendment to the constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

"These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration. And if the general assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther measures that might become necessary and proper, the resource will not be misconstrued by liberal minds into any culpable imputation."

These extracts are valuable, not only for their positive testimony that the Resolution of 1798, nor their authors, had ever contemplated such a doctrine as Nullification; but also for their precise definition and enumeration of the powers which, in the premises, were really claimed for the States, by the State-Rights Republicans of that day. They are all distinctly laid down:

1. By a solemn declaration of opinion, calculated to operate on the public sentiment, and to induce the co-operation of other States in like declarations.

2. To make a direct representation to Congress, with a view to obtain a repeal of the acts complained of.

3. To represent to their respective senators their wish that two-thirds thereof would propose an explanatory amendment to the constitution.

4. By the concurrence of two-thirds of the States to cause Congress to call a convention for the same object.

These are the entire list of the remedial powers suspected, by the Resolutions of 1798, and their author and adopters, to exist in the States with reference to federal enactments. Their variant character from the peremptory arrest of acts of Congress proposed by nullification, is well illustrated in the comparison made in the report between expressions of opinion like

those of the resolutions, and the compulsory operation of a judicial process. Supposing, says the report, "that it belongs to the judiciary of the United States, and not the State legislatures, to declare the meaning of the federal constitution," yet the declarations either of a State, or the people, "whether affirming or denying the constitutionality of measures of the federal government, or whether made before or after judicial decisions thereon," cannot "be deemed in any point of view an assumption of the office of the judge;" because, "the declarations in such cases are expressions of opinions unaccompanied with any other effect than what they may produce on opinion, by exciting reflection;"—whereas, "the expositions of the judiciary are carried into immediate effect by force."

The Republicans who adopted the Resolutions of 1798, never contemplated carrying their expositions into effect by force; never contemplated imparting to them the character of decisions, or decrees, or the legal determination of a question; or of arresting by means of them the operation of the acts they condemned. The worst the enemies of the resolutions undertook to say of them, was that they were intemperate, and might mislead the people into disobedience of the laws. This was successfully combated; but had it been true—had the authors of the resolutions even intended any thing so base, it would still have been nothing comparable to the crime of State nullification; of placing the State itself in hostile array to the federal government. Insubordination of individuals may usually be overcome by ordinary judicial process, or by the *posse* of the county where it occurs; or even if so extensive as to require the peace-officers to be aided by the military, it is still but a matter of police, and in our country cannot endanger the existence of the government. But the array of a *State* of the Union against the federal authority, is *war*—a war between powers—both sovereign in their respective spheres—and that could only terminate in the destruction of the one, or the subjugation and abasement of the other.

But neither the one or the other of these crimes was contemplated by the authors of the Resolutions of 1798. The remedies they claimed a right to exercise are all pointed out in the constitution itself; capable of application without disturbing the processes of the law, or suggesting an idea of insubordination; remedies capable of saving the liberties of the people and the rights of the States, and bringing back the federal government to its constitutional track, without a jar or a check to its machinery; remedies felt to be sufficient, and by crowning experience soon proven to be so. It is due to the memory of those men and those times that their acts should no longer be misconstrued to cover a doctrine synonymous with disorganization and civil war. The conduct both of the government, and the people, on the occasion of these resolutions, show how far they were from any nullifying or insubordinate intention; and this furnishes us with another convincing proof of the contemporaneous interpretation of the resolutions. So far (as Mr. Madison justly says,)[6] was the State of Virginia from countenancing the nullifying doctrine, that the occasion was viewed as a proper one for exemplifying its devotion to public order, and acquiescence in laws which it deemed unconstitutional, while those laws were not repealed. The language of the Governor of the State (Mr. James Monroe), in a letter to Mr. Madison, in May and June of 1800, will attest the principles and feelings which dictated the course pursued on the occasion, and whether the people understood the resolutions in any inflammatory or vicious sense.

On the 15th May, 1800, Governor Monroe writes to Mr. Madison as follows:

"Besides, I think there is cause to suspect the sedition law will be carried into effect in this State at the approaching federal court, and I ought to be there (Richmond) to aid in preventing trouble.... I think it possible an idea may be entertained of opposition, and by means whereof the fair prospect of the republican party may be overcast. But in this they are

[6] Selections from the correspondence of Madison, p. 399.

deceived, as certain characters in Richmond and some neighboring counties are already warned of their danger, so that an attempt to excite a hot-water insurrection will fail."

And on the 4th of June, 1800, he wrote again, as follows:

"The conduct of the people on this occasion was exemplary, and does them the highest honor. They seemed aware that the crisis demanded of them a proof of their respect for law and order, and resolved to show they were equal to it. I am satisfied a different conduct was expected from them, for every thing that could was done to provoke it. It only remains that this business be closed on the part of the people, as it has been so far acted; that the judge, after finishing his career, go off in peace, without experiencing the slightest insult from any one; and that this will be the case I have no doubt."

Governor Monroe was correct in the supposition that the sedition law would be carried into effect, at the approaching session of the federal court, and he was also right in the anticipation that the people would know how to distinguish between the exercise of means to procure the repeal of an act, and the exercise of violence to stop its operation. The act was enforced; was "carried into effect" in their midst, and a fellow-citizen incarcerated under its odious provisions, without a suggestion of official or other interference. Thus we have the contemporaneous interpretation of the resolutions exemplified and set at rest, by the most powerful of arguments: by the impressive fact, that when the public indignation was at its height, subsequent to the resolutions of 1798, and subsequent to the report of '99, and when both had been universally disseminated and read, and they had had, with the debates upon them, their entire influence on the public mind; that at that moment, the act of Congress against which the resolutions were chiefly aimed, and the indignation of the community chiefly kindled, was then and there carried into execution, and that in a form—the unjust deprivation of a citizen of his liberty—the most obnoxious to a free people, and the most likely to rouse their opposition; yet quietly and peaceably done, by the simple, ordinary process of the federal court. This fact, so creditable to the people of Virginia, is thus noted in the annual message of Governor Monroe, to the general assembly, at their next meeting, December, 1800:

"In connection with this subject [of the resolutions] it is proper to add, that, since your last session, the sedition law, one of the acts complained of, has been carried into effect in this commonwealth by the decision of a federal court. I notice this event, not with a view of censuring or criticising it. The transaction has gone to the world, and the impartial will judge of it as it deserves. I notice it for the purpose of remarking that the decision was executed with the same order and tranquil submission on the part of the people, as could have been shown by them on a similar occasion, to any the most necessary, constitutional and popular acts of the government."

Governor Monroe then adds his official and personal testimony to the proper intent and character of the proceedings of '98, '9, as follows:

"The general assembly and the good people of this commonwealth have acquitted themselves to their own consciences, and to their brethren in America, in support of a cause which they deem a national one, by the stand which they made, and the sentiments they expressed of these acts of the general government; but they have looked for a change in that respect, to a change in the public opinion, which ought to be free; not to measures of violence, discord and disunion, which they abhor."

88. Virginia Resolutions Of 1798:—Disabused Of Nullification, By Their Author

Vindicated upon their words, and upon contemporaneous interpretation, another vindication, superfluous in point of proof, but due to those whose work has been perverted, awaits these resolutions, derived from the words of their author (after seeing their perversion); and to absolve himself and his associates from the criminal absurdity attributed to them.

The contemporary opponents of the Resolutions of 1798 said all the evil of them, and represented them in every odious light, that persevering, keen and enlightened opposition could discover or imagine. Their defenders successfully repelled the charges then made against them; but could not vindicate them from intending the modern doctrine of Nullification, because that doctrine had not then been invented, and the ingenuity of their adversaries did not conceive of that ground of attack. Their venerable author, however—the illustrious Madison[7]—was still alive, when this new perversion of his resolutions had been invented, and when they were quoted to sustain doctrines synonymous with disorganization and disunion. He was still alive, in retirement on his farm. His modesty and sense of propriety hindered him from carrying the prestige and influence of his name into the politics of the day; but his vigorous mind still watched with anxious and patriotic interest the current of public affairs, and recoiled with instinctive horror both from the doctrine and attempted practice of Nullification, and the attempted connection of his name and acts with the origination of it. He held aloof from the public contest; but his sentiments were no secret. His private correspondence, embracing in its range distinguished men of all sections of the Union and of all parties, was full of the subject, from the commencement of the Nullification excitement down to the time of his death: sometimes at length, and argumentatively; sometimes with a brief indignant disclaimer; always earnestly and unequivocally. Some of these letters, although private, were published during Mr. Madison's lifetime, especially an elaborate one to Mr. Edward Everett; and many of the remainder have recently been put into print, through the liberality of a patriotic citizen of Washington (Mr. J. Maguire), but only for private distribution, and hence not accessible to the public. They are a complete storehouse of material, not only for the vindication of Madison and his compeers, from the doctrine of Nullification, but of argument and reasons against Nullification and every kindred suggestion.

From the letter to Mr. Everett, published in the North American Review, shortly after it was written (August, 1830), the following extracts are taken:

"It (the constitution of the United States) was formed by the States, that is, by the people in each of the States, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State constitutions.

"Being thus derived from the same source as the constitutions of the States, it has, within each State, the same authority as the constitution of the State, and is as much a constitution in the strict sense of the term within its prescribed sphere, as the constitutions of the States are within their respective spheres; but with this obvious and essential difference, that being a

[7] Mr. Madison did not introduce the Resolutions into the Virginia legislature. He was not a member of that body in 1798. The resolutions were reported by John Taylor, of Caroline. Mr. Madison, however, was always reputed to be their author, and in a letter to Mr. James Robertson, written in March, 1831, he distinctly avows it. He was both the author and reporter of the Report and Resolution of 1799-1800.

compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the States individually, as the constitution of a State may be at its individual will."

"Nor is the government of the United States, created by the constitution, less a government in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the States are, within their several spheres. It is like them organized into legislative, executive and judiciary departments. It operates, like them, directly on persons and things. And, like them, it has at command a physical force for executing the powers committed to it.

"Between these different constitutional governments, the one operating in all the States, the others operating separately in each, with the aggregate powers of government divided between them, it could not escape attention, that controversies would arise concerning the boundaries of jurisdiction."

"That to have left a final decision, in such cases, to each of the States, could not fail to make the constitution and laws of the United States different in different States, was obvious, and not less obvious that this diversity of independent decisions, must altogether distract the government of the Union, and speedily put an end to the Union itself."

"To have made the decision under the authority of the individual States, co-ordinate in all cases, with decisions under the authority of the United States, would unavoidably produce collisions incompatible with the peace of society."

"To have referred every clashing decision, under the two authorities, for a final decision, to the States as parties to the constitution, would be attended with delays, with inconveniences and expenses, amounting to a prohibition of the expedient."

"To have trusted to 'negotiation' for adjusting disputes between the government of the United States and the State governments, as between independent and separate sovereignties, would have lost sight altogether of a constitution and government of the Union, and opened a direct road, from a failure of that resort, to the *ultima ratio*, between nations wholly independent of, and alien to each other.... Although the issue of negotiation might sometimes avoid this extremity, how often would it happen among so many States, that an unaccommodating spirit in some would render that resource unavailing?"

After thus stating, with other powerful reasons, why all those fanciful and impracticable theories were rejected in the constitution, the letter proceeds to show what the constitution does adopt and rely on, "as a security of the rights and powers of the States," namely:

"1. The responsibility of the senators and representatives in the legislature of the United States to the legislatures and people of the States; 2. The responsibility of the President to the people of the United States; and, 3. The liability of the executive and judicial functionaries of the United States to impeachment by the representatives of the people of the States in one branch of the legislature of the United States, and trial by the representatives of the States, in the other branch."

And then, in order to mark how complete these provisions are for the security of the States, shows that while the States thus hold the functionaries of the United States to these several responsibilities, the State functionaries, on the other hand, in their appointment and responsibility, are "altogether independent of the agency or authority of the United States."

Of the doctrine of nullification, "the expedient lately advanced," the letter says:

“The distinguished names and high authorities which appear to have asserted and given a practical scope to this doctrine, entitle it to a respect which it might be difficult otherwise to feel for it.”

“The resolutions of Virginia, as vindicated in the report on them, will be found entitled to an exposition, showing a consistency in their parts, and an inconsistency of the whole with the doctrine under consideration.”

“That the legislature could not have intended to sanction any such doctrine is to be inferred from the debates in the House of Delegates. The tenor of the debates, which were ably conducted, discloses no reference whatever to a constitutional right in an individual State to arrest by force a law of the United States.”

“If any further light on the subject could be needed, a very strong one is reflected in the answers to the resolutions, by the States which protested against them.... Had the resolutions been regarded as avowing and maintaining a right, in an individual State, to arrest by force the execution of a law of the United States, it must be presumed that it would have been a conspicuous object of their denunciation.”

In a letter to Mr. Joseph C. Cabell, May 31, 1830, Mr. Madison says:

“I received yesterday yours of the 26th. Having never concealed my opinions of the nullifying doctrines of South Carolina, I did not regard the allusion to it in the *Whig*, especially as the manner of the allusion showed that I did not obtrude it.... I have latterly been drawn into a correspondence with an advocate of the doctrine, which led me to a review of it to some extent, and particularly to a vindication of the proceedings of Virginia in 1798, ‘99, against the misuse made of them. That you may see the views I have taken of the aberrations of South Carolina, I enclose you an extract.”

And in a letter to Mr. Daniel Webster, written a few days previously, he uses nearly the same language; as also in a letter in February, 1830, to Mr. Trist.

To Mr. James Robertson, March 27, 1831, Mr. Madison writes as follows:

“The veil which was originally over the draft of the resolutions offered in 1798 to the Virginia Assembly having been long since removed, I may say, in answer to your inquiries, that it was penned by me.”

“With respect to the terms following the term ‘unconstitutional,’ viz., ‘not law, but null, void, and of no force or effect,’ which were stricken out of the seventh resolution, my memory cannot say positively whether they were or were not in the original draft, and no copy of it appears to have been retained. On the presumption that they were in the draft as it went from me, I am confident that they must have been regarded only as giving accumulated emphasis to the declaration, that the alien and sedition acts had, in the opinion of the assembly, violated the constitution of the United States, and not that the addition of them could annul the acts or sanction a resistance of them. The resolution was expressly *declaratory*, and, proceeding from the legislature only, which was not even a party to the constitution, could be declaratory of opinion only.”

To Joseph C. Cabell, Sept. 16, 1831:

“I congratulate you on the event which restores you to the public councils, where your services will be valuable, particularly in defending the constitution and Union against the false doctrines which assail them. That of nullification seems to be generally abandoned in Virginia, by those who had most leaning towards it. But it still flourishes in the hot-bed where it sprung up.”

"I know not whence the idea could proceed that I concurred in the doctrine, that although a State could not nullify a law of the Union, it had a right to secede from the Union. Both spring from the same poisonous root."

To Mr. N. P. Trist, December, 1831:

"I cannot see the advantage of this perseverance of South Carolina in claiming the authority of the Virginia proceedings in 1798, '99, as asserting a right in a single State to nullify an act of the United States. Where, indeed, is the fairness of attempting to palm on Virginia an intention which is contradicted by such a variety of contradictory proofs; which has at no intervening period, received the slightest countenance from her, and which with one voice she now disclaims?"

"To view the doctrine in its true character, it must be recollected that it asserts a right in a single State to stop the execution of a federal law, until a convention of the States could be brought about by a process requiring an uncertain time; and, finally, in the convention, when formed, a vote of seven States, if in favor of the veto, to give it a prevalence over the vast majority of seventeen States. For this preposterous and anarchical pretension there is not a shadow of countenance in the constitution; and well that there is not, for it is certain that, with such a deadly poison in it, no constitution could be sure of lasting a year."

To Mr. C. E. Haynes, August 26, 1832:

"In the very crippled and feeble state of my health, I cannot undertake an extended answer to your inquiries, nor should I suppose it necessary if you have seen my letter to Mr. Everett, in August, 1830, in which the proceedings of Virginia, in 1798-'99, were explained, and the novel doctrine of nullification adverted to.

"The distinction is obvious between such interpositions on the part of the States against unjustifiable acts of the federal government as are within the provisions and forms of the constitution. These provisions and forms certainly do not embrace the nullifying process proclaimed in South Carolina, which begins with a single State, and ends with the ascendency of a minority of States over a majority; of seven over seventeen; a federal law, during the process, being arrested within the nullifying State; and, if a revenue law, frustrated through all the States."

To Mr. Trist, December 23, 1832:

"If one State can, at will, withdraw from the others, the others can, at will, withdraw from her, and turn her *nolentem volentem* out of the Union. Until of late, there is not a State that would have abhorred such a doctrine more than South Carolina, or more dreaded an application of it to herself. The same may be said of the doctrine of nullification which she now preaches as the only faith by which the Union can be saved."

In a letter to Mr. Joseph C. Cabell, December 28, 1832:

"It is not probable that (in the adoption of the resolutions of 1798), such an idea as the South Carolina nullification had ever entered the thoughts of a single member, or even that of a citizen of South Carolina herself."

To Andrew Stevenson, February 4, 1833:

"I have received your communication of the 29th ultimo, and have read it with much pleasure. It presents the doctrine of nullification and secession in lights that must confound, if failing to convince their patrons. You have done well in rescuing the proceedings of Virginia in 1798-'99, from the many misconstructions and misapplications of them."

“Of late, attempts are observed to shelter the heresy of secession under the case of expatriation, from which it essentially differs. The expatriating party removes only his person and his movable property, and does not incommode those whom he leaves. A seceding State mutilates the domain, and disturbs the whole system from which it separates itself. Pushed to the extent in which the right is sometimes asserted, it might break into fragments every single community.”

To Mr. Stevenson, February 10, 1833, in reference to the South Carolina nullifying ordinance:

“I consider a successful resistance to the laws as now attempted, if not immediately mortal to the Union, as at least a mortal wound to it.”

To “a Friend of the Union and State rights,” 1833:

“It is not usual to answer communications without proper names to them. But the ability and motives disclosed in the essays induce me to say, in compliance with the wish expressed, that I do not consider the proceedings of Virginia, in 1798-’99, as countenancing the doctrine that a State may, at will, secede from its constitutional compact with the other States.”

To Mr. Joseph C. Cabell, April 1, 1833:

“The attempt to prove me a nullifier, by a misconstruction of the resolutions of 1798-’99, though so often and so lately corrected, was, I observe, renewed some days ago in the ‘Richmond Whig,’ by an inference from an erasure in the House of Delegates from one of those resolutions, of the words ‘are null, void and of no effect,’ which followed the word ‘unconstitutional.’ These words, though synonymous with ‘unconstitutional,’ were alleged by the critic to mean nullification; and being, of course, ascribed to me, I was, of course, a nullifier. It seems not to have occurred, that if the insertion of the words could convict me of being a nullifier, the erasure of them (unanimous, I believe), by the legislature, was the strongest of protests against the doctrine.... The vote, in that case seems not to have engaged the attention due to it. It not merely deprives South Carolina of the authority of Virginia, on which she has relied and exulted so much in support of her cause, but turns that authority pointedly against her.”

From a memorandum “On Nullification,” written in 1835-’36:

“Although the legislature of Virginia declared, at a late session, almost unanimously, that South Carolina was not supported in her doctrine of nullification by the resolutions of 1798, it appears that those resolutions are still appealed to as expressly or constructively favoring the doctrine.”

“And what is the text in the proceedings of Virginia which this spurious doctrine of nullification claims for its patronage? It is found in the third of the resolutions of 1798.”

“Now is there any thing here from which a ‘single’ State can infer a right to arrest or annul an act of the general government, which it may deem unconstitutional? So far from it, that the obvious and proper inference precludes such a right.”

“In a word, the nullifying claims, if reduced to practice, instead of being the conservative principle of the constitution, would necessarily, and it may be said, obviously, be a deadly poison.”

“The true question, therefore, is, whether there be a ‘constitutional’ right in a single State to nullify a law of the United States? We have seen the absurdity of such a claim, in its naked and suicidal form. Let us turn to it, as modified by South Carolina, into a right in every State to resist within itself the execution of a federal law, deemed by it to be unconstitutional, and

to demand a convention of the States to decide the question of constitutionality, the annulment of the law to continue in the mean time, and to be permanent unless three fourths of the States concur in overruling the annulment.

"Thus, during the temporary nullification of the law, the results would be the same as those proceeding from an unqualified nullification, and the result of a convention might be that seven out of twenty-four States might make the temporary results permanent. It follows, that any State which could obtain the concurrence of six others, might abrogate any law of the United States whatever, and give to the constitution, constructively, any shape they pleased, in opposition to the construction and will of the other seventeen.[8] Every feature of the constitution might thus be successively changed; and after a scene of unexampled confusion and distraction, what had been unanimously agreed to as a whole, would not, as a whole, be agreed to by a single party."

To this graphic picture of the disorders which even the first stages of nullification would necessarily produce, drawn when the graphic limner was in the eighty-sixth and last year of his life, the following warning pages, written only a few months earlier, may be properly appended:

"What more dangerous than nullification, or more evident than the progress it continues to make, either in its original shape or in the disguises it assumes? Nullification has the effect of putting powder under the constitution and Union, and a match in the hand of every party to blow them up, at pleasure. And for its progress, hearken to the tone in which it is now preached; cast your eyes on its increasing minorities in most of the Southern States, without a decrease in any one of them. Look at Virginia herself, and read in the gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago.

"It is not probable that this offspring of the discontents of South Carolina will ever approach success in a majority of the States. But a susceptibility of the contagion in the Southern States is visible; and the danger not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South, on some critical occasion, in a course that will end in creating a new theatre of great though inferior extent. In pursuing this course, the first and most obvious step is nullification, the next, secession, and the last, a farewell separation. How near has this course been lately exemplified! and the danger of its recurrence, in the same or some other quarter, may be increased by an increase of restless aspirants, and by the increasing impracticability of retaining in the Union a large and cemented section against its will. It may, indeed, happen, that a return of danger from abroad, or a revived apprehension of danger at home, may aid in binding the States in one political system, or that the geographical and commercial ligatures may have that effect, or that the present discord of interests between the North and the South may give way to a less diversity in the application of labor, or to the mutual advantage of a safe and constant interchange of the different products of labor in different sections. All this may happen, and with the exception of foreign hostility, hoped for. But, in the mean time, local prejudices and ambitious leaders may be but too successful in finding or creating occasions for the nullifying experiment of breaking a more

[8] The above was written when the number of the States was twenty-four. Now, when there are thirty-one States, the proportion would be *eight to twenty-three*! that is, that a single State nullifying, the nullification would hold good till a convention were called, and then if the nullifying State could procure seven others to join, the nullification would become absolute—the eight States overruling the twenty-three.

beautiful China vase[9] than the British empire ever was, into parts which a miracle only could reunite."

Incidentally, Mr. Madison, in these letters, vindicates also his compeers, Mr. Jefferson and Mr. Monroe. In the letter to Mr. Cabell, of May 31, 1830, he says:

"You will see, in vol. iii., page 429, of Mr. Jefferson's Correspondence, a letter to W. C. Nicholas, proving that he had nothing to do with the Kentucky resolutions, of 1799, in which the word 'nullification' is found. The resolutions of that State, in 1798, which were drawn by him, and have been republished with the proceedings of Virginia, do not contain this or any equivalent word."

In the letter to Mr. Trist, of December, 1831, after developing at some length the inconsistencies and fatuity of the "nullification prerogative," Mr. Madison says:

"Yet this has boldly sought a sanction, under the name of Mr. Jefferson, because, in his letter to Mr. Cartwright, he held out a convention of the States as, with us, a peaceful remedy, in cases to be decided in Europe by intestine wars. Who can believe that Mr. Jefferson referred to a convention summoned at the pleasure of a single State, with an interregnum during its deliberations; and, above all, with a rule of decision subjecting nearly three fourths to one fourth? No man's creed was more opposed to such an inversion of the republican order of things."

In a letter to Mr. Townsend of South Carolina, December 18, 1831:

"You ask 'whether Mr. Jefferson was really the author of the Kentucky resolutions, of 1799;' [in which the word 'nullify' is used, though not in the sense of South Carolina nullification.] The inference that he was not is as conclusive as it is obvious, from his letter to Col. Wilson Cary Nicholas, of September 5, 1799, in which he expressly declines, for reasons stated, preparing any thing for the legislature of that year.

"That he (Mr. Jefferson) ever asserted a right in a single State to arrest the execution of an act of Congress—the arrest to be valid and permanent, unless reversed by three fourths of the States—is countenanced by nothing known to have been said or done by him. In his letter to Major Cartwright, he refers to a convention as a peaceable remedy for conflicting claims of power in our compound government; but, whether he alluded to a convention as prescribed by the constitution, or brought about by any other mode, his respect for the will of majorities, as the vital principle of republican government, makes it certain that he could not have meant a convention in which a minority of seven States was to prevail over seventeen, either in amending or expounding the constitution."

In the letter (before quoted) to Mr. Trist, December 23, 1832:

"It is remarkable how closely the nullifiers, who make the name of Mr. Jefferson the pedestal for their colossal heresy, shut their eyes and lips whenever his authority is ever so clearly and emphatically against them. You have noticed what he says in his letters to Monroe and Carrington, pages 43 and 302, vol. ii., with respect to the powers of the old Congress to coerce delinquent States, and his reasons for preferring for the purpose a naval to a military force; and, moreover, that it was not necessary to find a right to coerce in the federal articles, that being inherent in the nature of a compact."

In another letter to Mr. Trist, dated August 25, 1834:

[9] See Franklin's letter to Lord Howe, in 1776.

“The letter from Mr. Monroe to Mr. Jefferson, of which you inclose an extract, is important. I have one from Mr. Monroe, on the same occasion, more in detail, and not less emphatic in its anti-nullifying language.”

In the notes “On Nullification,” written in 1835-’6:

“The amount of this modified right of nullification is, that a single State may arrest the operation of a law of the United States, and institute a process which is to terminate in the ascendency of a minority over a large majority. And this new-fangled theory is attempted to be fathered on Mr. Jefferson, the apostle of republicanism, and whose own words declare, that ‘acquiescence in the decision of the majority is the vital principle of it.’ Well may the friends of Mr. Jefferson disclaim any sanction to it, or to any constitutional right of nullification from his opinions.”

In a paper drawn by Mr. Madison, in September, 1829, when his anxieties began first to be disturbed by the portentous approach of the nullification doctrine, he concludes with this earnest admonition, appropriate to the time when it was written, and not less so to the present time, and to posterity:

“In all the views that may be taken of questions between the State governments and the general government, the awful consequences of a final rupture and dissolution of the Union should never for a moment be lost sight of. Such a prospect must be deprecated—must be shuddered at by every friend of his country, to liberty, to the happiness of man. For, in the event of a dissolution of the Union, an impossibility of ever renewing it is brought home to every mind by the difficulties encountered in establishing it. The propensity of all communities to divide, when not pressed into a unity by external dangers, is a truth well understood. There is no instance of a people inhabiting even a small island, if remote from foreign danger, and sometimes in spite of that pressure, who are not divided into alien, rival, hostile tribes. The happy union of these States is a wonder; their constitution a miracle; their example the hope of liberty throughout the world. Wo to the ambition that would meditate the destruction of either.”

These extracts, voluminous as they are, are far from exhausting the abundant material which these admirable writings of Mr. Madison contain, on the topic of nullification. They come to us, for our admonition and guidance, with the solemnity of a voice from the grave; and I leave them, without comment, to be pondered in the hearts of his countrymen. Notwithstanding the advanced age and growing bodily infirmities of Mr. Madison, at the time when these letters were written, his mind was never more vigorous nor more luminous. Every generous mind must sympathize with him, in this necessity, in which he felt himself in his extreme age, and when done, not only with the public affairs of the country, but nearly done with all the affairs of the world, to defend himself and associates from the attempt to fasten upon him and them, in spite of his denials, a criminal and anarchical design—wicked in itself, and subversive of the government which he had labored so hard to found, and utterly destructive to that particular feature considered the crowning merit of the constitution; and which wise men and patriotic had specially devised to save our Union from the fate of all leagues. We sympathize with him in such a necessity. We should feel for any man, in the most ordinary case, to whose words a criminal intention should be imputed in defiance of his disclaimers; but, in the case of Mr. Madison—a man so modest, so pure, so just—of such dignity and gravity, both for his age, his personal qualities, and the exalted offices which he had held; and in a case which went to civil war, and to the destruction of a government of which he was one of the most faithful and zealous founders—in such a case, an attempt to force upon such a man a meaning which he disavows, becomes not only outrageous and odious, but criminal and impious. And if, after the authentic disclaimers which he has made

in his advanced age, and which are now published, any one continues to attribute this heresy to him, such a person must be viewed by the public as having a mind that has lost its balance! or, as having a heart void of social duty, and fatally bent on a crime, the guilt of which must be thrown upon the tenants of the tomb—speechless, but not helpless! for, every just man must feel their cause his own! and rush to a defence which public duty, private honor, patriotism, filial affection, and gratitude to benefactors impose on every man (born wheresoever he may have been) that enjoys the blessings of the government which their labors gave us.

89. The Author's Own View Of The Nature Of Our Government, As Being A Union In Contradistinction To A League: Presented In A Subsequent Speech On Missouri Resolutions

I do not discuss these resolutions at this time. That discussion is no part of my present object. I speak of the pledge which they contain, and call it a mistake; and say, that whatever may be the wishes or the opinions of the people of Missouri on the subject of the extension or non-extention of slavery to the Territories, they have no idea of resisting any act of Congress on the subject. They abide the law, when it comes, be it what it may, subject to the decision of the ballot-box and the judiciary.

I concur with the people of Missouri in this view of their duty, and believe it to be the only course consistent with the terms and intention of our constitution, and the only one which can save this Union from the fate of all the confederacies which have successively appeared and disappeared in the history of nations. Anarchy among the members, and not tyranny in the head, has been the rock on which all such confederacies have split. The authors of our present form of government knew the danger of this rock, and they endeavored to provide against it. They formed a Union—not a league—a federal legislature to act upon persons, not upon States; and they provided peaceful remedies for all the questions which could arise between the people and the government. They provided a federal judiciary to execute the federal laws when found to be constitutional; and popular elections to repeal them when found to be bad. They formed a government in which the law and the popular will, and not the sword, was to decide questions; and they looked upon the first resort to the sword for the decision of such questions as the death of the Union.

The old confederation was a league, with a legislature acting upon sovereignties, without power to enforce its decrees, and without union except at the will of the parties. It was powerless for government, and a rope of sand for union. It was to escape from that helpless and tottering government that the present constitution was formed; and no less than ten numbers of the federalist—from the tenth to the twentieth—were devoted to this defect of the old system, and the necessity of the new one. I will read some extracts from these numbers—the joint product of Hamilton and Madison—to show the difference between the league which we abandoned and the Union which we formed—the dangers of the former and the benefits of the latter—that it may be seen that the resolutions of the general assembly of Missouri, if carried out to their conclusions, carry back this Union to the league of the confederation—make it a rope of sand, and the sword the arbiter between the federal head and its members.

Mr. B. then read as follows:

"The great and radical vice, in the structure of the existing confederation, is in the principle of legislation for States or governments, in their corporate or collective capacities, and as contra-distinguished from the individuals of which they consist. Though this principle does not run through all the powers delegated to the Union, yet it prevades and governs those on which the efficacy of the rest depends. The consequence of this is, that, though in theory constitutionally binding on the members of the Union, yet in practice they are mere recommendations, which the States observe or disregard at their option. Government implies

the power of making laws. It is essential to the idea of a law that it be attended with a sanction, or, in other words, a penalty or punishment for disobedience. This penalty, whatever it may be, can only be inflicted in two ways—by the agency of the courts and ministers of justice, or by military force; by the coercion of the magistracy, or by the coercion of arms. The first kind can evidently apply only to men; the last kind must of necessity be employed against bodies politic, or communities, or States. It is evident there is no process of a court by which their observance of the laws can, in the last resort, be enforced. Sentences may be denounced against them for violations of their duty; but these sentences can only be carried into execution by the sword. In an association where the general authority is confined to the collective bodies of the communities that compose it, every breach of the laws must involve a state of war; and military execution must become the only instrument of civil obedience. Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it."

Of the certain destruction of the Union when the sword is once drawn between the members of a Union and their head, they speak thus:

"When the sword is once drawn, the passions of men observe no bounds of moderation. The suggestions of wounded pride, the instigations of irritated resentment, would be apt to carry the States, against which the arms of the Union were exerted, to any extremes necessary to avenge the affront, or to avoid the disgrace of submission. The first war of this kind would probably terminate in a dissolution of the Union."

Of the advantage and facility of the working of the federal system, and its peaceful, efficient, and harmonious operation—if the federal laws are made to operate upon citizens, and not upon States—they speak in these terms:

"But if the execution of the laws of the national government should not require the intervention of the State legislatures; if they were to pass into immediate operation upon the citizens themselves, the particular governments could not interrupt their progress without an open and violent exertion of unconstitutional power. They would be obliged to act, and in such manner as would leave no doubt that they had encroached on the national rights. An experiment of this nature would always be hazardous in the face of a constitution in any degree competent to its own defence, and of a people enlightened enough to distinguish between a legal exercise and an illegal usurpation of authority. The success of it would require not merely a factious majority in the legislature, but the concurrence of the courts of justice, and of the body of the people. If the judges were not embarked in a conspiracy with the legislature, they would pronounce the resolutions of such a majority to be contrary to the supreme law of the land, unconstitutional and void. If the people were not tainted with the spirit of their State representatives, they, as the natural guardians of the constitution, would throw their weight into the national scale, and give it a decided preponderance in the contest."

Of the ruinous effects of these civil wars among the members of a republican confederacy, and their disastrous influence upon the cause of civil liberty itself throughout the world, they thus speak:

"It is impossible to read the history of the petty republics of Greece and Italy, without feeling sensations of disgust and horror at the distractions with which they were continually agitated, and at the rapid succession of revolutions by which they were kept continually vibrating between the extremes of tyranny and anarchy. From the disorders which disfigure the annals of those republics, the advocates of despotism have drawn arguments, not only against the forms of republican government, but against the very principles of civil liberty. They have

decried all free government as inconsistent with the order of society, and have indulged themselves in malicious exultation over its friends and partisans."

And again they say:

"It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislation; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The majesty of the national authority must be manifested through the medium of the courts of justice."

After reading these extracts, Mr. B. said: It was to get rid of the evils of the old confederation that the present Union was formed; and, having formed it, they who formed it undertook to make it perpetual, and for that purpose had recourse to all the sanctions held sacred among men—commands, prohibitions, oaths. The States were forbid to form compacts or agreements with each other; the constitution and the laws made in pursuance of it, were declared to be the supreme law of the land; and all authorities, State and federal, legislative, executive, and judicial, were to be sworn to support it. The resolutions which have been read contradict all this; and the General Assembly mistook their own powers as much as they mistook the sentiments of the people of Missouri when they adopted them.

90. Public Lands:—Distribution Of Proceeds

Mr. Clay renewed, at this session, 1832-'33, the bill which he had brought in the session before, and which had passed the Senate, to divide the net proceeds of the sales of public lands among the States, to be applied to such purposes as the legislatures of the respective States should think proper. His principal arguments, in favor of the bill, were: *first*, the aid which the distribution would give to the States, in developing their resources and promoting their prosperity; *secondly*, the advantage to the federal government, in settling the question of the mode of disposing of the public lands. He explained his bill, which, at first, contained a specification of the objects to which the States should apply the dividends they received, which was struck out, in the progress of the bill, and stated its provisions to be:

"To set apart, for the benefit of the new States, twelve and a half per cent., out of the aggregate proceeds, in addition to the five per cent., which was now allowed to them by compact, before any division took place among the States generally. It was thus proposed to assign, in the first place, seventeen and a half per cent. to the new States, and then to divide the whole of the residue among the twenty-four States. And, in order to do away any inequality among the new States, grants are specifically made by the bill to those who had not received, heretofore, as much lands as the rest of the new States, from the general government, so as to put all the new States on an equal footing. This twelve and a half per cent., to the new States, to be at their disposal, for either education or internal improvement, and the residue to be at the disposition of the States, subject to no other limitation than this: that it shall be at their option to apply the amount received either to the purposes of education, or the colonization of free people of color, or for internal improvements, or in debts which may have been contracted for internal improvements. And, with respect to the duration of this scheme of distribution proposed by the bill, it is limited to five years, unless hostilities shall occur between the United States and any foreign power; in which event, the proceeds are to be applied to the carrying on such war, with vigor and effect, against any common enemy with whom we may be brought in contact. After the conclusion of peace, and after the discharge of the debt created by any such war, the aggregate funds to return to that peaceful destination to which it was the intention of the bill that they should now be directed, that is, to the improvement of the moral and physical condition of the country, and the promotion of the public happiness and prosperity."

He then spoke of the advantages of settling the question of the manner of disposing of the public lands, and said:

"The first remark which seemed to him to be called for, in reference to this subject, was as to the expediency, he would say the necessity, of its immediate settlement. On this point, he was happy to believe that there was a unanimous concurrence of opinion in that body. However they might differ as to the terms on which the distribution of these lands should be made, they all agreed that it was a question which ought to be promptly and finally, he hoped amicably, adjusted. No time more favorable than the present moment could be selected for the settlement of this question. The last session was much less favorable for the accomplishment of this object; and the reasons were sufficiently obvious, without any waste of time in their specification. If the question were not now settled, but if it were to be made the subject of an annual discussion, mixing itself up with all the measures of legislation, it would be felt in its influence upon all, would produce great dissensions both in and out of the House, and affect extensively all the great and important objects which might be before that body. They had had, in the several States, some experience on that subject; and, without going into any details

on the subject, he would merely state that it was known, that, for a long period, the small amount of the public domain possessed by some of the States, in comparison with the quantity possessed by the general government, had been a cause of great agitation in the public mind, and had greatly influenced the course of legislation. Persons coming from the quarter of the State in which the public land was situated, united in sympathy and interest, constituted always a body who acted together, to promote their common object, either by donations to settlers, or reduction in the price of the public lands, or the relief of those who are debtors for the public domain; and were always ready, as men always will be, to second all those measures which look towards the accomplishment of the main object which they have in view. So, if this question were not now settled, it would be a source of inexpressible difficulty hereafter, influencing all the great interests of the country, in Congress, affecting great events without, and perhaps adding another to those unhappy causes of division, which unfortunately exist at this moment."

In his arguments in support of his bill, Mr. Clay looked to the lands as a source of revenue to the States or the federal government, from their sale, and not from their settlement and cultivation, and the revenue to be derived from the wealth and population to which their settlement would give rise; and, concluding with an encomium on his bill under the aspect of revenue from sales, he said:

"He could not conceive a more happy disposition of the proceeds of the public lands, than that which was provided by this bill. It was supposed that five years would be neither too long nor too short a period for a fair experiment. In case a war should break out, we may withdraw from its peaceful destination a sum of from two and a half to three and a half millions of dollars per annum, and apply it to a vigorous prosecution of the war—a sum which would pay the interest on sixty millions of dollars, which might be required to sustain the war, and a sum which is constantly and progressively increasing. It proposes, now that the general government has no use for the money, now that the surplus treasure is really a source of vexatious embarrassment to us, and gives rise to a succession of projects, to supply for a short time a fund to the States which want our assistance, to advance to them that which we do not want, and which they will apply to great beneficial national purposes; and, should war take place, to divert it to the vigorous support of the war; and, when it ceases, to apply it again to its peaceful purposes. And thus we may grow, from time to time, with a fund which will endure for centuries, and which will augment with the growth of the nation, aiding the States in seasons of peace, and sustaining the general government in periods of war."

Mr. Calhoun deprecated this distribution of the land money as being dangerous in itself and unconstitutional, and as leading to the distribution of other revenue—in which he was prophetic. He said:

"He could not yield his assent to the mode which this bill proposed to settle the agitated question of the public lands. In addition to several objections of a minor character, he had an insuperable objection to the leading principle of the bill, which proposed to distribute the proceeds of the lands among the States. He believed it to be both dangerous and unconstitutional. He could not assent to the principle, that Congress had a right to denationalize the public funds. He agreed that the objection was not so decided in case of the proceeds of lands, as in that of revenue collected from taxes or duties. The senator from Ohio had adduced evidence from the deed of cession, which certainly countenanced the idea that the proceeds of the lands might be subject to the distribution proposed in the bill; but he was far from being satisfied that the argument was solid or conclusive. If the principle of distribution could be confined to the proceeds of the lands, he would acknowledge that his objection to the principle would be weakened.

"He dreaded the force of precedent, and he foresaw that the time would come when the example of the distribution of the proceeds of the public lands would be urged as a reason for distributing the revenue derived from other sources. Nor would the argument be devoid of plausibility. If we, of the Atlantic States, insist that the revenue of the West, derived from lands, should be equally distributed among all the States, we must not be surprised if the interior States should, in like manner, insist to distribute the proceeds of the customs, the great source of revenue in the Atlantic States. Should such a movement be successful, it must be obvious to every one, who is the least acquainted with the workings of the human heart, and the nature of government, that nothing would more certainly endanger the existence of the Union. The revenue is the power of the State, and to distribute its revenue is to dissolve its power into its original elements."

Attempts were made to postpone the bill to the next session, which failed; and it passed the Senate by a vote of 24 to 20.

Yeas.—Messrs. Bell, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Wilkins—24.

Nays.—Messrs. Benton, Black, Brown, Buckner, Calhoun, Forsyth, Grundy, Hill, Kane, King, Mangum, Miller, Moore, Rives, Robinson, Smith, Tipton, Tyler, White, Wright—20.

The bill went to the House and received amendments, which did not obtain the concurrence of the Senate until midnight of the first of March, which, being the short session, was within twenty-four hours of the constitutional termination of the Congress, which was limited to the 3d—which falling this year on Sunday, the Congress would adjourn at midnight of the 2nd. Further efforts were made to postpone it, and upon the ground that, in a bill of that magnitude and novelty, the President was entitled to the full ten days for the consideration of it which the constitution allowed him, and he would have but half a day; for if passed that night it could only reach him in the forenoon of the next day—leaving him but half a day for his consideration of the measure, where the constitution allowed him ten; and that half day engrossed with all crowded business of an expiring session. The next evening, the President attended, as usual, in a room adjoining the Senate chamber, to be at hand to sign bills and make nominations. It was some hours in the night when the President sent for me, and withdrawing into the recess of a window, told me that he had a veto message ready on the land bill, but doubted about sending it in, lest there should not be a full Senate; and intimated his apprehension that Mr. Calhoun and some of his friends might be absent, and endanger the bill: and wished to consult me upon that point. I told him I would go and reconnoitre the chamber, and adjacent rooms; did so—found that Mr. Calhoun and his immediate friends were absent—returned and informed him, when he said he would keep the bill until the next session, and then return it with a fully considered message—his present one being brief, and not such as to show his views fully. I told him I thought he ought to do so—that such a measure ought not to be passed in the last hours of a session, in a thin Senate, and upon an imperfect view of his objections; and that the public good required it to be held up. It was so; and during the long vacation of nine months which intervened before the next session, the opposition presses and orators kept the country filled with denunciations of the enormity of his conduct in "*pocketing*" the hill—as if it had been a case of "flat burglary," instead of being the exercise of a constitutional right, rendered most just and proper under the extraordinary circumstances which had attended the passage, and intended return of the bill. At the commencement of the ensuing session he returned the bill, with his well-considered objections, in an ample message, which, after going over a full history of the derivation of the lands, came to the following conclusions:

"1. That one of the fundamental principles, on which the confederation of the United States was originally based, was, that the waste lands of the West, within their limits, should be the common property of the United States.

"2. That those lands were ceded to the United States by the States which claimed them, and the cessions were accepted, on the express condition that they should be disposed of for the common benefit of the States, according to their respective proportions in the general charge and expenditure, and for no other purpose whatsoever.

"3. That, in execution of these solemn compacts, the Congress of the United States did, under the confederation, proceed to sell these lands, and put the avails into the common treasury; and, under the new constitution, did repeatedly pledge them for the payment of the public debt of the United States, by which pledge each State was expected to profit in proportion to the general charge to be made upon it for that object.

"These are the first principles of this whole subject, which, I think, cannot be contested by any one who examines the proceedings of the revolutionary Congress, the sessions of the several States, and the acts of Congress, under the new constitution. Keeping them deeply impressed upon the mind, let us proceed to examine how far the objects of the cessions have been completed, and see whether those compacts are not still obligatory upon the United States.

"The debt, for which these lands were pledged by Congress, may be considered as paid, and they are consequently released from that lien. But that pledge formed no part of the compacts with the States, or of the conditions upon which the cessions were made. It was a contract between new parties—between the United States and their creditors. Upon payment of the debt, the compacts remain in full force, and the obligation of the United States to dispose of the lands for the common benefit, is neither destroyed nor impaired. As they cannot now be executed in that mode, the only legitimate question which can arise is, in what other way are these lands to be hereafter disposed of for the common benefit of the several States, 'according to their respective and usual proportion in the general charge and expenditure?' The cessions of Virginia, North Carolina, and Georgia, in express terms, and all the rest impliedly, not only provide thus specifically the proportion, according to which each State shall profit by the proceeds of the land sales, but they proceed to declare that they shall be 'faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever.' This is the fundamental law of the land, at this moment, growing out of compacts which are older than the constitution, and formed the corner stone on which the Union itself was erected.

"In the practice of the government, the proceeds of the public lands have not been set apart as a separate fund for the payment of the public debt, but have been, and are now, paid into the treasury, where they constitute a part of the aggregate of revenue, upon which the government draws, as well for its current expenditures as for payment of the public debt. In this manner, they have heretofore, and do now, lessen the general charge upon the people of the several States, in the exact proportions stipulated in the compacts.

"These general charges have been composed, not only of the public debt and the usual expenditures attending the civil and military administrations of the government, but of the amounts paid to the States, with which these compacts were formed; the amounts paid the Indians for their right of possession; the amounts paid for the purchase of Louisiana and Florida; and the amounts paid surveyors, registers, receivers, clerks, &c., employed in preparing for market, and selling, the western domain. From the origin of the land system, down to the 30th September, 1832, the amount expended for all these purposes has been

about $49,701,280 and the amount received from the sales, deducting payments on account of roads, &c., about $38,386,624. The revenue arising from the public lands, therefore, has not been sufficient to meet the general charges on the treasury, which have grown out of them, by about $11,314,656. Yet, in having been applied to lessen those charges, the conditions of the compacts have been thus far fulfilled, and each State has profited according to its usual proportion in the general charge and expenditure. The annual proceeds of land sales have increased, and the charges have diminished; so that, at a reduced price, those lands would now defray all current charges growing out of them, and save the treasury from further advances on their account. Their original intent and object, therefore, would be accomplished, as fully as it has hitherto been, by reducing the price, and hereafter, as heretofore, bringing the proceeds into the treasury. Indeed, as this is the only mode in which the objects of the original compact can be attained, it may be considered, for all practical purposes, that it is one of their requirements.

"The bill before me begins with an entire subversion of every one of the compacts by which the United States became possessed of their western domain, and treats the subject as if they never had existence, and as if the United States were the original and unconditional owners of all the public lands. The first section directs—

"'That, from and after the 31st day of December, 1832, there shall be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, and Louisiana, over and above what each of the said States is entitled to by the terms of the compacts entered into between them, respectively, upon their admission into the Union and the United States, the sum of twelve and a half per centum upon the net amount of the sales of the public lands, which, subsequent to the day aforesaid, shall be made within the several limits of the said States; which said sum of twelve and a half per centum shall be applied to some object or objects of internal improvement or education, within the said States, under the direction of their several legislatures.'

"This twelve and a half per centum is to be taken out of the net proceeds of the land sales, before any apportionment is made; and the same seven States, which are first to receive this proportion, are also to receive their due proportion of the residue, according to the ratio of general distribution.

"Now, waiving all considerations of equity or policy, in regard to this provision, what more need be said to demonstrate its objectionable character, than that it is in direct and undisguised violation of the pledge given by Congress to the States, before a single cession was made; that it abrogates the condition upon which some of the States came into the Union; and that it sets at nought the terms of cession spread upon the face of every grant under which the title to that portion of the public land is held by the federal government?

"In the apportionment of the remaining seven eighths of the proceeds, this bill, in a manner equally undisguised, violates the conditions upon which the United States acquired title to the ceded lands. Abandoning altogether the ratio of distribution, according to the general charge and expenditure provided by the compacts, it adopts that of the federal representative population. Virginia, and other States, which ceded their lands upon the express condition that they should receive a benefit from their sales, in proportion to their part of the general charge, are, by the bill, allowed only a portion of seven eighths of their proceeds, and that not in the proportion of general charge and expenditure, but in the ratio of their federal representative population.

"The constitution of the United States did not delegate to Congress the power to abrogate these compacts. On the contrary, by declaring that nothing in it 'shall be so construed as to

prejudice any claims of the United States, or of any particular State,' it virtually provides that these compacts, and the rights they secure, shall remain untouched by the legislative power, which shall only make all 'needful rules and regulations' for carrying them into effect. All beyond this, would seem to be an assumption of undelegated power.

"These ancient compacts are invaluable monuments of an age of virtue, patriotism, and disinterestedness. They exhibit the price that great States, which had won liberty, were willing to pay for that Union, without which, they plainly saw, it could not be preserved. It was not for territory or State power that our revolutionary fathers took up arms; it was for individual liberty, and the right of self-government. The expulsion, from the continent, of British armies and British power was to them a barren conquest, if, through the collisions of the redeemed States, the individual rights for which they fought should become the prey of petty military tyrannies established at home. To avert such consequences, and throw around liberty the shield of union, States, whose relative strength, at the time, gave them a preponderating power, magnanimously sacrificed domains which would have made them the rivals of empires, only stipulating that they should be disposed of for the common benefit of themselves and the other confederated States. This enlightened policy produced union, and has secured liberty. It has made our waste lands to swarm with a busy people, and added many powerful States to our confederation. As well for the fruits which these noble works of our ancestors have produced, as for the devotedness in which they originated, we should hesitate before we demolish them.

"But there are other principles asserted in the bill, which would have impelled me to withhold my signature, had I not seen in it a violation of the compacts by which the United States acquired title to a large portion of the public lands. It reasserts the principle contained in the bill authorizing a subscription to the stock of the Maysville, Washington, Paris, and Lexington Turnpike Road Company, from which I was compelled to withhold my consent, for reasons contained in my message of the 27th May 1830, to the House of Representatives. The leading principle, then asserted, was, that Congress possesses no constitutional power to appropriate any part of the moneys of the United States for objects of a local character within the States. That principle, I cannot be mistaken in supposing, has received the unequivocal sanction of the American people, and all subsequent reflection has but satisfied me more thoroughly that the interests of our people, and the purity of our government, if not its existence, depend on its observance. The public lands are the common property of the United States, and the moneys arising from their sales are a part of the public revenue. This bill proposes to raise from, and appropriate a portion of, this public revenue to certain States, providing expressly that it shall 'be applied to objects of internal improvement or education within those States,' and then proceeds to appropriate the balance to all the States, with the declaration that it shall be applied 'to such purposes as the legislatures of the said respective States shall deem proper.' The former appropriation is expressly for internal improvements or education, without qualification as to the kind of improvements, and, therefore, in express violation of the principle maintained in my objections to the turnpike road bill, above referred to. The latter appropriation is more broad, and gives the money to be applied to any local purpose whatsoever. It will not be denied, that, under the provisions of the bill, a portion of the money might have been applied to making the very road to which the bill of 1830 had reference, and must, of course, come within the scope of the same principle. If the money of the United States cannot be applied to local purposes through its own agents, as little can it be permitted to be thus expended through the agency of the State governments.

"It has been supposed that, with all the reductions in our revenue which could be speedily effected by Congress, without injury to the substantial interests of the country, there might be, for some years to come, a surplus of moneys in the treasury; and that there was, in

principle, no objection to returning them to the people by whom they were paid. As the literal accomplishment of such an object is obviously impracticable, it was thought admissible, as the nearest approximation to it, to hand them over to the State governments, the more immediate representatives of the people, to be by them applied to the benefit of those to whom they properly belonged. The principle and the object was, to return to the people an unavoidable surplus of revenue which might have been paid by them under a system which could not at once be abandoned; but even this resource, which at one time seemed to be almost the only alternative to save the general government from grasping unlimited power over internal improvements, was suggested with doubts of its constitutionality.

"But this bill assumes a new principle. Its object is not to return to the people an unavoidable surplus of revenue paid in by them, but to create a surplus for distribution among the States. It seizes the entire proceeds of one source of revenue, and sets them apart as a surplus, making it necessary to raise the money for supporting the government, and meeting the general charges, from other sources. It even throws the entire land system upon the customs for its support, and makes the public lands a perpetual charge upon the treasury. It does not return to the people moneys accidentally or unavoidably paid by them to the government by which they are not wanted; but compels the people to pay moneys into the treasury for the mere purpose of creating a surplus for distribution to their State governments. If this principle be once admitted, it is not difficult to perceive to what consequences it may lead. Already this bill, by throwing the land system on the revenues from imports for support, virtually distributes among the States a part of those revenues. The proportion may be increased from time to time, without any departure from the principle now asserted, until the State governments shall derive all the funds necessary for their support from the treasury of the United States; or, if a sufficient supply should be obtained by some States and not by others, the deficient States might complain, and, to put an end to all further difficulty, Congress, without assuming any new principle, need go but one step further, and put the salaries of all the State governors, judges, and other officers, with a sufficient sum for other expenses, in their general appropriation bill.

"It appears to me that a more direct road to consolidation cannot be devised. Money is power, and in that government which pays all the public officers of the States, will all political power be substantially concentrated. The State governments, if governments they might be called, would lose all their independence and dignity. The economy which now distinguishes them would be converted into a profusion, limited only by the extent of the supply. Being the dependants of the general government, and looking to its treasury as the source of all their emoluments, the State officers, under whatever names they might pass, and by whatever forms their duties might be prescribed, would, in effect, be the mere stipendaries and instruments of the central power.

"I am quite sure that the intelligent people of our several States will be satisfied, on a little reflection, that it is neither wise nor safe to release the members of their local legislatures from the responsibility of levying the taxes necessary to support their State governments, and vest it in Congress, over most of whose members they have no control. They will not think it expedient that Congress shall be the tax-gatherer and paymaster of all their State governments, thus amalgamating all their officers into one mass of common interest and common feeling. It is too obvious that such a course would subvert our well-balanced system of government, and ultimately deprive us of the blessings now derived from our happy union.

"However willing I might be that any unavoidable surplus in the treasury should be returned to the people through their State governments, I cannot assent to the principle that a surplus may be created for the purpose of distribution. Viewing this bill as, in effect, assuming the

right not only to create a surplus for that purpose, but to divide the contents of the treasury among the States without limitation, from whatever source they may be derived, and asserting the power to raise and appropriate money for the support of every State government and institution, as well as for making every local improvement, however trivial, I cannot give it my assent.

"It is difficult to perceive what advantages would accrue to the old States or the new from the system of distribution which this bill proposes, if it were otherwise unobjectionable. It requires no argument to prove, that if three millions of dollars a year, or any other sum, shall be taken out of the treasury by this bill for distribution, it must be replaced by the same sum collected from the people through some other means. The old States will receive annually a sum of money from the treasury, but they will pay in a larger sum, together with the expenses of collection and distribution. It is only their proportion of seven eights of the proceeds of land sales which they are to receive, but they must pay their due proportion of the whole. Disguise it as we may, the bill proposes to them a dead loss in the ratio of eight to seven, in addition to expenses and other incidental losses. This assertion is not the less true because it may not at first be palpable. Their receipts will be in large sums, but their payments in small ones. The governments of the States will receive seven dollars, for which the people of the States will pay eight. The large sums received will be palpable to the senses; the small sums paid, it requires thought to identify. But a little consideration will satisfy the people that the effect is the same as if seven hundred dollars were given them from the public treasury, for which they were at the same time required to pay in taxes, direct or indirect, eight hundred.

"I deceive myself greatly if the new States would find their interests promoted by such a system as this bill proposes. Their true policy consists in the rapid settling and improvement of the waste lands within their limits. As a means of hastening those events, they have long been looking to a reduction in the price of public lands upon the final payment of the national debt. The effect of the proposed system would be to prevent that reduction. It is true, the bill reserves to Congress the power to reduce the price, but the effect of its details, as now arranged, would probably be forever to prevent its exercise.

"With the just men who inhabit the new States, it is a sufficient reason to reject this system, that it is in violation of the fundamental laws of the republic and its constitution. But if it were a mere question of interest or expediency, they would still reject it. They would not sell their bright prospect of increasing wealth and growing power at such a price. They would not place a sum of money to be paid into their treasuries, in competition with the settlement of their waste lands, and the increase of their population. They would not consider a small or large annual sum to be paid to their governments, and immediately expended, as an equivalent for that enduring wealth which is composed of flocks and herds, and cultivated farms. No temptation will allure them from that object of abiding interest, the settlement of their waste lands, and the increase of a hardy race of free citizens, their glory in peace and their defence in war.

"On the whole, I adhere to the opinion expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey, and sale. Although these expenses have not been met by the proceeds of sales heretofore, it is quite certain they will be hereafter, even after a considerable reduction in the price. By meeting in the treasury so much of the general charge as arises from that source, they will be hereafter, as they have been heretofore, disposed of for the common benefit of the United States, according to the compacts of cession. I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new

States, that the price of these lands shall be reduced and graduated; and that, after they have been offered for a certain number of years, the refuse, remaining unsold, shall be abandoned to the States, and the machinery of our land system entirely withdrawn. It cannot be supposed the compacts intended that the United States should retain forever a title to lands within the States, which are of no value; and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.

"This plan for disposing of the public lands impairs no principle, violates no compact, and deranges no system. Already has the price of those lands been reduced from two dollars per acre to one dollar and a quarter; and upon the will of Congress, it depends whether there shall be a further reduction. While the burdens of the East are diminishing by the reduction of the duties upon imports, it seems but equal justice that the chief burden of the West should be lightened in an equal degree at least. It would be just to the old States and the new, conciliate every interest, disarm the subject of all its dangers, and add another guaranty to the perpetuity of our happy Union."

Statement respecting the revenue derived from the public lands, accompanying the President's Message to the Senate, December 4th, 1833, stating his reasons for not approving the Land Bill:

Statement of the amount of money which has been paid by the United States for the title to the public lands, including the payments made under the Louisiana and Florida treaties; the compact with Georgia; the settlement with the Yazoo claimants; the contracts with the Indian tribes; and the expenditures for compensation to commissioners, clerks, surveyors, and other officers, employed by the United States for the management and sale of the Western domain; the gross amount of money received into the treasury, as the proceeds of public lands, to the 30th of September, 1832; also, the net amount, after deducting five per cent., expended on account of roads within, and leading to the Western States, &c., and sums refunded on account of errors in the entries of public lands.

Payment on account of the purchase of Louisiana:

Principal,

$14,984,872 28

Interest on $11,250,000

8,529,353 43

$23,514,225 71

Payment on account of the purchase of Florida:

Principal, $4,985,599 82

Interest to 30th September, 1832, 1,489,768 66

$6,475,368 48

Payment of compact with Georgia,

1,065,484 06

Payment of the settlement with the Yazoo claimants,

1,830,808 04

Payment of contracts with the several Indian tribes (all expenses on account of Indians),

13,064,677 45

Payment of commissioners, clerks, and other officers, employed by the United States for the management

and sale of the Western domain,

3,750,716 43

$49,701,280 17

Amount of money received into the treasury as the proceeds of public lands to 30th September, 1832,

$39,614,000 07

Deduct payments from the treasury on account of roads, &c.,

1,227,375 94

$38,386,624 13

T. L. Smith, *Reg.*

Treasury Department, }
Register's Office, March 1, 1833. }

Such was this ample and well-considered message, one of the wisest and most patriotic ever delivered by any President, and presenting General Jackson under the aspect of an immense elevation over the ordinary arts of men who run a popular career, and become candidates for popular votes. Such arts require addresses to popular interests, the conciliation of the interested passions, the gratification of cupidity, the favoring of the masses in the distribution of money or property as well as the enrichment of classes in undue advantages. General Jackson exhibits himself as equally elevated above all these arts—as far above seducing the masses with agrarian laws as above enriching the few with the plundering legislation of banks and tariffs; and the people felt this elevation, and did honor to themselves in the manner in which they appreciated it. Far from losing his popularity, he increased it, by every act of disdain which he exhibited for the ordinary arts of conciliating popular favor. His veto message, on this occasion was an exemplification of all the high qualities of the public man. He sat out with showing that these lands, so far as they were divided from the States, were granted as a common fund, to be disposed of for the benefit of all the States, according to their usual respective proportions in the general charge and expenditure, and for no other use or purpose whatsoever; and that by the principles of our government and sound policy, those acquired from foreign governments could only be disposed of in the same manner. In addition to these great reasons of principle and policy, the message clearly points out the mischief which any scheme of distribution will inflict upon the new States in preventing reductions in the price of the public lands—in preventing donations to settlers—and in preventing the cession of the unsalable lands to the States in which they lie; and recurs to his early messages in support of the policy, now that the public debt was paid, of looking to settlement and population as the chief objects to be derived from these lands, and for that purpose that they be sold to settlers at cost.

91. Commencement Of The Twenty-Third Congress.—The Members, And President's Message

On the second day of December, 1833, commenced the first session of the Twenty-third Congress, commonly called the Panic session—one of the most eventful and exciting which the country had ever seen, and abounding with high talent. The following is the list of members:

SENATE.

Maine—Peleg Sprague, Ether Shepley.

New Hampshire—Samuel Bell, Isaac Hill.

Massachusetts—Daniel Webster, Nathaniel Silsbee.

Rhode Island—Nehemiah R. Knight, Asher Robbins.

Connecticut—Gideon Tomlinson, Nathan Smith.

Vermont—Samuel Prentiss, Benjamin Swift.

New York—Silas Wright, N. P. Tallmadge.

New Jersey—Theodore Frelinghuysen, S. L. Southard.

Pennsylvania—William Wilkins, Samuel McKean.

Delaware—John M. Clayton, Arnold Naudain.

Maryland—Ezekiel F. Chambers, Joseph Kent.

Virginia—Wm. C. Rives, John Tyler.

North Carolina—Bedford Brown, W. P. Mangum.

South Carolina—J. C. Calhoun, William C. Preston.

Georgia—John Forsyth, John P. King.

Kentucky—George M. Bibb, Henry Clay.

Tennessee—Felix Grundy, Hugh L. White.

Ohio—Thomas Ewing, Thomas Morris.

Louisiana—G. A. Waggaman, Alexander Porter.

Indiana—Wm. Hendricks, John Tipton.

Mississippi—George Poindexter, John Black.

Illinois—Elias K. Kane, John M. Robinson.

Alabama—William R. King, Gabriel Moore.

Missouri—Thomas H. Benton, Lewis F. Linn.

HOUSE OF REPRESENTATIVES.

Maine—George Evans, Joseph Hall, Leonard Jarvis, Edward Kavanagh, Moses Mason, Rufus McIntyre, Gorham Parks, Francis O. J. Smith.

New Hampshire—Benning M. Bean, Robert Burns, Joseph M. Harper, Henry Hubbard, Franklin Pierce.

Massachusetts—John Quincy Adams, Isaac C. Bates, William Baylies, George N. Briggs, Rufus Choate, John Davis, Edward Everett, Benjamin Gorham, George Grennell, jr., Gayton P. Osgood, John Reed.

Rhode Island—Tristam Burges, Dutea J. Pearce.

Connecticut—Noyes Barber, William W. Ellsworth, Samuel A. Foot, Jabez W. Huntington, Samuel Tweedy, Ebenezer Young.

Vermont—Heman Allen, Benjamin F. Deming, Horace Everett, Hiland Hall, William Slade.

New York—John Adams, Samuel Beardsley, Abraham Bockee, Charles Bodle, John W. Brown, Churchill C. Cambreleng, Samuel Clark, John Cramer, Rowland Day, John Dickson, Millard Fillmore, Philo C. Fuller, William K. Fuller, Ransom H. Gillet, Nicoll Halsey, Gideon Hard, Samuel C. Hathaway, Abner Hazeltine, Edward Howell, Abel Huntington, Noadiah Johnson, Gerrit Y. Lansing, Cornelius W. Lawrence, George W. Lay, Abijah Mann, jr., Henry C. Martindale, Charles McVean, Henry Mitchell, Sherman Page, Job Pierson, Dudley Selden, William Taylor, Joel Turrill, Aaron Vanderpoel, Isaac B. Van Houten, Aaron Ward, Daniel Wardwell, Reuben Whallon, Campbell P. White, Frederick Whittlesey.

New Jersey—Philemon Dickerson, Samuel Fowler, Thomas Lee, James Parker, Ferdinand S. Schenck, William N. Shinn.

Pennsylvania—Joseph B. Anthony, John Banks, Charles A. Barnitz, Andrew Beaumont, Horace Binney, George Burd, George Chambers, William Clark, Richard Coulter, Edward Darlington, Harmar Denny, John Galbraith, James Harper, Samuel S. Harrison, William Hiester, Joseph Henderson, Henry King, John Laporte, Joel K. Mann, Thomas M. T. McKennan, Jesse Miller, Henry A. Muhlenberg, David Potts, jr., Robert Ramsay, Andrew Stewart, Joel B. Sutherland, David E. Wagener, John G. Watmough.

Delaware—John J. Milligan.

Maryland—Richard B. Carmichael, Littleton P. Dennis, James P. Heath, William Cost Johnson, Isaac McKim, John T. Stoddert, Francis Thomas, James Turner.

Virginia—John J. Allen, William S. Archer, James M. H. Beale, Thomas T. Bouldin, Joseph W. Chinn, Nathaniel H. Claiborne, Thomas Davenport, John H. Fulton, James H. Gholson, William F. Gordon, George Loyall, Edward Lucas, John Y. Mason, William McComas, Charles F. Mercer, Samuel McDowell Moore, John M. Patton, Andrew Stevenson, William P. Taylor, Edgar C. Wilson, Henry A. Wise.

North Carolina—Daniel L. Barringer, Jesse A. Bynum, Henry W. Connor, Edmund Deberry, James Graham, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.

South Carolina—James Blair, William K. Clowney, Warren R. Davis, John M. Felder, William J. Grayson, John K. Griffin, George McDuffie, Henry L. Pinckney.

Georgia—Augustine S. Clayton, John Coffee, Thomas F. Foster, Roger L. Gamble, George R. Gilmer, Seaborn Jones, William Schley, James M. Wayne, Richard H. Wilde.

Kentucky—Chilton Allan, Martin Beaty, Thomas Chilton, Amos Davis, Benjamin Hardin, Albert G. Hawes, Richard M. Johnson, James Love, Chittenden Lyon, Thomas A. Marshall, Patrick H. Pope, Christopher Tompkins.

Tennessee—John Bell, John Blair, Samuel Bunch, David Crockett, David W. Dickinson, William C. Dunlap, John B. Forester, William M. Inge, Cave Johnson, Luke Lea, Balie Peyton, James K. Polk, James Standifer.

Ohio—William Allen, James M. Bell, John Chaney, Thomas Corwin, Joseph H. Crane, Thomas L. Hamer, Benjamin Jones, Henry H. Leavitt, Robert T. Lytle, Jeremiah McLean, Robert Mitchell, William Patterson, Jonathan Sloane, David Spangler, John Thomson, Joseph Vance, Samuel F. Vinton, Taylor Webster, Elisha Whittlesey.

Louisiana—Philemon Thomas, Edward D. White.

Indiana—Ratliff Boon, John Carr, John Ewing, Edward A. Hannegan, George L. Kinnard, Amos Lane, Jonathan McCarty.

Mississippi—Harry Cage, Franklin E. Plumer.

Illinois—Zadok Casey, Joseph Duncan, Charles Slade.

Alabama—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis, John McKinley, John Murphy.

Missouri—William H. Ashley, John Bull.

Lucius Lyon also appeared as the delegate from the territory of Michigan.

Ambrose H. Sevier also appeared as the delegate from the territory of Arkansas,—Joseph M. White from Florida.

Mr. Andrew Stevenson, who had been chosen Speaker of the House for the three succeeding Congresses, was re-elected by a great majority—indicating the administration strength, and his own popularity. The annual message was immediately sent in, and presented a gratifying view of our foreign relations—all nations being in peace and amity with us, and many giving fresh proofs of friendship, either in new treaties formed, or indemnities made for previous injuries. The state of the finances was then adverted to, and shown to be in the most favorable condition. The message said:

“It gives me great pleasure to congratulate you upon the prosperous condition of the finances of the country, as will appear from the report which the Secretary of the Treasury will, in due time, lay before you. The receipts into the Treasury during the present year will amount to more than thirty-two millions of dollars. The revenue derived from customs will, it is believed, be more than twenty-eight millions, and the public lands will yield about three millions. The expenditures within the year, for all objects, including two millions five hundred and seventy-two thousand two hundred and forty dollars and ninety-nine cents on account of the public debt, will not amount to twenty-five millions, and a large balance will remain in the Treasury after satisfying all the appropriations chargeable on the revenue for the present year.”

The act of the last session, called the “compromise,” the President recommended to observance, “unless it should be found to produce more revenue than the necessities of the government required.” The extinction of the public debt presented, in the opinion of the President, the proper occasion for organizing a system of expenditure on the principles of the strictest economy consistent with the public interest; and the passage of the message in

relation to that point was particularly grateful to the old friends of an economical administration of the government. It said:

“But, while I forbear to recommend any further reduction of the duties, beyond that already provided for by the existing laws, I must earnestly and respectfully press upon Congress the importance of abstaining from all appropriations which are not absolutely required for the public interests, and authorized by the powers clearly legated to the United States. We are beginning a new era in our government. The national debt, which has so long been a burden on the Treasury, will be finally discharged in the course of the ensuing year. No more money will afterwards be needed than what may be necessary to meet the ordinary expenses of the government. Now then is the proper moment to fix our system of expenditure on firm and durable principles; and I cannot too strongly urge the necessity of a rigid economy, and an inflexible determination not to enlarge the income beyond the real necessities of the government, and not to increase the wants of the government by unnecessary and profuse expenditures. If a contrary course should be pursued, it may happen that the revenue of 1834 will fall short of the demands upon it; and after reducing the tariff in order to lighten the burdens of the people, and providing for a still further reduction to take effect hereafter, it would be much to be deplored if, at the end of another year, we should find ourselves obliged to retrace our steps, and impose additional taxes to meet unnecessary expenditures.”

The part of the message, however, which gave the paper uncommon emphasis, and caused it to be received with opposite, and violent emotions by different parts of the community, was that which related to the Bank of the United States—its believed condition—and the consequent removal of the public deposits from its keeping. The deposits had been removed—done in vacation by the order of the President—on the ground of insecurity, as well as of misconduct in the corporation: and as Congress, at the previous session had declared its belief of their safety, this act of the President had already become a point of vehement newspaper attack upon him—destined to be continued in the halls of Congress. His conduct in this removal, and the reasons for it, were thus communicated:

“Since the last adjournment of Congress, the Secretary of the Treasury has directed the money of the United States to be deposited in certain State banks designated by him, and he will immediately lay before you his reasons for this direction. I concur with him entirely in the view he has taken of the subject; and, some months before the removal, I urged upon the department the propriety of taking that step. The near approach of the day on which the charter will expire, as well as the conduct of the bank, appeared to me to call for this measure upon the high considerations of public interest and public duty. The extent of its misconduct, however, although known to be great, was not at that time fully developed by proof. It was not until late in the month of August, that I received from the government directors an official report, establishing beyond question that this great and powerful institution had been actively engaged in attempting to influence the elections of the public officers by means of its money; and that, in violation of the express provisions of its charter, it had, by a formal resolution, placed its funds at the disposition of its President, to be employed in sustaining the political power of the bank. A copy of this resolution is contained in the report of the government directors, before referred to; and however the object may be disguised by cautious language, no one can doubt that this money was in truth intended for electioneering purposes, and the particular uses to which it was proved to have been applied, abundantly show that it was so understood. Not only was the evidence complete as to the past application of the money and power of the bank to electioneering purposes, but that the resolution of the board of directors authorized the same course to be pursued in future.

"It being thus established, by unquestionable proof, that the Bank of the United States was converted into a permanent electioneering engine, it appeared to me that the path of duty which the Executive department of the government ought to pursue, was not doubtful. As by the terms of the bank charter, no officer but the Secretary of the Treasury could remove the deposits, it seemed to me that this authority ought to be at once exerted to deprive that great corporation of the support and countenance of the government in such a use of its funds, and such an exertion of its power. In this point of the case, the question is distinctly presented, whether the people of the United States are to govern through representatives chosen by their unbiassed suffrages, or whether the money and power of a great corporation are to be secretly exerted to influence their judgment, and control their decisions. It must now be determined whether the bank is to have its candidates for all offices in the country, from the highest to the lowest, or whether candidates on both sides of political questions shall be brought forward as heretofore, and supported by the usual means.

"At this time, the efforts of the bank to control public opinion, through the distresses of some and the fears of others, are equally apparent, and, if possible, more objectionable. By a curtailment of its accommodations, more rapid than any emergency requires, and even while it retains specie to an almost unprecedented amount in its vaults, it is attempting to produce great embarrassment in one portion of the community, while, through presses known to have been sustained by its money, it attempts, by unfounded alarms, to create a panic in all.

"These are the means by which it seems to expect that it can force a restoration of the deposits, and, as a necessary consequence, extort from Congress a renewal of its charter. I am happy to know that, through the good sense of our people, the effort to get up a panic has hitherto failed, and that, through the increased accommodations which the State banks have been enabled to afford, no public distress has followed the exertions of the bank; and it cannot be doubted that the exercise of its power, and the expenditure of its money, as well as its efforts to spread groundless alarm, will be met and rebuked as they deserve. In my own sphere of duty, I should feel myself called on, by the facts disclosed, to order a *scire facias* against the bank, with a view to put an end to the chartered rights it has so palpably violated, were it not that the charter itself will expire as soon as a decision would probably be obtained from the court of last resort.

"I called the attention of Congress to this subject in my last annual message, and informed them that such measures as were within the reach of the Secretary of the Treasury, had been taken to enable him to judge whether the public deposits in the Bank of the United States were entirely safe; but that as his single powers might be inadequate to the object, I recommended the subject to Congress, as worthy of their serious investigation: declaring it as my opinion that an inquiry into the transactions of that institution, embracing the branches as well as the principal bank, was called for by the credit which was given throughout the country to many serious charges impeaching their character, and which, if true, might justly excite the apprehension that they were no longer a safe depository for the public money. The extent to which the examination, thus recommended, was gone into, is spread upon your journals, and is too well known to require to be stated. Such as was made resulted in a report from a majority of the Committee of Ways and Means, touching certain specified points only, concluding with a resolution that the government deposits might safely be continued in the Bank of the United States. This resolution was adopted at the close of the session, by the vote of a majority of the House of Representatives."

The message concluded with renewing the recommendation, which the President had annually made since his first election, in favor of so amending the constitution in the article of the presidential and vice-presidential elections, as to give the choice of the two first

officers of the government to a direct vote of the people, and that “every intermediate agency in the election of those officers should be removed.” This recommendation, like all which preceded it, remained without practical results. For ten years committees had reported amendments, and members had supported them, but without obtaining in Congress the requisite two thirds to refer the proposition of amendment to the vote of the people. Three causes combined always to prevent the concurrence of that majority: 1. The conservative spirit of many, who are unwilling, under any circumstances, to touch an existing institution. 2. The enemies of popular elections, who deem it unsafe to lodge the high power of the presidential election, directly in the hands of the people. 3. The intriguers, who wish to manage these elections for their own benefit, and have no means of doing it except through the agency of intermediate bodies. The most potent of these agencies, and the one in fact which controls all the others, is the one of latest and most spontaneous growth, called “conventions”—originally adopted to supersede the caucus system of nominations, but which retains all the evils of that system, and others peculiar to itself. They are still attended by members of Congress, and with less responsibility to their constituents than when acting in a Congress caucus. A large proportion of the delegates are either self-appointed or so intriguingly appointed, and by such small numbers, as to constitute a burlesque upon popular representation. Delegates even transfer their functions, and make proxies—a prerogative only allowed to peers of the realm, in England, in their parliamentary voting, because they are legislators in their own right, and represent, each one, himself, as his own constituent body, and owing responsibility to no one. They meet in taverns, the delegates of some of the large States, attended by one or two thousand backers, supplied with money, and making all the public appliances of feasting and speaking, to conciliate or control votes, which ample means and determined zeal can supply, in a case in which a personal benefit is expected. The minority rules, that is to say, baffles the majority until it yields, and consents to a “compromise,” accepting for that purpose the person whom the minority has held in reserve for that purpose; and this minority of one third, which governs two thirds, is itself usually governed by a few managers. And to complete the exclusion of the people from all efficient control, in the selection of a presidential candidate, an interlocutory committee is generally appointed out of its members to act from one convention to another—during the whole interval of four years between their periodical assemblages—to guide and conduct the public mind, in the different States, to the support of the person on whom they have secretly agreed. After the nomination is over, and the election effected, the managers in these nominations openly repair to the new President, if they have been successful, and demand rewards for their labor, in the shape of offices for themselves and connections. This is the way that presidential elections are now made in the United States; for, a party nomination is an election, if the party is strong enough to make it; and, if one is not, the other is; for, both parties act alike, and thus the mass of the people have no more part in selecting the person who is to be their President than the subjects of hereditary monarchs have in begetting the child who is to rule over them. To such a point is the greatest of our elections now sunk by the arts of “intermediate agencies;” and it may be safely assumed, that the history of free elective governments affords no instance of such an abandonment, on the part of legal voters, of their great constitutional privileges, and quiet sinking down of the millions to the automaton performance of delivering their votes as the few have directed.

92. Removal Of The Deposits From The Bank Of The United States

The fact of this removal was communicated to Congress, in the annual message of the President; the reasons for it, and the mode of doing it, were reserved for a separate communication; and especially a report from the Secretary of the Treasury, to whom belonged the absolute right of the removal, without assignment of any reasons except to Congress, after the act was done. The order for the removal, as it was called—for it was only an order to the collectors of revenue to cease making their deposits in that bank, leaving the amount actually in it, to be drawn out of intervals, and in different sums, according to the course at the government disbursements—was issued the 22d of September, and signed by Roger B. Taney, Esq., the new Secretary of the Treasury, appointed in place of Mr. Wm. J. Duane, who, refusing to make the removal, upon the request of the President, was himself removed. This measure (the ceasing to deposit the public moneys with the Bank of the United States) was the President's own measure, conceived by him, carried out by him, defended by him, and its fate dependent upon him. He had coadjutors in every part of the business, but the measure was his own; for this heroic civil measure, like a heroic military resolve, had to be the offspring of one great mind—self-acting and poised—seeing its way through all difficulties and dangers; and discerning ultimate triumph over all obstacles in the determination to conquer them, or to perish. Councils are good for safety, not for heroism—good for escapes from perils, and for retreats, but for action, and especially high and daring action, but one mind is wanted. The removal of the deposits was an act of that kind—high and daring, and requiring as much nerve as any enterprise of arms, in which the President had ever been engaged. His military exploits had been of his own conception; his great civil acts were to be the same: more impeded than promoted by councils. And thus it was in this case. The majority of his cabinet was against him. His Secretary of the Treasury refused to execute his will. A few only—a fraction of the cabinet and some friends—concurred heartily in the act: Mr. Taney, attorney general, Mr. Kendall, Mr. Francis P. Blair, editor of the *Globe*; and some few others.

He took his measures carefully and deliberately, and with due regard to keeping himself demonstrably, as well as actually right. Observation had only confirmed his opinion, communicated to the previous Congress, of the misconduct of the institution, and the insecurity of the public moneys in it: and the almost unanimous vote of the House of Representatives to the contrary, made no impression upon his strong conviction. Denied a legislative examination into its affairs, he determined upon an executive one, through inquiries put to the government directors, and the researches into the state of the books, which the Secretary of the Treasury had a right to make. Four of those directors, namely, Messrs. Henry D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery, made two reports to the President, according to the duty assigned them, in which they showed great misconduct in its management, and a great perversion of its funds to undue and political purposes. Some extracts from these reports will show the nature of this report, the names of persons to whom money was paid being omitted, as the only object, in making the extracts, is to show the conduct of the bank, and not to disturb or affect any individuals.

"On the 30th November, 1830, it is stated on the minutes, that 'the president submitted to the board a copy of an article on banks and currency, just published in the *American Quarterly Review* of this city, containing a favorable notice of this institution, and suggested the expediency of making the views of the author more extensively known to the public than they

can be by means of the subscription list.' Whereupon, it was, on motion, '*Resolved*, That the president be authorized to take such measures, in regard to the circulation of the contents of the said article, either in whole or in part, as he may deem most for the interests of the bank.' On the 11th March, 1831, it again appears by the minutes that 'the president stated to the board, that, in consequence of the general desire expressed by the directors, at one of their meetings of the last year, subsequent to the adjournment of Congress, and a verbal understanding with the board, measures had been taken by him, in the course of that year, for furnishing numerous copies of the reports of General Smith and Mr. McDuffie on the subject of this bank, and for widely disseminating their contents through the United States; and that he has since, by virtue of the authority given him by a resolution of this board, on the 30th day of November last, caused a large edition of Mr. Gallatin's essay on banks and currency to be published and circulated, in like manner, at the expense of the bank. He suggested, at the same time, the propriety and expediency of extending still more widely a knowledge of the concerns of this institution, by means of the republication of other valuable articles, which had issued from the daily and periodical press.' Whereupon, it was, on motion, '*Resolved*, That the president is hereby authorized to cause to be prepared and circulated, such documents and papers as may communicate to the people information, in regard to the nature and operations of the bank.'

"In pursuance, it is presumed, of these resolutions, the item of stationary and printing was increased, during the first half year of 1831, to the enormous sum of $29,979 92, exceeding that of the previous half year by $23,000, and exceeding the semi-annual expenditure of 1829, upwards of $26,000. The expense account itself, as made up in the book which was submitted to us, contained very little information relative to the particulars of this expenditure, and we are obliged, in order to obtain them, to resort to an inspection of the vouchers. Among other sums, was one of $7,801, stated to have been paid on orders of the president, under the resolution of 11th March, 1831, and the orders themselves were the only vouchers of the expenditure which we found on file. Some of the orders, to the amount of about $1,800, stated that the expenditure was for distributing General Smith's and Mr. McDuffie's reports, and Mr. Gallatin's pamphlet; but the rest stated generally that it was made under the resolution of 11th of March, 1831. There were also numerous bills and receipts for expenditures to individuals: $1,300 for distributing Mr. Gallatin's pamphlet; $1,675 75 for 5,000 copies of General Smith's and Mr. McDuffie's reports, &c.; $440 for 11,000 extra papers; of the *American Sentinel*, $125 74 for printing, folding, packing, and postage on 3,000 extras; $1,830 27 for upwards of 50,000 copies of the *National Gazette*, and supplements containing addresses to members of State legislatures, reviews of Mr. Benton's speech, abstracts of Mr. Gallatin's article from the *American Quarterly Review*, and editorial article on the project of a Treasury Bank; $1,447 75 for 25,000 copies of the reports of Mr. McDuffie and General Smith, and for 25,000 copies of the address to members of the State legislatures, agreeably to order; $2,850 for 10,000 copies of 'Gallatin on Banking,' and 2,000 copies of Professor Tucker's article.

"During the second half year of 1831, the item of stationery and printing was $13,224 87, of which $5,010 were paid on orders of the president, and stated generally to be under the resolution of 11th March, 1831, and other sums were paid to individuals, as in the previous account, for printing and distributing documents.

"During the first half year of 1832, the item of stationery and printing was $12,134 16, of which $2,150 was stated to have been paid on orders of the president, under the resolution of 11th March, 1831. There are also various individual payments, of which we noticed $106 38 for one thousand copies of the review of Mr. Benton's speech; $200 for one thousand copies of the *Saturday Courier*; $1,176 for twenty thousand copies of a pamphlet concerning the

bank, and six thousand copies of the minority report relative to the bank; $1,800 for three hundred copies of Clarke & Hall's bank book. During the last half year of 1832, the item of stationery and printing rose to $26,543 72, of which $6,350 are stated to have been paid on orders of the president, under the resolution of 11th March, 1831. Among the specified charges we observe $821 78 for printing a review of the veto; $1,371 04 for four thousand copies of Mr. Ewing's speech, bank documents, and review of the veto; $4,106 13 for sixty-three thousand copies of Mr. Webster's speech, Mr. Adams's and Mr. McDuffie's reports, and the majority and minority reports; $295 for fourteen thousand extras of *The Protector*, containing bank documents; $2,583 50 for printing and distributing reports, Mr. Webster's speech, &c. $150 12 for printing the speeches of Messrs. Clay, Ewing, and Smith, and Mr. Adams's report; $1,512 75 to Mr. Clark, for printing Mr. Webster's speech and articles on the veto, and $2,422 65 for fifty-two thousand five hundred copies of Mr. Webster's speech. There is also a charge of $4,040 paid on orders of the president, stating that it is for expenses in measures for protecting the bank against a run on the Western branches.

"During the first half year of 1833, the item of stationery and printing was $9,093 59, of which $2,600 are stated to have been paid on orders of the president, under the resolution of 11th March, 1831. There is also a charge of $800 for printing the report of the exchange committee."

These various items, amounting to about $80,000, all explain themselves by their names and dates—every name of an item referring to a political purpose, and every date corresponding with the impending questions of the recharter and the presidential election; and all charged to the expense account of the bank—a head of account limited, by the nature of the institution, so far as printing was concerned, to the printing necessary for the conducting of its own business; yet in the whole sum, making the total of $80,000, there is not an item of that kind included. To expose, or correct these abuses, the government directors submitted the following resolution to the board:

"Whereas, it appears by the expense account of the bank for the years 1831 and 1832, that upwards of $80,000 were expended and charged under the head of stationery and printing during that period; that a large proportion of this sum was paid to the proprietors of newspapers and periodical journals, and for the printing, distribution, and postage of immense numbers of pamphlets and newspapers; and that about $20,000 were expended under the resolutions of 30th November, 1830, and 11th March, 1831, without any account of the manner in which, or the persons to whom, they were disbursed: and whereas it is expedient and proper that the particulars of this expenditure, so large and unusual, which can now be ascertained only by the examination of numerous bills and receipts, should be so stated as to be readily submitted to, and examined by, the board of directors and the stockholders: Therefore, *Resolved*, That the cashier furnish to the board, at as early a day as possible, a full and particular statement of all these expenditures, designating the sums of money paid to each person, the quantity and names of the documents furnished by him, and his charges for the distribution and postage of the same; together with as full a statement as may be of the expenditures under the resolutions of 30th November, 1830, and 11th March, 1831. That he ascertain whether expenditures of the same character have been made at any of the offices, and if so, procure similar statements thereof, with the authority on which they were made. That the said resolutions be rescinded, and no further expenditures made under the same."

This resolution was rejected by the board, and in place of it another was adopted, declaring perfect confidence in the president of the bank, and directing him to continue his expenditures under the two resolves of November and March according to his discretion;—

thus continuing to him the power of irresponsible expenditure, both in amount and object, to any extent that he pleased. The reports also showed that the government directors were treated with the indignity of being virtually excluded, both from the transactions of the bank, and the knowledge of them; and that the charter was violated to effect these outrages. As an instance, this is given: the exchange committee was in itself, and even confined to its proper duties, that of buying and selling exchange, was a very important one, having the application of an immense amount of the funds of the bank. While confined to its proper duties, it was changed monthly, and the directors served upon it by turns; so that by the process of rotation and speedy renewal, every member of the directory was kept well informed of the transactions of this committee, and had their due share in all its great operations. But at this time—(time of the renewed charter and the presidential election)—both the duties of the committee, and its mode of appointment were altered; discounting of notes was permitted to it, and the appointment of its members was invested in Mr. Biddle; and no government director was henceforth put upon it. Thus, a few directors made the loans in the committee's room, which by the charter could only be made by seven directors at the board; and the government directors, far from having any voice in these exchange loans, were ignorant of them until afterwards found on the books. It was in this exchange committee that most of the loans to members of Congress were made, and under whose operations the greatest losses were eventually incurred. The report of the four directors also showed other great misconduct on the part of the bank, one of which was to nearly double its discounts at the approaching termination of the charter, running them up in less than a year and a half from about forty-two and a half to about seventy and a half millions of dollars. General Jackson was not the man to tolerate these illegalities, corruptions and indignities. He, therefore, determined on ceasing to use the institution any longer as a place of deposit for the public moneys; and accordingly communicated his intention to the cabinet, all of whom had been requested to assist him in his deliberations on the subject. The major part of them dissented from his design; whereupon he assembled them the 22nd of September, and read to them a paper, of which the following are the more essential parts:

"Having carefully and anxiously considered all the facts and arguments which have been submitted to him, relative to a removal of the public deposits from the Bank of the United States, the President deems it his duty to communicate in this manner to his cabinet the final conclusions of his own mind, and the reasons on which they are founded, in order to put them in durable form, and to prevent misconceptions.

"The President's convictions of the dangerous tendencies of the Bank of the United States, since signally illustrated by its own acts, were so overpowering when he entered on the duties of chief magistrate, that he felt it his duty, notwithstanding the objections of the friends by whom he was surrounded, to avail himself of the first occasion to call the attention of Congress and the people to the question of its recharter. The opinions expressed in his annual message of December, 1829, were reiterated in those of December, 1830 and 1831, and in that of 1830, he threw out for consideration some suggestions in relation to a substitute. At the session of 1831-'32 an act was passed by a majority of both Houses of Congress rechartering the present bank, upon which the President felt it his duty to put his constitutional veto. In his message, returning that act, he repeated and enlarged upon the principles and views briefly asserted in his annual messages, declaring the bank to be, in his opinion, both inexpedient and unconstitutional, and announcing to his countrymen, very unequivocally, his firm determination never to sanction, by his approval, the continuance of that institution or the establishment of any other upon similar principles.

"There are strong reasons for believing that the motive of the bank in asking for a recharter at that session of Congress, was to make it a leading question in the election of a President of

the United States the ensuing November, and all steps deemed necessary were taken to procure from the people a reversal of the President's decision.

"Although the charter was approaching its termination, and the bank was aware that it was the intention of the government to use the public deposit as fast as it has accrued, in the payment of the public debt, yet did it extend its loans from January, 1831, to May, 1832, from $42,402,304 24 to $70,428,070 72, being an increase of $28,025,766 48, in sixteen months. It is confidently believed that the leading object of this immense extension of its loans was to bring as large a portion of the people as possible under its power and influence; and it has been disclosed that some of the largest sums were granted on very unusual terms to the conductors of the public press. In some of these cases, the motive was made manifest by the nominal or insufficient security taken for the loans, by the large amounts discounted, by the extraordinary time allowed for payment, and especially by the subsequent conduct of those receiving the accommodations.

"Having taken these preliminary steps to obtain control over public opinion, the bank came into Congress and asked a new charter. The object avowed by many of the advocates of the bank, was to *put the President to the test*, that the country might know his final determination relative to the bank prior to the ensuing election. Many documents and articles were printed and circulated at the expense of the bank, to bring the people to a favorable decision upon its pretensions. Those whom the bank appears to have made its debtors for the special occasion, were warned of the ruin which awaited them, should the President be sustained, and attempts were made to alarm the whole people by painting the depression in the price of property and produce, and the general loss, inconvenience, and distress, which it was represented would immediately follow the re-election of the President in opposition to the bank.

"Can it now be said that the question of a recharter of the bank was not decided at the election which ensued? Had the veto been equivocal, or had it not covered the whole ground—if it had merely taken exceptions to the details of the bill, or to the time of its passage—if it had not met the whole ground of constitutionality and expediency, then there might have been some plausibility for the allegation that the question was not decided by the people. It was to compel the President to take his stand, that the question was brought forward at that particular time. He met the challenge, willingly took the position into which his adversaries sought to force him, and frankly declared his unalterable opposition to the bank as being both unconstitutional and inexpedient. On that ground the case was argued to the people, and now that the people have sustained the President, notwithstanding the array of influence and power which was brought to bear upon him, it is too late, he confidently thinks, to say that the question has not been decided. Whatever may be the opinions of others, the President considers his re-election as a decision of the people against the bank. In the concluding paragraph of his veto message he said:

"'I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me, ample grounds for contentment and peace.'

"He was sustained by a just people, and he desires to evince his gratitude by carrying into effect their decision, so far as it depends upon him.

"Of all the substitutes for the present bank, which have been suggested, none seems to have united any considerable portion of the public in its favor. Most of them are liable to the same constitutional objections for which the present bank has been condemned, and perhaps to all there are strong objections on the score of expediency. In ridding the country of an irresponsible power which has attempted to control the government, care must be taken not to

unite the same power with the executive branch. To give a President the control over the currency and the power over individuals now possessed by the Bank of the United States, even with the material difference that he is responsible to the people, would be as objectionable and as dangerous as to leave it as it is. Neither the one nor the other is necessary, and therefore ought not to be resorted to.

"But in the conduct of the bank may be found other reasons, very imperative in their character, and which require prompt action. Developments have been made from time to time of its faithlessness as a public agent, its misapplication of public funds, its interference in elections, its efforts, by the machinery of committees, to deprive the government directors of a full knowledge of its concerns, and above all, its flagrant misconduct as recently and unexpectedly disclosed, in placing all the funds of the bank, including the money of the government, at the disposition of the president of the bank, as means of operating upon public opinion and procuring a new charter without requiring him to render a voucher for their disbursement. A brief recapitulation of the facts which justify these charges and which have come to the knowledge of the public and the President, will, he thinks, remove every reasonable doubt as to the course which it is now the duty of the President to pursue.

"We have seen that in sixteen months, ending in May, 1832, the bank had extended its loans more than $28,000,000, although it knew the government intended to appropriate most of its large deposit during that year in payment of the public debt. It was in May, 1832, that its loans arrived at the maximum, and in the preceding March, so sensible was the bank that it would not be able to pay over the public deposit when it would be required by the government, that it commenced a secret negotiation without the approbation or knowledge of the government, with the agents, for about $2,700,000 of the three per cent. stocks held in Holland, with a view of inducing them not to come forward for payment for one or more years after notice should be given by the Treasury Department. This arrangement would have enabled the bank to keep and use during that time the public money set apart for the payment of these stocks.

"Although the charter and the rules of the bank, both, declare that 'not less than seven directors' shall be necessary to the transaction of business, yet, the most important business, even that of granting discounts to any extent, is intrusted to a committee of five members who do not report to the board.

"To cut off all means of communication with the government, in relation to its most important acts, at the commencement of the present year, not one of the government directors was placed on any one committee. And although since, by an unusual remodelling of those bodies, some of those directors have been placed on some of the committees, they are yet entirely excluded from the committee of exchange, through which the greatest and most objectionable loans have been made.

"When the government directors made an effort to bring back the business of the bank to the board, in obedience to the charter and the existing regulations, the board not only overruled their attempt, but altered the rule so as to make it conform to the practice, in direct violation of one of the most important provisions of the charter which gave them existence.

"It has long been known that the president of the bank, by his single will, originates and executes many of the most important measures connected with the management and credit of the bank, and that the committee, as well as the board of directors, are left in entire ignorance of many acts done, and correspondence carried on, in their names, and apparently under their authority. The fact has been recently disclosed, that an unlimited discretion has been, and is now, vested in the president of the bank to expend its funds in payment for preparing and

circulating articles, and purchasing pamphlets and newspapers, calculated by their contents to operate on elections and secure a renewal of its charter.

“With these facts before him, in an official report from the government directors, the President would feel that he was not only responsible for all the abuses and corruptions the bank has committed, or may commit, but almost an accomplice in a conspiracy against that government which he has sworn honestly to administer, if he did not take every step, within his constitutional and legal power, likely to be efficient in putting an end to these enormities. If it be possible, within the scope of human affairs, to find a reason for removing the government deposits, and leaving the bank to its own resource for the means of effecting its criminal designs, we have it here. Was it expected, when the moneys of the United States were directed to be placed in that bank, that they would be put under the control of one man, empowered to spend millions without rendering a voucher or specifying the object? Can they be considered safe, with the evidence before us that tens of thousands have been spent for highly improper, if not corrupt, purposes, and that the same motive may lead to the expenditure of hundreds of thousands and even millions more? And can we justify ourselves to the people by longer lending to it the money and power of the government, to be employed for such purposes?

“In conclusion, the President must be permitted to remark that he looks upon the pending question as of higher consideration than the mere transfer of a sum of money from one bank to another. Its decision may affect the character of our government for ages to come. Should the bank be suffered longer to use the public moneys, in the accomplishment of its purposes, with the proof of its faithlessness and corruption before our eyes, the patriotic among our citizens will despair of success in struggling against its power; and we shall be responsible for entailing it upon our country for ever. Viewing it as a question of transcendent importance, both in the principles and consequences it involves, the President could not, in justice to the responsibility which he owes to the country, refrain from pressing upon the Secretary of the Treasury his view of the considerations which impel to immediate action. Upon him has been devolved, by the constitution and the suffrages of the American people, the duty of superintending the operation of the Executive departments of the governments, and seeing that the laws are faithfully executed. In the performance of this high trust, it is his undoubted right to express to those whom the laws and his own choice have made his associates in the administration of the government, his opinion of their duties, under circumstances, as they arise. It is this right which he now exercises. Far be it from him to expect or require that any member of the cabinet should, at his request, order, or dictation, do any act which he believes unlawful, or in his conscience condemns. From them, and from his fellow-citizens in general, he desires only that aid and support which their reason approves and their conscience sanctions.

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

I was in the State of Virginia, when the *Globe* newspaper arrived, towards the end of September, bringing this “paper,” which the President had read to his cabinet, and the further information that he had carried his announced design into affect. I felt an emotion of the moral sublime at beholding such an instance of civic heroism. Here was a President, not bred up in the political profession, taking a great step upon his own responsibility from which many of his advisers shrunk; and magnanimously, in the act itself, releasing all from the peril that he encountered, and boldly taking the whole upon himself. I say peril; for if the bank should conquer, there was an end to the political prospects of every public man concurring in the removal. He believed the act to be necessary; and believing that, he did the act—leaving the consequences to God and the country. I felt that a great blow had been struck, and that a great contest must come on, which could only be crowned with success by acting up to the spirit with which it had commenced. And I repaired to Washington at the approach of the session with a full determination to stand by the President, which I believed to be standing by the country; and to do my part in justifying his conduct, and in exposing and resisting the powerful combination which it was certain would be formed against him.

93. Bank Proceedings, On Seeing The Decision Of The President, In Relation To The Removal Of The Deposits

Immediately on the publication in the *Globe* of the "Paper read to the Cabinet," the bank took it into consideration in all the forms of a co-ordinate body. It summoned a meeting of the directors—appointed a committee—referred the President's "Paper" to it—ordered it to report—held another meeting to receive the report—adopted it (the government directors, Gilpin, Wager, and Sullivan voting against it)—and ordered five thousand copies of the report to be printed. A few extracts from the report, entitled a Memorial to Congress, are here given, for the purpose of showing, *First*, The temper and style in which this moneyed corporation, deriving its existence from the national Congress, indulged itself, and that in its corporate capacity, in speaking of the President of the United States and his cabinet; and, *next*, to show the lead which it gave to the proceedings which were to be had in Congress. Under the first head, the following passages are given:

"The committee to whom was referred on the 24th of September, a paper signed 'Andrew Jackson,' purporting to have been read to a cabinet on the 18th, and also another paper signed 'H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery,' bearing date August 19th, 1833—with instructions to consider the same, and report to the board 'whether any, and what steps may be deemed necessary on the part of the board in consequence of the publication of said letter and report,' beg leave to state—

"To justify this measure is the purpose of the paper signed 'Andrew Jackson.' Of the paper itself, and of the individual who has signed it, the committee find it difficult to speak with the plainness by which alone such a document, from such a source, should be described, without wounding their own self-respect, and violating the consideration which all American citizens must feel for the chief magistracy of their country. Subduing, however, their feelings and their language down to that respectful tone which is due to the office, they will proceed to examine the history of this measure, its character and the pretexts offered in palliation of it.

"1st. It would appear from its contents and from other sources of information, that the President had a meeting of what is called the cabinet, on Wednesday, the 18th September, and there read this paper. Finding that it made no impression on the majority of persons assembled, the subject was postponed, and in the mean time this document was put into the newspapers. It was obviously published for two reasons. The first was to influence the members of the cabinet by bringing to bear upon their immediate decision the first public impression excited by misrepresentations, which the objects of them could not refute in time—the second was, by the same excitement, to affect the approaching elections in Pennsylvania, Maryland and New Jersey. Its assailants are what are called politicians (i.e., the assailants of the bank)."

Such is the temper and style in which the President of the United States is spoken of by this great moneyed corporation, in a memorial addressed to Congress. Erecting itself into a co-ordinate body, and assuming in its corporate capacity an authority over the President's act, it does not even condescend to call him President. It is "Andrew Jackson," and the name always placed between inverted commas to mark the higher degree of contempt. Then the corporation shrinks from remarking on the "paper" itself, and the "individual" who signed it, as a thing injurious to their own self-respect, and only to be done in consideration of the

“office” which he fills, and that after “subduing” their feelings—and this was the insolence of the moneyed power in defeat, when its champion had received but forty-nine votes for the Presidency out of two hundred and eighty-eight given in! What would it have been in victory? The lead which it gave to the intended proceedings in Congress, is well indicated in these two paragraphs, and the specifications under them:

“The indelicacy of the form of those proceedings corresponds well with the substance of them, which is equally in violation of the rights of the bank and the laws of the country.

“The committee willingly leave to the Congress of the United States, the assertion of their own constitutional power, and the vindication of the principles of our government, against the most violent assault they have ever yet encountered; and will now confine themselves to the more limited purpose of showing that the reasons assigned for this measure are as unfounded as the object itself is illegal.”

The illegality of the proceeding, and the vindication of the constitution, and the principles of the government, from a most violent assault, are the main objects left by the bank to the Congress; the invalidity of the reasons assigned for the removal, are more limited, and lest the Congress might not discover these violations of law and constitution, the corporation proceeds to enumerate and establish them. It says:

“Certainly since the foundation of this government, nothing has ever been done which more deeply wounds the spirit of our free institutions. It, in fact, resolves itself into this—that whenever the laws prescribe certain duties to an officer, if that officer, acting under the sanctions of his official oath and his private character, refuses to violate that law, the President of the United States may dismiss him and appoint another; and if he too should prove to be a ‘refractory subordinate,’ to continue his removals until he at last discovers in the descending scale of degradation some irresponsible individual fit to be the tool of his designs. Unhappily, there are never wanting men who will think as their superiors wish them to think—men who regard more the compensation than the duties of their office—men to whom daily bread is sufficient consolation for daily shame.

“The present state of this question is a fearful illustration of the danger of it. At this moment the whole revenue of this country is at the disposal—the absolute, uncontrolled disposal—of the President of the United States. The laws declare that the public funds shall be placed in the Bank of the United States, unless the Secretary of the Treasury forbids it. The Secretary of the Treasury will not forbid it. The President dismisses him, and appoints somebody who will. So the laws declare that no money shall be drawn from the Treasury, except on warrants for appropriations made by law. If the Treasurer refuses to draw his warrant for any disbursement, the President may dismiss him and appoint some more flexible agent, who will not hesitate to gratify his patron. The text is in the official gazette, announcing the fate of the dismissed Secretary to all who follow him. ‘The agent cannot conscientiously perform the service, and refuses to co-operate, and desires to remain to thwart the President’s measures. To put an end to this difficulty between the head and the hands of the executive department, the constitution arms the chief magistrate with authority to remove the refractory subordinate.’ The theory thus avowed, and the recent practice under it, convert the whole free institutions of this country into the mere absolute will of a single individual. They break down all the restraints which the framers of the government hoped they had imposed on arbitrary power, and place the whole revenue of the United States in the hands of the President.

“For it is manifest that this removal of the deposits is not made by the order of the Secretary of the Treasury. It is a perversion of language so to describe it. On the contrary, the reverse is

openly avowed. The Secretary of the Treasury refused to remove them, believing, as his published letter declares, that the removal was ‘unnecessary, unwise, vindictive, arbitrary and unjust.’ He was then dismissed because he would not remove them, and another was appointed because he would remove them. Now this is a palpable violation of the charter. The bank and Congress agree upon certain terms, which no one can change but a particular officer; who, although necessarily nominated to the Senate by the President, was designated by the bank and by Congress as the umpire between them. Both Congress and the bank have a right to the free and honest and impartial judgment of that officer, whoever he may be—the bank, because the removal may injure its interests—the Congress, because the removal may greatly incommode and distress their constituents. In this case, they are deprived of it by the unlawful interference of the President, who ‘assumes the responsibility,’ which, being interpreted, means, usurps the power of the Secretary.

“The whole structure of the Treasury shows that the design of Congress was to make the Secretary as independent as possible of the President. The other Secretaries are merely executive officers; but the Secretary of the Treasury, the guardian of the public revenue, comes into more immediate sympathy with the representatives of the people who pay that revenue; and although, according to the general scheme of appointment, he is nominated by the President to the Senate, yet he is in fact the officer of Congress, not the officer of the President.

“This independence of the Secretary of the Treasury—if it be true in general—is more especially true in regard to the bank. It was in fact the leading principle in organizing the bank, that the President should be excluded from all control of it. The question which most divided the House of Representatives was, whether there should be any government directors at all; and although this was finally adopted, yet its tendency to create executive influence over the bank was qualified by two restrictions: first, that no more than three directors should be appointed from any one State; and, second, that the president of the bank should not be, as was originally designed by the Secretary of the Treasury, chosen from among the government directors. Accordingly, by the charter, the Secretary of the Treasury is every thing—the President comparatively nothing. The Secretary has the exclusive supervision of all the relations of the bank with the government.”

These extracts are sufficient to show that the corporation charged the President with illegal and unconstitutional conduct, subversive of the principles of our government, and dangerous to our liberties in causing the deposits to be removed—that they looked upon this illegal, unconstitutional, and dangerous conduct as the principal wrong—and left to Congress the assertion of its own constitutional power, and the vindication of the principles of the government from the assault which they had received. And this in a memorial addressed to Congress, of which five thousand copies, in pamphlet form, were printed, and the members of Congress liberally supplied with copies. It will be seen, when we come to the proceedings of Congress, how far the intimations of the memorial in showing what ought to be done, and leaving Congress to do it, was complied with by that body.

94. Report Of The Secretary Of The Treasury To Congress On The Removal Of The Deposits

By the clause in the charter authorizing the Secretary of the Treasury to remove the deposits, that officer was required to communicate the fact immediately to Congress, if in session, if not, at the first meeting; together with his reasons for so doing. The act which had been done was not a "removal," in the sense of that word; for not a dollar was taken from the Bank of the United States to be deposited elsewhere; and the order given was not for a "removal," but for a cessation of deposits in that institution, leaving the public moneys which were in it to be drawn out in the regular course of expenditure. An immediate and total removal might have been well justified by the misconduct of the bank; a cessation to deposit might have been equally well justified on the ground of the approaching expiration of the charter, and the propriety of providing in time for the new places of deposit which that expiration would render necessary. The two reasons put together made a clear case, both of justification and of propriety, for the order which had been given; and the secretary, Mr. Taney, well set them forth in the report which he made, and which was laid before Congress on the day after its meeting. The following are extracts from it:

"The Treasury department being intrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents, and in convenient places, ready to be applied according to the wants of the government. The law incorporating the bank has reserved to him, in its full extent, the power he before possessed. It does not confer on him a new power, but reserves to him his former authority, without any new limitation. The obligation to assign the reasons for his direction to deposit the money of the United States elsewhere, cannot be considered as a restriction of the power, because the right of the Secretary to designate the place of deposit was always necessarily subject to the control of Congress. And as the Secretary of the Treasury presides over one of the executive departments of the government, and his power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed.

"The faith of the United States is, however, pledged, according to the terms of the section above stated, that the public money shall be deposited in this bank, unless 'the Secretary of the Treasury shall otherwise order and direct.' And as this agreement has been entered into by Congress, in behalf of the United States, the place of deposit could not be changed by a legislative act, without disregarding a pledge, which the legislature has given; and the money of the United States must therefore continue to be deposited in the bank, until the last hour of its existence, unless it shall be otherwise ordered by the authority mentioned in the charter. The power over the place of deposit for the public money would seem properly to belong to the legislative department of the government, and it is difficult to imagine why the authority to withdraw it from this bank was confided exclusively to the Executive. But the terms of the charter appear to be too plain to admit of question; and although Congress should be satisfied that the public money was not safe in the care of the bank, or should be convinced that the interests of the people of the United States imperiously demanded the removal, yet the passage of a law directing it to be done, would be a breach of the agreement into which they have entered.

“In deciding upon the course which it was my duty to pursue in relation to the deposits, I did not feel myself justified in anticipating the renewal of the charter on either of the above-mentioned grounds. It is very evident that the bank has no claim to renewal, founded on the justice of Congress. For, independently of the many serious and insurmountable objections, which its own conduct has furnished, it cannot be supposed that the grant to this corporation of exclusive privileges, at the expense of the rest of the community, for twenty years, can give it a right to demand the still further enjoyment of its profitable monopoly. Neither could I act upon the assumption that the public interest required the recharter of the bank, because I am firmly persuaded that the law which created this corporation, in many of its provisions, is not warranted by the constitution, and that the existence of such a powerful moneyed monopoly, is dangerous to the liberties of the people, and to the purity of our political institutions.

“The manifestations of public opinion, instead of being favorable to a renewal, have been decidedly to the contrary. And I have always regarded the result of the last election of the President of the United States, as the declaration of a majority of the people that the charter ought not to be renewed. It is not necessary to state here, what is now a matter of history. The question of the renewal of the charter was introduced into the election by the corporation itself. Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of the election of President, was understood on all sides as bringing forward that question for incidental decision, at the then approaching election. It was accordingly argued on both sides, before the tribunal of the people, and their verdict pronounced against the bank, by the election of the candidate who was known to have been always inflexibly opposed to it.

“The monthly statement of the bank, of the 2d September last, before referred to, shows that the notes of the bank and its branches, then in circulation, amounted to $18,413,287 07, and that its discounts amounted to the sum of $62,653,359 59. The immense circulation above stated, pervading every part of the United States, and most commonly used in the business of commerce between distant places, must all be withdrawn from circulation when the charter expires. If any of the notes then remain in the hands of individuals, remote from the branches at which they are payable, their immediate depreciation will subject the holders to certain loss. Those payable in the principal commercial cities would, perhaps, retain nearly their nominal value; but this would not be the case with the notes of the interior branches, remote from the great marts of trade. And the statements of the bank will show that a great part of its circulation is composed of notes of this description. The bank would seem to have taken pains to introduce into common use such a description of paper as it could depreciate, or raise to its par value, as best suited its own views; and it is of the first importance to the interests of the public that these notes should all be taken out of circulation, before they depreciate in the hands of the individuals who hold them; and they ought to be withdrawn gradually, and their places supplied, as they retire, by the currency which will become the substitute for them. How long will it require, for the ordinary operations of commerce, and the reduction of discounts by the bank, to withdraw the amount of circulation before mentioned, without giving a shock to the currency, or producing a distressing pressure on the community? I am convinced that the time which remained for the charter to run, after the 1st of October (the day on which the first order for removal took effect), was not more than was proper to accomplish the object with safety to the community.

“There is, however, another view of the subject, which in my opinion, made it impossible further to postpone the removal. About the 1st of December, 1832, it had been ascertained that the present Chief Magistrate was re-elected, that his decision against the bank had thus been sanctioned by the people. At that time the discounts of the bank amounted to

$61,571,625 66. Although the issue which the bank took so much pains to frame had now been tried, and the decision pronounced against it, yet no steps were taken to prepare for its approaching end. On the contrary, it proceeded to enlarge its discounts, and, on the 2d of August, 1833, they amounted to $64,160,349 14, being an increase of more than two and a half millions in the eight months immediately following the decision against them. And so far from preparing to arrange its affairs with a view to wind up its business, it seemed from this course of conduct, to be the design of the bank to put itself in such an attitude, that, at the close of its charter, the country would be compelled to submit to its renewal, or to bear all the consequences of a currency suddenly deranged, and also a severe pressure for the immense outstanding claims which would then be due to the corporation. While the bank was thus proceeding to enlarge its discounts, an agent was appointed by the Secretary of the Treasury to inquire upon what terms the State banks would undertake to perform the services to the government which have heretofore been rendered by the Bank of the United States; and also to ascertain their condition in four of the principal commercial cities, for the purpose of enabling the department to judge whether they would be safe and convenient depositories for the public money. It was deemed necessary that suitable fiscal agents should be prepared in due season, and it was proper that time should be allowed them to make arrangements with one another throughout the country, in order that they might perform their duties in concert, and in a manner that would be convenient and acceptable to the public. It was essential that a change so important in its character, and so extensive in its operation upon the financial concerns of the country, should not be introduced without timely preparation.

“The United States, by the charter, reserved the right of appointing five directors of the bank. It was intended by this means not only to provide guardians for the interests of the public in the general administration of its affairs, but also to have faithful officers, whose situation would enable them to become intimately acquainted with all the transactions of the institution, and whose duty it would be to apprize the proper authorities of any misconduct on the part of the corporation likely to affect the public interest. The fourth fundamental article of the constitution of the corporation declares that not less than seven directors shall constitute a board for the transaction of business. At these meetings of the board, the directors on the part of the United States had of course a right to be present; and, consequently, if the business of the corporation had been transacted in the manner which the law requires, there was abundant security that nothing could be done, injuriously affecting the interests of the people, without being immediately communicated to the public servants, who were authorized to apply the remedy. And if the corporation has so arranged its concerns as to conceal from the public directors some of its most important operations, and has thereby destroyed the safeguards which were designed to secure the interests of the United States, it would seem to be very clear that it has forfeited its claim to confidence, and is no longer worthy of trust.

“Instead of a board constituted of at least seven directors, according to the charter, at which those appointed by the United States have a right to be present, many of the most important money transactions of the bank have been, and still are, placed under the control of a committee, denominated the exchange committee, of which no one of the public directors has been allowed to be a member since the commencement of the present year. This committee is not even elected by the board, and the public directors have no voice in their appointment. They are chosen by thy president of the bank, and the business of the institution, which ought to be decided on by the board of directors, is, in many instances, transacted by this committee; and no one had a right to be present at their proceedings but the president, and those whom he shall please to name as members of this committee. Thus, loans are made, unknown at the time to a majority of the board, and paper discounted which might probably

be rejected at a regular meeting of the directors. The most important operations of the bank are sometimes resolved on and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged, as to conceal from the officers of the government transactions in which the public interests are deeply involved. And this fact alone furnishes evidence too strong to be resisted, that the concealment of certain important operations of the corporation from the officers of the government is one of the objects which is intended to be accomplished by means of this committee. The plain words of the charter are violated, in order to deprive the people of the United States of one of the principal securities which the law had provided to guard their interests, and to render more safe the public money intrusted to the care of the bank. Would any individual of ordinary discretion continue his money in the hands of an agent who violated his instructions for the purpose of hiding from him the manner in which he was conducting the business confided to his charge? Would he continue his property in his hands, when he had not only ascertained that concealment had been practised towards him, but when the agent avowed his determination to continue in the same course, and to withhold from him, as far as he could, all knowledge of the manner in which he was employing his funds? If an individual would not be expected to continue his confidence under such circumstances, upon what principle could a different line of conduct be required from the officers of the United States, charged with the care of the public interests? The public money is surely entitled to the same care and protection as that of an individual; and if the latter would be bound, in justice to himself, to withdraw his money from the hands of an agent thus regardless of his duty, the same principle requires that the money of the United States should, under the like circumstances, be withdrawn from the hands of their fiscal agent."

Having shown ample reasons for ceasing to make the public deposits in the Bank of the United States, and that it was done, the Secretary proceeds to the next division of his subject, naturally resulting from his authority to remove, though not expressed in the charter; and that was, to show where he had ordered them to be placed.

"The propriety of removing the deposits being thus evident, and it being consequently my duty to select the places to which they were to be removed, it became necessary that arrangements should be immediately made with the new depositories of the public money, which would not only render it safe, but would at the same time secure to the government, and to the community at large, the conveniencies and facilities that were intended to be obtained by incorporating the Bank of the United States. Measures were accordingly taken for that purpose, and copies of the contracts which have been made with the selected banks, and of the letters of instructions to them from this department, are herewith submitted. The contracts with the banks in the interior are not precisely the same with those in the Atlantic cities. The difference between them arises from the nature of the business transacted by the banks in these different places. The State banks selected are all institutions of high character and undoubted strength, and are under the management and control of persons of unquestioned probity and intelligence. And, in order to insure the safety of the public money, each of them is required, and has agreed, to give security whenever the amount of the deposit shall exceed the half of the amount of the capital actually paid in; and this department has reserved to itself the right to demand security whenever it may think it advisable, although this amount on deposit may not be equal to the sum above stated. The banks selected have also severally engaged to transmit money to any point at which it may be required by the direction of this department for the public service, and to perform all the services to the government which were heretofore rendered by the Bank of the United States. And, by agreements among themselves to honor each other's notes and drafts, they are providing a general currency at least as sound as that of the Bank of the United States, and will afford

facilities to commerce and in the business of domestic exchange, quite equal to any which the community heretofore enjoyed. There has not been yet sufficient time to perfect these arrangements, but enough has already been done to show that, even on the score of expediency, a Bank of the United States is not necessary, either for the fiscal operations of the government, or the public convenience; and that every object which the charter to the present bank was designed to attain, may be as effectually accomplished by the State banks. And, if this can be done, nothing that is useful will be lost or endangered by the change, while much that is desirable will be gained by it. For no one of these corporations will possess that absolute and almost unlimited dominion over the property of the citizens of the United States which the present bank holds, and which enables it at any moment, at its own pleasure, to bring distress upon any portion of the community whenever it may deem it useful to its interest to make its power felt. The influence of each of the State banks is necessarily limited to its own immediate neighborhood, and they will be kept in check by the other local banks. They will not, therefore, be tempted by the consciousness of power to aspire to political influence, nor likely to interfere in the elections of the public servants. They will, moreover, be managed by persons who reside in the midst of the people who are to be immediately affected by their measures; and they cannot be insensible or indifferent to the opinions and peculiar interests of those by whom they are daily surrounded, and with whom they are constantly associated. These circumstances always furnish strong safeguards against an oppressive exercise of power, and forcibly recommend the employment of State banks in preference to a Bank of the United States, with its numerous and distant branches.

“In the selection, therefore, of the State banks as the fiscal agents of the government, no disadvantages appear to have been incurred on the score of safety or convenience, or the general interests of the country, while much that is valuable will be gained by the change. I am, however, well aware of the vast power of the Bank of the United States, and of its ability to bring distress and suffering on the country. This is one of the evils of chartering a bank with such an amount of capital, with the right of shooting its branches into every part of the Union, so as to extend its influence to every neighborhood. The immense loan of more than twenty-eight millions of dollars suddenly poured out, chiefly in the Western States, in 1831, and the first four months in 1832, sufficiently attests that the bank is sensible of the power which its money gives it, and has placed itself in an attitude to make the people of the United States feel the weight of its resentment, if they presume to disappoint the wishes of the corporation. By a severe curtailment it has already made it proper to withdraw a portion of the money it held on deposit, and transfer it to the custody of the new fiscal agents, in order to shield the community from the injustice of the Bank of the United States. But I have not supposed that the course of the government ought to be regulated by the fear of the power of the bank. If such a motive could be allowed to influence the legislation of Congress, or the action of the executive departments of the government, there is an end to the sovereignty of the people; and the liberties of the country are at once surrendered at the feet of a moneyed corporation. They may now demand the possession of the public money, or the renewal of the charter; and if these objects are yielded to them from apprehensions of their power, or from the suffering which rapid curtailments on their part are inflicting on the community, what may they not next require? Will submission render such a corporation more forbearing in its course? What law may it not hereafter demand, that it will not, if it pleases, be able to enforce by the same means?”

Thus the keeping of the public moneys went to the local banks, the system of an independent treasury being not then established; and the notes of these banks necessarily required their notes to be temporarily used in the federal payments, the gold currency not being at that time revived. Upon these local banks the federal government was thrown—*first*, for the safe

keeping of its public moneys; *secondly*, to supply the place of the nineteen millions of bank notes which the national had in circulation; *thirdly*, to relieve the community from the pressure which the Bank of the United States had already commenced upon it, and which, it was known, was to be pushed to the ultimate point of oppression. But a difficulty was experienced in obtaining these local banks, which would be incredible without understanding the cause. Instead of a competition among them to obtain the deposits, there was holding off, and an absolute refusal on the part of many. Local banks were shy of receiving them—shy of receiving the greatest possible apparent benefit to themselves—shy of receiving the aliment upon which they lived and grew! and why this so great apparent contradiction? It was the fear of the Bank of the United States! and of that capacity to destroy them to which Mr. Biddle had testified in his answers to the Senate's Finance Committee; and which capacity was now known to be joined to the will; for the bank placed in the same category all who should be concerned in the removal—both the government that ordered it, and the local banks which received what it lost. But a competent number were found; and this first attempt to prevent a removal, by preventing a reception of the deposits elsewhere, entirely failed.

95. Nomination Of Government Directors, And Their Rejection

By the charter of the bank, the government was entitled to five directors, to be nominated annually by the President, and confirmed by the Senate. At the commencement of the session of 1833-'34, the President nominated the five, four of them being the same who had served during the current year, and who had made the report on which the order for the removal of the deposits was chiefly founded. This drew upon them the resentment of the bank, and caused them to receive a large share of reproach and condemnation in the report which the committee of the bank drew up, and which the board of directors adopted and published. When these nominations came into the Senate it was soon perceived that there was to be opposition to these four; and for the purpose of testing the truth of the objections, Mr. Kane, of Illinois, submitted the following resolution:

"*Resolved*, That the nominations of H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McEldery, be recommitted to the Committee on Finance, with instructions to inquire into their several qualifications and fitness for the stations to which they have been nominated; also into the truth of all charges preferred by them against the board of directors of the Bank of the United States, and into the conduct of each of the said nominees during the time he may have acted as director of the said bank; and that the said nominees have notice of the times and places of meetings of said committee, and have leave to attend the same."

Which was immediately rejected by the following vote:

"Yeas.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moor, Morris, Rives, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.—20.

"Nays.—Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, King of Georgia, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.—27."

And this resolution being rejected, requiring a two-fold examination—one into the character and qualifications of the nominees, the other into the truth of their representations against the bank, it was deemed proper to submit another, limited to an inquiry into the character and fitness of the nominees; which was rejected by the same vote. The nominations were then voted upon separately, and each of the four was rejected by the same vote which applied to the first one, to wit, Mr. Gilpin: and which was as follows:

"Yeas.—Messrs. Benton, Black, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.—20.

"Nays.—Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Ewing, Frelinghuysen, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.—24."

These rejections being communicated to the President, he immediately felt that it presented a new case for his energy and decision of conduct. The whole of the rejected gentlemen had been confirmed the year before—had all acted as directors for the current year—and there was no complaint against them except from the Bank of the United States; and that limited to

their conduct in giving information of transactions in the bank to President Jackson at his written request. Their characters and fitness were above question. That was admitted by the Senate, both by its previous confirmation for the same places, and its present refusal to inquire into those points. The information which they had given to the President had been copied from the books of the bank, and the transactions which they communicated had been objected to by them at the time as illegal and improper; and its truth, unimpeachable in itself, was unimpeached by the Senate in their refusal to inquire into their conduct while directors. It was evident then that they had been rejected for the report which they made to the President; and this brought up the question, whether it was right to punish them for that act? and whether the bank should have the virtual nomination of the government directors by causing those to be rejected which the government nominated? and permitting none to serve but those whose conduct should be subordinate to the views and policy of the bank? These were questions, first, for the Senate, and then for the country; and the President determined to bring it before both in a formal message of re-nomination. He accordingly sent back the names of the four rejected nominations in a message which contained, among others, these passages:

"I disclaim all pretension of right on the part of the President officially to inquire into, or call in question, the reasons of the Senate for rejecting any nomination whatsoever. As the President is not responsible to them for the reasons which induce him to make a nomination, so they are not responsible to him for the reasons which induce them to reject it. In these respects, each is independent of the other and both responsible to their respective constituents. Nevertheless, the attitude in which certain vital interests of the country are placed by the rejection of the gentlemen now re-nominated require of me, frankly, to communicate my views of the consequences which must necessarily follow this act of the Senate, if it be not reconsidered.

"The characters and standing of these gentlemen are well known to the community, and eminently qualify them for the offices to which I propose to appoint them. Their confirmation by the Senate at its last session to the same offices is proof that such was the opinion of them entertained by the Senate at that time; and unless some thing has occurred since to change it, this act may now be referred to as evidence that their talents and pursuits justified their selection.

"The refusal, however, to confirm their nominations to the same offices, shows that there is something in the conduct of these gentlemen during the last year which, in the opinion of the Senate, disqualifies them; and as no charge has been made against them as men or citizens, nothing which impeaches the fair private character they possessed when the Senate gave them their sanction at its last session, and as it moreover appears from the journal of the Senate recently transmitted for my inspection, that it was deemed unnecessary to inquire into their qualifications or character, it is to be inferred that the change in the opinion of the Senate has arisen from the official conduct of these gentlemen. The only circumstances in their official conduct which have been deemed of sufficient importance to attract public attention are the two reports made by them to the executive department of the government, the one bearing date the 22d day of April, and the other the 19th day of August last; both of which reports were communicated to the Senate by the Secretary of the Treasury with his reasons for removing the deposits.

"The truth of the facts stated in these reports, is not, I presume, questioned by any one. The high character and standing of the citizens by whom they were made prevent any doubt upon the subject. Indeed the statements have not been denied by the president of the bank, and the other directors. On the contrary, they have insisted that they were authorized to use the

money of the bank in the manner stated in the two reports, and have not denied that the charges there made against the corporation are substantially true.

“It must be taken, therefore, as admitted that the statements of the public directors, in the reports above mentioned, are correct: and they disclose the most alarming abuses on the part of the corporation, and the most strenuous exertions on their part to put an end to them. They prove that enormous sums were secretly lavished in a manner, and for purposes that cannot be justified; and that the whole of the immense capital of the bank has been virtually placed at the disposal of a single individual, to be used, if he thinks proper, to corrupt the press, and to control the proceedings of the government by exercising an undue influence over elections.

“The reports were made in obedience to my official directions; and I herewith transmit copies of my letter calling for information of the proceedings of the bank. Were they bound to disregard the call? Was it their duty to remain silent while abuses of the most injurious and dangerous character were daily practised? Were they bound to conceal from the constituted authorities a course of measures destructive to the best interests of the country, and intended, gradually and secretly, to subvert the foundations of our government, and to transfer its powers from the hands of the people to a great moneyed corporation? Was it their duty to sit in silence at the board, and witness all these abuses without an attempt to correct them; or, in case of failure there, not to appeal to higher authority? The eighth fundamental rule authorizes any one of the directors, whether elected or appointed, who may have been absent when an excess of debt was created, or who may have dissented from the act, to exonerate himself from personal responsibility by giving notice of the fact to the President of the United States; thus recognizing the propriety of communicating to that officer the proceedings of the board in such cases. But, independently of any argument to be derived from the principle recognized in the rule referred to, I cannot doubt for a moment that it is the right and the duty of every director at the board to attempt to correct all illegal proceedings, and in case of failure, to disclose them; and that every one of them, whether elected by the stockholders or appointed by the government, who had knowledge of the facts, and concealed them, would be justly amenable to the severest censure.

“But, in the case of the public directors, it was their peculiar and official duty to make the disclosures; and the call upon them for information could not have been disregarded without a flagrant breach of their trust. The directors appointed by the United States cannot be regarded in the light of the ordinary directors of a bank appointed by the stockholders, and charged with the care of their pecuniary interests in the corporation. They have higher and more important duties. They are public officers. They are placed at the board not merely to represent the stock held by the United States, but to observe the conduct of the corporation, and to watch over the public interests. It was foreseen that this great moneyed monopoly might be so managed as to endanger the interests of the country; and it was therefore deemed necessary, as a measure of precaution, to place at the board watchful sentinels, who should observe its conduct, and stand ready to report to the proper officers of the government every act of the board which might affect injuriously the interests of the people.

“It was, perhaps, scarcely necessary to present to the Senate these views of the powers of the Executive, and of the duties of the five directors appointed by the United States. But the bank is believed to be now striving to obtain for itself the government of the country, and is seeking, by new and strained constructions, to wrest from the hands of the constituted authorities the salutary control reserved by the charter. And as misrepresentation is one of its most usual weapons of attack, I have deemed it my duty to put before the Senate, in a manner not to be misunderstood, the principles on which I have acted.

“Entertaining, as I do, a solemn conviction of the truth of these principles, I must adhere to them, and act upon them, with constancy and firmness.

“Aware, as I now am, of the dangerous machinations of the bank, it is more than ever my duty to be vigilant in guarding the rights of the people from the impending danger. And I should feel that I ought to forfeit the confidence with which my countrymen have honored me, if I did not require regular and full reports of every thing in the proceedings of the bank calculated to affect injuriously the public interests, from the public directors, and if the directors should fail to give the information called for, it would be my imperious duty to exercise the power conferred on me by the law of removing them from office, and of appointing others who would discharge their duties with more fidelity to the public. I can never suffer any one to hold office under me, who would connive at corruption, or who should fail to give the alarm when he saw the enemies of liberty endeavoring to sap the foundations of our free institutions, and to subject the free people of the United States to the dominion of a great moneyed corporation.

“Any directors of the bank, therefore, who might be appointed by the government, would be required to report to the Executive as fully as the late directors have done, and more frequently, because the danger is more imminent; and it would be my duty to require of them a full detail of every part of the proceedings of the corporation, or any of its officers, in order that I might be enabled to decide whether I should exercise the power of ordering a *scire facias*, which is reserved to the President by the charter, or adopt such other lawful measures as the interests of the country might require. It is too obvious to be doubted, that the misconduct of the corporation would never have been brought to light by the aid of a public proceeding at the board of directors.

“The board, when called on by the government directors, refused to institute an inquiry or require an account, and the mode adopted by the latter was the only one by which the object could be attained. It would be absurd to admit the right of the government directors to give information, and at the same time deny the means of obtaining it. It would be but another mode of enabling the bank to conceal its proceedings, and practice with impunity its corruptions. In the mode of obtaining the information, therefore, and in their efforts to put an end to the abuses disclosed, as well as in reporting them, the conduct of the late directors was judicious and praiseworthy, and the honesty, firmness, and intelligence, which they have displayed, entitle them, in my opinion, to the gratitude of the country.

“If the views of the Senate be such as I have supposed, the difficulty of sending to the Senate any other names than those of the late directors will be at once apparent. I cannot consent to place before the Senate the name of any one who is not prepared, with firmness and honesty, to discharge the duties of a public director in the manner they were fulfilled by those whom the Senate have refused to confirm. If, for performing a duty lawfully required of them by the Executive, they are to be punished by the subsequent rejection of the Senate, it would not only be useless but cruel to place men of character and honor in that situation, if even such men could be found to accept it. If they failed to give the required information, or to take proper measures to obtain it, they would be removed by the Executive. If they gave the information, and took proper measures to obtain it, they would, upon the next nomination, be rejected by the Senate. It would be unjust in me to place any other citizens in the predicament in which this unlooked for decision of the Senate has placed the estimable and honorable men who were directors during the last year.

“If I am not in error in relation to the principles upon which these gentlemen have been rejected, the necessary consequence will be that the bank will hereafter be without government directors and the people of the United States must be deprived of their chief

means of protection against its abuses; for, whatever conflicting opinions may exist as to the right of the directors appointed in January, 1833, to hold over until new appointments shall be made, it is very obvious that, whilst their rejection by the Senate remains in force, they cannot, with propriety, attempt to exercise such a power. In the present state of things, therefore, the corporation will be enabled effectually to accomplish the object it has been so long endeavoring to attain. Its exchange committees, and its delegated powers to its president, may hereafter be dispensed with, without incurring the danger of exposing its proceedings to the public view. The sentinels which the law had placed at its board can no longer appear there.

"Justice to myself, and to the faithful officers by whom the public has been so well and so honorably served, without compensation or reward, during the last year, has required of me this full and frank exposition of my motives for nominating them again after their rejection by the Senate. I repeat, that I do not question the right of the Senate to confirm or reject at their pleasure; and if there had been any reason to suppose that the rejection, in this case, had not been produced by the causes to which I have attributed it, or of my views of their duties, and the present importance of their rigid performance, were other than they are, I should have cheerfully acquiesced, and attempted to find others who would accept the unenviable trust. But I cannot consent to appoint directors of the bank to be the subservient instruments, or silent spectators, of its abuses and corruptions; nor can I ask honorable men to undertake the thankless duty, with the certain prospect of being rebuked by the Senate for its faithful performance, in pursuance of the lawful directions of the Executive."

This message brought up the question, virtually, Which was the nominating power, in the case of the government directors of the bank? was it the President and Senate? or the bank and the Senate? for it was evident that the four now nominated were rejected to gratify the bank, and for reasons that would apply to every director that would discharge his duties in the way these four had done—namely, as government directors, representing its stock, guarding its interest, and acting for the government in all cases which concerned the welfare of an institution whose notes were a national currency, whose coffers were the depository of the public moneys, and in which it had a direct interest of seven millions of dollars in its stock. It brought up this question: and if negatived, virtually decided that the nominating power should be in the bank; and that the government directors should no more give such information to the President as these four had given. And this question it was determined to try, and that definitively, in the persons of these four nominated directors, with the declared determination to nominate no others if they were rejected; and so leave the government without representation in the bank. This message of re-nomination was referred to the Senate's Committee of Finance, of which Mr. Tyler was chairman, and who made a report adverse to the re-nominations, and in favor of again rejecting the nominees. The points made in the report were, *first*, the absolute right of the Senate to reject nominations; *secondly*, their privilege to give no reasons for their rejections (which the President had not asked); and, *thirdly*, against the general impolicy of making re-nominations, while admitting both the right and the practice in extraordinary occasions. Some extracts will show its character: thus:

"The President disclaims, indeed, in terms, all right to inquire into the reasons of the Senate for rejecting any nomination; and yet the message immediately undertakes to infer, from facts and circumstances, what those reasons, which influenced the Senate in this case, must have been; and goes on to argue, much at large, against the validity of such supposed reasons. The committee are of opinion that, if, as the President admits, he cannot inquire into the reasons of the Senate for refusing its assent to nominations, it is still more clear that these reasons cannot, with propriety, be assumed, and made subjects of comment.

"In cases in which nominations are rejected for reasons affecting the character of the persons nominated, the committee think that no inference is to be drawn except what the vote shows; that is to say, that the Senate withholds its advice and consent from the nominations. And the Senate, not being bound to give reasons for its votes in these cases, it is not bound, nor would it be proper for it, as the committee think, to give any answer to remarks founded on the presumption of what such reasons must have been in the present case. They feel themselves, therefore, compelled to forego any response whatever to the message of the President, in this particular, as well by the reasons before assigned, as out of respect to that high officer.

"The President acts upon his own views of public policy, in making nominations to the Senate; and the Senate does no more, when it confirms or rejects such nominations.

"For either of these co-ordinate departments to enter into the consideration of the motives of the other, would not, and could not, fail, in the end, to break up all harmonious intercourse between them. This your committee would deplore as highly injurious to the best interests of the country. The President, doubtless, asks himself, in the case of every nomination for office, whether the person be fit for the office; whether he be actuated by correct views and motives; and whether he be likely to be influenced by those considerations which should alone govern him in the discharge of his duties—is he honest, capable, and faithful? Being satisfied in these particulars, the President submits his name to the Senate, where the same inquiries arise, and its decision should be presumed to be dictated by the same high considerations as those which govern the President in originating the nomination.

"For these reasons, the committee have altogether refrained from entering into any discussion of the legal duties and obligations of directors of the bank, appointed by the President and Senate, which forms the main topic of the message.

"The committee would not feel that it had fully acquitted itself of its obligations, if it did not avail itself of this occasion to call the attention of the Senate to the general subject of renomination.

"The committee do not deny that a right of renomination exists; but they are of opinion that, in very clear and strong cases only should the Senate reverse decisions which it has deliberately formed, and officially communicated to the President.

"The committee perceive, with regret, an intimation in the message that the President may not see fit to send to the Senate the names of any other persons to be directors of the bank, except those whose nominations have been already rejected. While the Senate will exercise its own rights according to its own views of its duty, it will leave to other officers of the government to decide for themselves on the manner they will perform their duties. The committee know no reasons why these offices should not be filled; or why, in this case, no further nomination should be made, after the Senate has exercised its unquestionable right of rejecting particular persons who have been nominated, any more than in other cases. The Senate will be ready at all times to receive and consider any such nominations as the President may present to it.

"The committee recommend that the Senate do not advise and consent to the appointment of the persons thus renominated."

While these proceedings were going on in the Senate, the four rejected gentlemen were paying some attention to their own case; and, in a "memorial" addressed to the Senate and to the House of Representatives, answered the charges against them in the Directors' Report, and vindicated their own conduct in giving the information which the President requested—reasserted the truth of that information; and gave further details upon the manner in which they had been systematically excluded from a participation in conducting the main business of the bank, and even from a knowledge of what was done. They said:

"Selected by the President and Senate as government directors of the Bank of the United States, we have endeavored, during the present year, faithfully to discharge the duties of that responsible trust. Appointed without solicitation, deriving from the office no emolument, we have been guided in our conduct by no views but a determination to uphold, so far as was in our power, those principles which we believe actuated the people of the United States in establishing a national bank, and in providing by its charter that they should be represented at the board of directors. We have regarded that institution, not merely as a source of profit to individuals, but as an organ of the government, established by the nation for its own benefit. We have regarded ourselves, not as mere agents of those whose funds have been subscribed towards the capital of the bank, but as officers appointed on behalf of the American people. We have endeavored to govern all our conduct as faithful representatives of them. We have been deterred from this by no preconcerted system to deprive us of our rights, by no impeachment of our motives, by no false views of policy, by no course of management which might be supposed to promote the interests of those concerned in the institution, at the danger or sacrifice of the general good. We have left the other directors to govern themselves as they may think best for the interests of those by whom they were chosen. For ourselves, we have been determined, that where any differences have arisen, involving on the one hand that open and correct course which is beneficial to the whole community, and, on the other, what are supposed to be the interests of the bank, our efforts should be steadily directed to uphold the former, our remonstrances against the latter should be resolute and constant; and, when they proved unavailing, our appeal should be made to those who were more immediately intrusted with the protection of the public welfare.

"In pursuing this course we have been met by an organized system of opposition, on the part of the majority. Our efforts have been thwarted, our motives and actions have been misrepresented, our rights have been denied, and the limits of our duties have been gratuitously pointed out to us, by those who have sought to curtail them to meet their own policy, not that which we believe led to the creation of the offices we hold. Asserting that injury has been done to them by the late measure of the Secretary of the Treasury, in removing the public deposits, an elaborate statement has been prepared and widely circulated; and taking that as their basis, it has been resolved by the majority to present a memorial to the Senate and House of Representatives. We have not, and do not interfere in the controversy which exists between the majority of the board and the executive department of the government; but unjustly assailed as we have been in the statement to which we have referred, we respectfully claim the same right of submitting our conduct to the same tribunal, and asking of the assembled representatives of the American people that impartial hearing, and that fair protection, which all their officers and all citizens have a right to demand. We shall endeavor to present the view we have taken of the relation in which we are placed, as well towards the institution in question as towards the government and people of the United States, to prove that from the moment we took our seats among the directors of the bank, we have been the objects of a systematic opposition; our rights trampled upon, our just interference prevented, and our offices rendered utterly useless, for all the purposes required by the charter; and to show that the statements by the majority of the board, in the document to which we refer, convey an account of their proceedings and conduct altogether illusory and incorrect."

The four gentlemen then state their opinions of their rights, and their duties, as government directors—that they were devised as instruments for the attainment of public objects—that they were public directors, not elected by stockholders, but appointed by the President and Senate—that their duties were not merely to represent a moneyed interest and promote the largest dividend for stockholders, but also to guard all the public and political interest of the

government in an institution so largely sharing its support and so deeply interested in its safe and honorable management. And in support of this opinion of their duties they quoted the authority of Gen. Hamilton, founder of the first bank of the United States; and that of Mr. Alexander Dallas, founder of the second and present bank; showing that each of them, and at the time of establishing the two banks respectively, considered the government directors as public officers, bound to watch over the operations of the bank, to oppose all malpractices, and to report them to the government whenever they occurred. And they thus quoted the opinions of those two gentlemen:

"In the celebrated report of Alexander Hamilton, in 1790, that eminent statesman and financier, although then impressed with a persuasion that the government of the country might well leave the management of a national bank to 'the keen, steady, and, as it were, magnetic sense of their own interest,' existing among the private stockholders, yet holds the following remarkable and pregnant language: 'If the paper of a bank is permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver, in all the transactions of business; it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable, as it respects the government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement.'

"In the letter addressed by Alexander James Dallas, the author of the existing bank, to the chairman of the committee on a national currency, in 1815, the sentiments of that truly distinguished and patriotic statesman are explicitly conveyed upon this very point. 'Nor can it be doubted,' he remarks, 'that the department of the government which is invested with the power of appointment to all the important offices of the State, is a proper department to exercise the power of appointment in relation to a national trust of incalculable magnitude. The national bank ought not to be regarded simply as a commercial bank. It will not operate on the funds of the stockholders alone, but much more on the funds of the nation. Its conduct, good or bad, will not affect the corporate credit and resources alone, but much more the credit and resources of the government. In fine, it is not an institution created for the purposes of commerce and profit alone, but much more for the purposes of national policy, as an auxiliary in the exercise of some of the highest powers of the government. Under such circumstances, the public interests cannot be too cautiously guarded, and the guards proposed can never be injurious to the commercial interests of the institution. The right to inspect the general accounts of the bank, may be employed to detect the evils of a mal-administration, but an interior agency in the direction of its affairs will best serve to prevent them.' This last sentence, extracted from the able document of Secretary Dallas, developes at a glance what had been the experience of the American government and people, in the period which elapsed between the time of Alexander Hamilton and that immediately preceding the formation of the present bank. Hamilton conceived that 'a right to inspect the general accounts of the bank,' would enable government 'to detect the evils of a mal-administration,' and their detection he thought sufficient. He was mistaken: at least so thought Congress and their constituents, in 1815. Hence the inflexible spirit which prevailed at the organization of a new bank, in establishing 'an interior agency in the direction of its affairs,' by the appointment of public officers, through whom the evils of a mal-administration might be carefully watched and prevented."

The four gentlemen also showed, in their memorial, that when the bill for the charter of the present bank was under consideration in the Senate, a motion was made to strike out the

clause authorizing the appointment of the government directors; and that that motion was resisted, and successfully, upon the ground that they were to be the guardians of the public interests, and to secure a just and honorable administration of the affairs of the bank; that they were not mere bank directors, but government officers, bound to watch over the rights and interests of the government, and to secure a safe and honest management of an institution which bore the name of the United States—was created by it—and in which the United States had so much at stake in its stock, in its deposits, in its circulation, and in the safety of the community which put their faith in it. Having vindicated the official quality of their characters, and shown their duty as well as their right to inform the government of all mal-practices, they entered upon an examination of the information actually given, showing the truth of all that was communicated, and declaring it to be susceptible of proof, by the inspection of the books of the institution, and by an examination of its directors and clerks.

"We confidently assert that there is in it no statement or charge that can be invalidated; that every one is substantiated by the books and records of the bank; that no real error has been pointed out in this elaborate attack upon us by the majority. It is by suppressing facts well known to them, by misrepresenting what we say, by drawing unjust and unfair inferences from particular sentences, by selecting insulated phrases, and by exhibiting partial statements; by making unfounded insinuations, and by unworthily impeaching our motives, that they endeavor to controvert that which they are unable to refute. When the expense account shall be truly and fully exhibited to any tribunal, if it shall be found that the charges we have stated do not exist; when the minutes of the board shall be laid open, if it shall be found the resolutions we have quoted are not recorded; we shall acknowledge that we have been guilty of injustice and of error, but not till then.

"We have thus endeavored to present to the assembled representatives of the American people, a view of the course which, for nearly a year, the majority in a large moneyed institution, established by them for their benefit, have thought proper to pursue towards those who have been placed there, to guard their interests and to watch and control their conduct. We have briefly stated the systematic series of actions by which they have endeavored to deprive them of every right that was conferred on them by the charter, and to assume to themselves a secret, irresponsible, and unlimited power. We have shown that, in endeavoring to vindicate or to save themselves, they have resorted to accusations against us, which they are unable to sustain, and left unanswered charges which, were they not true, it would be easy to repel. We have been urged to this from no desire to enter into the lists with an adversary sustained by all the resources which boundless wealth affords. We have been driven to it by the nature and manner of the attack made upon us, in the document on which the intended memorial to Congress is founded."

But all their representations were in vain. Their nominations were immediately rejected, a second time, and the seal of secrecy preserved inviolate upon the reasons of the rejection. The "proceedings" of the Senate were allowed to be published; that is to say, the acts of the Senate, as a body, such as its motions, votes, reports, &c., but nothing of what was said pending the nominations. A motion was made by Mr. Wright to authorize the publication of the debates, which was voted down; and so differently from what was done in the case of Mr. Van Buren. In that case, the debates on the nomination were published; the reasons for the rejection were shown; and the public were enabled to judge of their validity. In this case no publication of debates was allowed; the report presented by Mr. Tyler gave no hint of the reasons for the rejection; and the act remained where that report put it—on the absolute right to reject, without the exhibition of any reason.

And thus the nomination of the government directors was rejected by the United States Senate, not for the declared, but for the known reason of reporting the misconduct of the bank to the President, and especially as it related to the appointment and the conduct of the exchange committee. A few years afterwards a committee of the stockholders, called the "Committee of Investigation," made a report upon the conduct and condition of the bank, in which this exchange committee is thus spoken of: "The mode in which the committee of exchange transacted their business, shows that there really existed no check whatever upon the officers, and that the funds of the bank were almost entirely at their disposition. That committee met daily, and were attended by the cashier, and at times, by the president. They exercised the power of making the loans and settlements, to full as great an extent as the board itself. They kept no minutes of their proceedings—no book in which the loans made, and business done, were entered; but their decisions and directions were given verbally to the officers, to be by them carried into execution. The established course of business seems to have been, for the first teller to pay on presentation at the counter, all checks, notes, or due bills having indorsed the order, or the initials, of one of the cashiers, and to place these as vouchers in his drawer, for so much cash, where they remained, until just before the regular periodical counting of the cash by the standing committee of the board on the state of the bank. These vouchers were then taken out, and entered as 'bills receivable,' in a small memorandum-book, under the charge of one of the clerks. These bills were not discounted, but bore interest semi-annually, and were secured by a pledge of stock, or some other kind of property. It is evidently impossible under such circumstances, to ascertain or be assured, in regard to any particular loan or settlement, that it was authorized by a majority of the exchange committee. It can be said, however, with entire certainty, that the very large business transacted in this way does not appear upon the face of the discount books—was never submitted to the examination of the members of the board at its regular meetings, nor is any where entered on the minutes as having been reported to that body for their information or approbation."

96. Secretary’s Report On The Removal Of The Deposits

In the first days of the session Mr. Clay called the attention of the Senate to the report of the Secretary of the Treasury, communicating the fact that he had ordered the public deposits to cease to be made in the Bank of the United States, and giving his reasons for that act, and said:

“When Congress, at the time of the passage of the charter of the bank, made it necessary that these reasons should be submitted, they must have had some purpose in their mind. It must have been intended that Congress should look into these reasons, determine as to their validity; and approve or disapprove them, as might be thought proper. The reasons had now been submitted, and it was the duty of Congress to decide whether or not they were sufficient to justify the act. If there was a subject which, more than any other, seemed to require the prompt action of Congress, it certainly was that which had reference to the custody and care of the public treasury. The Senate, therefore, could not, at too early a period, enter on the question—what was the actual condition of the treasury?

“It was not his purpose to go into a discussion, but he had risen to state that it appeared to him to be his duty as a senator, and he hoped that other senators took similar views of their duty, to look into this subject, and to see what was to be done. As the report of the Secretary of the Treasury had declared the reasons which had led to the removal of the public deposits, and as the Senate had to judge whether, on investigation of these reasons, the act was a wise one or not, he considered that it would not be right to refer the subject to any committee, but that the Senate should at once act on it, not taking it up in the form of a report of a committee, but going into an examination of the reasons as they had been submitted.”

Mr. Benton saw two objections to proceeding as Mr. Clay proposed—one, as to the form of his proposition—the other, as to the place in which it was made. The report of the Secretary, charging acts of misconduct as a cause of removal, would require an investigation into their truth. The House of Representatives being the grand inquest of the nation, and properly chargeable with all inquiries into abuses, would be the proper place for the consideration of the Secretary’s report—though he admitted that the Senate could also make the inquiry if it pleased; but should do it in the proper way, namely, by inquiring into the truth of the allegations against the bank. He said:

“He requested the Senate to bear in mind that the Secretary had announced, among other reasons which he had assigned for the removal of the deposits, that it had been caused by the misconduct of the bank, and he had gone into a variety of specifications, charging the bank with interfering with the liberties of the people in their most vital elements—the liberty of the press, and the purity of elections. The Secretary had also charged the bank with dishonoring its own paper on several occasions, and that it became necessary to compel it to receive paper of its own branches. Here, then, were grave charges of misconduct, and he wished to know whether, in the face of such charges, this Congress was to go at once, without the previous examination of a committee, into action upon the subject?

“He desired to know whether the Senate were now about to proceed to the consideration of this report as it stood, and, without receiving any evidence of the charges, or taking any course to establish their truth, to give back the money to this institution? He thought it would be only becoming in the bank itself to ask for a committee of scrutiny into its conduct, and

that the subject ought to be taken up by the House of Representatives, which, on account of its numbers, its character as the popular branch, and the fact that all money bills originated there, was the most proper tribunal for the hearing of this case. He did not mean to deny that the Senate had the power to go into the examination. But to fix a day now for the decision of so important a case, he considered as premature. Were the whole of the charges to be blown out of the paper by the breath of the Senate? Were they to decide on the question, each senator sitting there as witness and juror in the case? He did not wish to stand there in the character of a witness, unless he was to be examined on oath either at the bar of the Senate, or before a committee of that body, where the evidence would be taken down. He wished to know the manner in which the examination was to be conducted; for he regarded this motion as an admission of the truth of every charge which had been made in the report, and as a flight from investigation."

Mr. Clay then submitted two resolutions in relation to the subject, the second of which after debate, was referred to the committee on finance. They were in these words:

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

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

The order for the reference to the finance committee was made in the Senate at four o'clock in the afternoon of one day; and the report upon it was made at noon the next day; a very elaborate argumentative paper, the reading of which by its reporter (Mr. Webster) consumed one hour and a quarter of time. It recommended the adoption of the resolution; and 6000 copies of the report were ordered to be printed. Mr. Forsyth, of Georgia, complimented the committee on their activity in getting out a report of such length and labor, in so short a time, and in the time usually given to the refreshment of dinner and sleep. He said:

"Certainly great credit was due to the committee on finance for the zeal, ability, and industry with which the report had been brought out. He thought the reference was made yesterday at four o'clock; and the committee could hardly have had time to agree on and write out so long a report in the short space of time intervening since then. It was possible that the subject might have been discussed and well understood in the committee before, and that the chairman had time to embody the sentiments of the various members of the committee previous to the reference. If such was the case, it reminded him of what had once happened in one of the courts of justice of the State of Georgia. A grave question of constitutional law was presented before that court, was argued for days with great ability, and when the argument was concluded, the judge drew from his coat pocket a written opinion, which he read, and ordered to be recorded as the opinion of the court. It appeared, therefore, that unless the senator from Massachusetts carried the opinion of the committee in his coat pocket, he could not have presented his report with the unexampled dispatch that had been witnessed."

Mr. Webster, evidently nettled at the sarcastic compliment of Mr. Forsyth, replied to him in a way to show his irritated feelings, but without showing how he came to do so much work in so short a time. He said:

"Had the gentleman come to the Senate this morning in his usual good humor, he would have been easily satisfied on that point. He will recollect that the subject now under discussion was deemed, by every body, to be peculiarly fitted for the consideration of the committee on finance; and that, three weeks ago, I had intimated my intention of moving for such a reference. I had, however, delayed the motion, from considerations of courtesy to other gentlemen, on all sides. But the general subject of the removal of the deposits, had been referred to the committee on finance, by reference of that part of the President's message; and various memorials, in relation to it, had also been referred. The subject has undergone an ample discussion in committee. I had been more than once instructed by the committee to move for the reference of the Secretary's letter, but the motion was postponed, from time to time, for the reasons I have before given. Had the gentleman from Georgia been in the Senate yesterday, he would have known that this particular mode of proceeding was adopted, as was then well understood, for the sole purpose of facilitating the business of the Senate, and of giving the committee an opportunity to express an opinion, the result of their consideration. If the gentleman had heard what had passed yesterday, when the reference was made, he would not have expressed surprise."

The fact was the report had been drawn by the counsel for the bank, and differed in no way in substance, and but little in form, from the report which the bank committee had made on the paper, "purporting to have been signed by Andrew Jackson, and read to what was called a cabinet." But the substance of the resolution (No. 2, of Mr. Clay's), gave rise to more serious objections than the marvellous activity of the committee in reporting upon it with the elaboration and rapidity with which they had done. It was an empty and inoperative expression of opinion, that the Secretary's reasons were "unsatisfactory and insufficient;" without any proposition to do any thing in consequence of that dissatisfaction and insufficiency; and, consequently, of no legislative avail, and of no import except to bring the opinion of senators, thus imposingly pronounced, against the act of the Secretary. The resolve was not practical—was not legislative—was not in conformity to any mode of doing business—and led to no action;—neither to a restoration of the deposits nor to a condemnation of their keeping by the State banks. Certainly the charter, in ordering the Secretary to report, and to report at the first practicable moment, both the fact of a removal, and the reasons for it, was to enable Congress to act—to do something—to legislate upon the subject—to judge the validity of the reasons—and to order a restoration if they were found to be untrue or insufficient; or to condemn the new place of deposit, if it was deemed insecure or improper. All this was too obvious to escape the attention of the democratic members who inveighed against the futility and irrelevance of the resolve, unfit for a legislative body, and only suitable for a town meeting; and answering no purpose as a senatorial resolve but that of political effect against public men. On this point Mr. Forsyth said:

"The subject had then been taken out of the hands of the Senate, and sent to the committee on finance; and for what purpose was it sent thither? Did any one doubt what would be the opinion of the committee on finance? Would such a movement have been made, had it not been intended thereby to give strength to the course of the opposition? He was not in the Senate when the reference was yesterday made, but he had supposed that it was made for the purpose of some report in a legislative form, but it has come back with an argument, and a recommendation of the adoption of the resolution of the senator from Kentucky; and when the resolutions were adopted, would they not still be sent back to that committee for examination? Why had not the committee, who seemed to know so well what would be the opinion of the Senate, imbodied that opinion in a legislative form?"

To the same effect spoke many members, and among others, Mr. Silas Wright, of New-York, who said:

"He took occasion to say, that with regard to the reference made yesterday, he was not so unfortunate as his friend from Georgia, to be absent at the time, and he then, while the motion was pending, expressed his opinion that a reference at four o'clock in the afternoon, to be returned with a report at twelve the next day, would materially change the aspect of the case before the Senate. He was also of opinion, that the natural effect of sending this proposition to the committee on finance would be, to have it returned with a recommendation for some legislative action. In this, however, he had been disappointed, the proposition had been brought back to the Senate in the same form as sent to the committee, with the exception of the very able argument read that morning."

Mr. Webster felt himself called upon to answer these objections, and did so in a way to intimate that the committee were not "green" enough,—that is to say, were too wise—to propose any legislative action on the part of Congress in relation to this removal. He said:

"There is another thing, sir, to which the gentleman has objected. He would have preferred that some legislative recommendation should have accompanied the report—that some law, or joint resolution, should have been recommended. Sir, do we not see what the gentleman probably desires? If not, we must be green politicians. It was not my intention, at this stage of the business, to propose any law, or joint resolution. I do not, at present, know the opinions of the committee on this subject. On this question, at least, to use the gentleman's expression, I do not carry their opinions in my coat pocket. The question, when it arrives, will be a very grave one—one of deep and solemn import—and when the proper time for its discussion arrives, the gentleman from Georgia will have an opportunity to examine it. The first thing is, to ascertain the judgment of the Senate, on the Secretary's reasons for his act."

The meaning of Mr. Webster in this reply—this intimation that the finance committee had got out of the sap, and were no longer "green"—was a declaration that any legislative measure they might have recommended, would have been rejected in the House of Representatives, and so lost its efficacy as a senatorial opinion; and to avoid that rejection, and save the effect of the Senate's opinion, it must be a single and not a joint resolution; and so confined to the Senate alone. The reply of Mr. Webster was certainly candid, but unparliamentary, and at war with all ideas of legislation, thus to refuse to propose a legislative enactment because it would be negatived in the other branch of the national legislature. Finally, the resolution was adopted, and by a vote of 28 to 18; thus:

"Yeas.—Messrs. Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, King of Georgia, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

"Nays.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Linn, McKean, Moore, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright."

The futility of this resolve was made manifest soon after its passage. It was nugatory, and remained naked. It required nothing to be done, and nothing was done under it. It became ridiculous. And eventually, and near the end of the session, Mr. Clay proposed it over again, with another resolve attached, directing the return of the deposits to the Bank of the United States; and making it joint, so as to require the consent of both houses, and thus lead to legislative action. In submitting his resolution in this new form he took occasion to allude to their fate in the other branch of the legislature, where rejection was certain, and to intimate censure upon the President for not conforming to the opinion of the Senate in its resolves; as if the adverse opinion of the House (from its recent election, its superior numbers, and its

particular charge of the revenue), was not more than a counterpoise to the opinion of the Senate. In this sense, he stood up, and said:

“Whatever might be the fate of these resolutions at the other end of the capitol, or in another building, that consideration ought to have no influence on the course of this body. The Senate owed it to its own character, and to the country, to proceed in the discharge of its duties, and to leave it to others, whether at the other end of the capitol or in another building, to perform their own obligations to the country, according to their own sense of their duty, and their own convictions of responsibility. To them it ought to be left to determine what was their duty, and to discharge that duty as they might think best. For himself, he should be ashamed to return to his constituents without having made every lawful effort in his power to cause the restoration of the public deposits to the United States Bank. While a chance yet remained of effecting the restoration of the reign of the constitution and the laws, he felt that he should not have discharged this duty if he failed to make every effort to accomplish that desirable object.

“The Senate, after passing the resolution which they had already passed, and waiting two months to see whether the Executive would conform his course to the views expressed by this branch of the legislature; after waiting all this time, and perceiving that the error, as the Senate had declared it to be, was still persevered in, and seeing the wide and rapid sweep of ruin over every section of the country, there was still one measure left which might arrest the evil, and that was in the offering of these resolutions—to present them to this body; and, if they passed here, to send them to the other House; and, should they pass them, to present to the President the plain question, if he will return to the constitutional track; or, in opposition to the expressed will of the legislature, retain the control over the millions of public money which are already deposited in the local banks, and which are still coming in there.”

Mr. Benton replied to Mr. Clay, showing the propriety of these resolutions if offered at the commencement of the session—their inutility now, so near its end; and the indelicacy in the Senate, in throwing itself between the bank and the House of Representatives, at a moment when the bank directors were standing out in contempt against the House, refusing to be examined by its committee, and a motion actually depending to punish them for this contempt. For this was then the actual condition of the corporation; and, for the Senate to pass a resolution to restore the deposits in these circumstances, was to take the part of the bank against the House—to justify its contumacy—and to express an opinion in favor of its re-charter; as all admitted that restoration of the deposits was wrong unless a re-charter was granted. Mr. B. said:

“He deemed the present moment to be the most objectionable time that could have been selected for proposing to restore the public deposits to the United States Bank. Such a proposition might have been a proper proceeding at the commencement of the session. A joint resolution, at that time, would have been the proper mode; it could have been followed by action; and, if constitutionally passed, would have compelled the restoration of these deposits. But the course was different. A separate resolution was brought in, and passed the Senate; and there it stopped. It was a nugatory resolution, leading to no action. It was such a one as a State legislature, or a public meeting, might adopt, because they had no power to legislate on the subject. But the Senate had the power of legislation; and, six months ago, when the separate resolution was brought in, the Senate, if it intended to act legislatively on the subject at all, ought to have proceeded by joint resolution, or by bill, at that time. But it thought otherwise. The separate resolution was adopted; after adoption, no instruction was given to a committee to bring in a bill; nothing was done to give legislative effect to the decision of the Senate; and now, at the end of six months, the first attempt is made to move in our legislative capacity, and to pass a joint resolution—equivalent to a statute—to compel the

restoration of these deposits. This is the state of the proceeding; and, Mr. B. must be permitted to say, and to give his reasons for saying, that the time selected for this first step, in our legislative capacity, in a case so long depending, is most inappropriate and objectionable. Mr. B. would not dwell upon the palpable objections to this proceeding, which must strike every mind. The advanced stage of the session—the propositions to adjourn—the quantity of business on hand—the little probability that the House and the President would concur with the Senate, or that two thirds of the two Houses could be brought to pass the resolution, if the President declined to give it his approbation. These palpable objections must strike every mind and make it appear to be a useless consumption of time for the Senate to pass the resolution.

"Virtually, it included a proposition to re-charter the bank; for the most confidential friends of that institution admitted that it was improper to restore the deposits, unless the bank charter was to be continued. The proposition to restore them, virtually included the proposition to re-charter; and that was a proposition which, after having been openly made on this floor, and leave asked to bring in a bill to that effect, had been abandoned, under the clear conviction that the measure could not pass. Passing from these palpable objections, Mr. B. proceeded to state another reason, of a different kind, and which he held to be imperative of the course which the Senate should now pursue: he alluded to the state of the questions at this moment depending between the Bank of the United States and the House of Representatives, and the nature of which exacted from the Senate the observance of a strict neutrality, and an absolute non-interference between those two bodies. The House of Representatives had ordered an inquiry into the affairs and conduct of the bank. The points of inquiry indicated misconduct of the gravest import, and had been ordered by the largest majority, not less than three or four to one. That inquiry was not yet finished; it was still depending; the committee appointed to conduct it remains organized, and has only reported in part. That report is before the Senate and the public; and shows that the directors of the Bank of the United States have resisted the authority of the House—have made an issue of power between itself and the House—for the trial of which issue a resolution is now depending in the House, and is made the order of the day for Tuesday next.

"Here, then, are two questions depending between the House and the bank; the first, an inquiry into the misconduct of the bank; the second, a proposition to compel the bank to submit to the authority of the House. Was it right for the Senate to interpose between those bodies, while these questions were depending? Was it right to interfere on the part of the bank? Was it right for the Senate to leap into the arena, throw itself between the contending parties, take sides with the bank, and virtually declare to the American people that there was no cause for inquiry into the conduct of the bank, and no ground of censure for resisting the authority of the House? Such would, doubtless, be the effect of the conduct of the Senate, if it should entertain the proposition which is now submitted to it. That proposition is one of honor and confidence to the bank. It proceeds upon the assumption that the bank is right, and the House is wrong, in the questions now depending between them; that the bank has done nothing to merit inquiry, or to deserve censure; and that the public moneys ought to be restored to her keeping, without waiting the end of the investigation which the House has ordered, or the decision of the resolution which affirms that the bank has resisted the authority of the House, and committed a contempt against it. This is the full and fair interpretation—the clear and speaking effect—of the measure now proposed to the Senate. Is it right to treat the House thus? Will the Senate, virtually, intelligibly, and practically, acquit the bank, when the bank will not acquit itself?—will not suffer its innocence to be tested by the recorded voice of its own books, and the living voice of its own directors? These directors have refused to testify; they have refused to be sworn; they have refused to touch the book;

because, being directors and corporators, and therefore parties, they cannot be required to give evidence against themselves. And this refusal, the public is gravely told, is made upon the advice of eminent counsel. What counsel? The counsel of the law, or of fear? Certainly, no lawyer—not even a junior apprentice to the law—could give such advice. The right to stand mute, does not extend to the privilege of refusing to be sworn. The right does not attach until after the oath is taken, and is then limited to the specific question, the answer to which might inculpate the witness, and which he may refuse to answer, because he will say, upon his oath, that the answer will criminate himself. But these bank directors refuse to be sworn at all. They refuse to touch the book; and, in that refusal, commit a flagrant contempt against the House of Representatives, and do an act for which any citizen would be sent to jail by any justice of the peace, in America. And is the Senate to justify the directors for this contempt? to get between them and the House? to adopt a resolution beforehand—before the day fixed for the decision of the contempt, which shall throw the weight of the Senate into the scale of the directors against the House, and virtually declare that they are right in refusing to be sworn?"

The resolutions were, nevertheless, adopted, and by the fixed majority of twenty-eight to eighteen, and sent to the House of Representatives for concurrence, where they met the fate which all knew they were to receive. The House did not even take them up for consideration, but continued the course which it had began at the commencement of the session; and which was in exact conformity to the legislative course, and exactly contrary to the course of the Senate. The report of the Secretary of the Treasury, the memorial of the bank, and that of the government directors, were all referred to the Committee of Ways and Means; and by that committee a report was made, by their chairman, Mr. Polk, sustaining the action of the Secretary, and concluding with the four following resolutions:

"1. *Resolved*, That the Bank of the United States ought not to be re-chartered.

"2. *Resolved*, That the public deposits ought not to be restored to the Bank of the United States.

"3. *Resolved*, That the State banks ought to be continued as the places of deposit of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed.

"4. *Resolved*, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated; and, also, what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press, to interfere in politics, or influence elections; and whether it has had any agency, through its management or money, in producing the existing pressure; a select committee be appointed to inspect the books and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruptions, or malpractices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses, on oath, and to examine into the affairs of the said bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable."

These resolutions were long and vehemently debated, and eventually, each and every one, adopted by decided, and some by a great majority. The first one, being that upon the question of the recharter, was carried by a majority of more than fifty votes—134 to 82; showing an immense difference to the prejudice of the bank since the veto session of 1832. The names of the voters on this great question, so long debated in every form in the halls of Congress, the chambers of the State legislatures, and in the forum of the people, deserve to be commemorated—and are as follows:

"Yeas.—Messrs. John Adams, William Allen, Anthony, Archer, Beale, Bean, Beardsley, Beaumont, John Bell, John Blair, Bockee, Boon, Bouldin, Brown, Bunch, Bynum, Cambreleng, Campbell, Carmichael, Carr, Casey, Chaney, Chinn, Claiborne, Samuel Clark, Clay, Clayton, Clowney, Coffee, Connor, Cramer, W. R. Davis, Davenport, Day, Dickerson, Dickinson, Dunlap, Felder, Forester, Foster, W. K. Fuller, Fulton, Galbraith, Gholson, Gillet, Gilmer, Gordon, Grayson, Griffin, Jos. Hall, T. H. Hall, Halsey, Hamer, Hannegan, Jos. M. Harper, Harrison, Hathaway, Hawkins, Hawes, Heath, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Lawrence, Lay, Luke Lea, Thomas Lee, Leavitt, Loyall, Lucas, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, John Y. Mason, Moses Mason, McIntire, McKay, McKinley, McLene McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, D. J. Pearce, Peyton, Franklin Pierce, Pierson, Pinckney, Plummer, Polk, Rencher, Schenck, Schley, Shinn, Smith, Speight, Standifer, Stoddert, Sutherland, William Taylor, Wm. P. Taylor, Francis Thomas, Thomson, Turner, Turrill, Vanderpoel, Wagener, Ward, Wardwell, Wayne, Webster, Whallon.—134.

"Nays.—Messrs. John Quincy Adams, John J. Allen, Heman Allen, Chilton Allan, Ashley, Banks, Barber, Barnitz, Barringer, Baylies Beaty, James M. Bell, Binney, Briggs, Bull, Burges, Cage, Chambers, Chilton, Choate, William Clark, Corwin, Coulter, Crane, Crockett, Darlington, Amos Davis, Deberry, Deming, Denny, Dennis, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Fillmore, Foot, Philo C. Fuller, Graham, Grennel, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Jabez W. Huntington, Jackson, William C. Johnson, Lincoln, Martindale, Marshall, McCarty, McComas, McDuffie, McKennan, Mercer, Milligan, Moore, Pope, Potts, Reed, William B. Shepherd, Aug. H. Shepperd, William Slade, Charles Slade, Sloane, Spangler Philemon Thomas, Tompkins, Tweedy, Vance, Vinton, Watmough, Edward D. White, Frederick Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Young.—82."

The second and third resolutions were carried by good majorities, and the fourth overwhelm overwhelmingly—175 to 42. Mr. Polk immediately moved the appointment of the committee, and that it consist of seven members. It was appointed accordingly, and consisted of Messrs. Francis Thomas of Maryland, chairman; Everett of Massachusetts; Muhlenberg of Pennsylvania; John Y. Mason of Virginia; Ellsworth of Connecticut; Mann of New-York; and Lytle of Ohio. The proceedings of this committee, and the reception it met with from the bank, will be the subject of a future and separate chapter. Under the third resolution the Committee of Ways and Means soon brought in a bill in conformity to its provisions, which was passed by a majority of 22, that is to say, by 112 votes against 90. And thus all the conduct of the President in relation to the bank, received the full sanction of the popular representation; and presented the singular spectacle of full support in one House, and that one specially charged with the subject, while meeting condemnation in the other.

97. Call On The President For A Copy Of The "Paper Read To The Cabinet."

In the first days of the session Mr. Clay submitted a resolution, calling on the President to inform the Senate whether the "paper," published as alleged by his authority, and purporting to have been read to the cabinet in relation to the removal of the deposits, "be genuine or not;" and if it be "genuine," requesting him to cause a copy of it to be laid before the Senate. Mr. Forsyth considered this an unusual call, and wished to know for what purpose it was made. He presumed no one had any doubt of the authenticity of the published copy. He certainly had not. Mr. Clay justified his call on the ground that the "paper" had been published—had become public—and was a thing of general notoriety. If otherwise, and it had remained a confidential communication to his cabinet, he certainly should not ask for it; but not answering as to the use he proposed to make of it, Mr. Forsyth returned to that point, and said he could imagine that one branch of the legislature under certain circumstances might have a right to call for it; but the Senate was not that branch. If the paper was to be the ground of a criminal charge against the President, and upon which he is to be brought to trial, it should come from the House of Representatives, with the charges on which he was to be tried. Mr. Clay rejoined, that as to the uses which were to be made of this "paper" nothing seemed to run in the head of the Senator from Georgia but an impeachment. This seemed to be the only idea he could connect with the call. But there were many other purposes for which it might be used, and he had never intended to make it the ground of impeachment. It might show who was the real author of the removal of the deposits—whether the President, or the Secretary of the Treasury? and whether this latter might not have been a mere automaton. Mr. Benton said there was no parliamentary use that could be made of it, and no such use had been, or could be specified. Only two uses can be made of a paper that may be rightfully called for—one for legislation; the other for impeachment; and not even in the latter case when self-crimination was intended. No legislative use is intimated for this one; and the criminal use is disavowed, and is obliged to be, as the Senate is the tribunal to try, not the inquest to originate impeachments. But this paper cannot be rightfully called for. It is a communication to a cabinet; and communications to the cabinet are the same whether in writing, or in a speech. It is all parol. Could the copy of a speech made to the cabinet be called for? Could an account of the President's conversation with his cabinet be called for? Certainly not! and there is no difference between the written and the spoken communication—between the set speech and a conversation—between a thing made public, or kept secret. The President may refuse to give the copy; and certainly will consult his rights and his self-respect by so refusing. As for the contents of the paper, he has given them to the country, and courts the judgment of the country upon it. He avows his act—gives his reasons—and leaves it to all to judge. He is not a man of concealments, or of irresponsibility. He gave the paper to the public instantly, and authentically, with his name fully signed to it; and any one can say what they please of it. If it is wanted for an invective, or philippic, there it is! ready for use, and seeking no shelter for want of authenticity. It is given to the world, and is expected to stand the test of all examination. Mr. Forsyth asked the yeas and nays on Mr. Clay's call; they were ordered; and the resolution passed by 23 to 18. The next day the President replied to it, and to the effect that was generally foreseen. He declared the Executive to be a co-ordinate branch of the government, and denied the right of the Senate to call upon him for any copies of his communications to his cabinet—either written or spoken. Feeling his responsibility to the American people, he said he should be always ready to

explain to them his conduct; knowing the constitutional rights of the Senate, he should never withhold from it any information in his power to give, and necessary to the discharge of its duties. This was the end of the call; and such an end was the full proof that it ought not to have been made. No act could be predicated upon it—no action taken on its communication—none upon the refusal, either of censure or coercion. The President stood upon his rights; and the Senate could not, and did not, say that he was wrong. The call was a wrong step, and gave the President an easy and a graceful victory.

98. Mistakes Of Public Men:—Great Combination Against General Jackson:—Commencement Of The Panic

In the year 1783, Mr. Fox, the great parliamentary debater, was in the zenith of his power and popularity, and the victorious leader in the House of Commons. He gave offence to the King, and was dismissed from the ministry, and immediately formed a coalition with Lord North; and commenced a violent opposition to the acts of the government. Patriotism, love of liberty, hatred of misrule and oppression, were the avowed objects of his attacks; but every one saw (to adopt the language of history), that the real difficulty was his own exclusion from office; and that his coalition with his old enemy and all these violent assaults, were only to force himself back into power: and this being seen, his efforts became unavailing, and distasteful to the public; and he lost his power and influence with the people, and sunk his friends with him. More than one hundred and sixty of his supporters in the House of Commons, lost their places at the ensuing election, and were sportively called "Fox's Martyrs;" and when they had a procession in London, wearing the tails of foxes in their hats, and some one wondered where so many tails of that animal had come from, Mr. Pitt slyly said a great many foxes had been lately taken: one, upon an average, in every borough. Mr. Fox, young at that time, lived to recover from this prostration; but his mistake was one of those of which history is full and the lesson of which is in vain read to succeeding generations. Public men continue to attack their adversaries in power, and oppose their measures, while having private griefs of their own to redress, and personal ends of their own to accomplish; and the instinctive sagacity of the people always sees the sinister motive, and condemns the conduct founded upon it.

Mr. Clay, Mr. Calhoun, and Mr. Webster were now all united against General Jackson, with all their friends, and the Bank of the United States. The two former had their private griefs: Mr. Clay in the results of the election, and Mr. Calhoun in the quarrel growing out of the discovery of his conduct in Mr. Monroe's cabinet, and it would have been difficult so to have conducted their opposition, and attack, as to have avoided the imputation of a personal motive. But they so conducted it as to authorize and suggest that imputation. Their movements all took a personal and vindictive, instead of a legislative and remedial, nature. Mr. Taney's reasons for removing the deposits were declared to be "unsatisfactory and insufficient"—being words of reproach, and no remedy; nor was the remedy of restoration proposed until driven into it. The resolution, in relation to Gen. Jackson, was still more objectionable. The Senate had nothing to do with him personally, yet a resolve was proposed, against him entirely personal, charging him with violating the laws and the constitution; and proposing no remedy for this imputed violation, nor for the act of which it was the subject. It was purely and simply a personal censure—a personal condemnation that was proposed; and, to aggravate the proposition, it came from the suggestion of the bank directors' memorial to Congress.

The combination was formidable. The bank itself was a great power, and was able to carry distress into all the business departments of the country; the political array against the President was unprecedented in point of number, and great in point of ability. Besides the three eminent chiefs, there were, in the Senate: Messrs. Bibb of Kentucky; Ezekiel Chambers of Maryland; Clayton of Delaware; Ewing of Ohio; Frelinghuysen of New Jersey; Watkins Leigh of Virginia; Mangum of North Carolina; Poindexter of Mississippi; Alexander Porter

of Louisiana; William C. Preston of South Carolina; Southard of New Jersey; Tyler of Virginia. In the House of Representatives, besides the ex-President, Mr. Adams, and the eminent jurist from Pennsylvania, Mr. Horace Binney, there was a long catalogue of able speakers: Messrs. Archer of Virginia; Bell of Tennessee; Burgess of Rhode Island; Rufus Choate of Massachusetts; Corwin of Ohio; Warren R. Davis of South Carolina; John Davis of Massachusetts; Edward Everett of Massachusetts; Millard Fillmore of New-York, afterwards President; Robert P. Letcher of Kentucky; Benjamin Hardin of Kentucky; McDuffie of South Carolina; Peyton of Tennessee; Vance of Ohio; Wilde of Georgia; Wise of Virginia: in all, above thirty able speakers, many of whom spoke many times; besides many others of good ability, but without extensive national reputations. The business of the combination was divided—distress and panic the object—and the parts distributed, and separately cast to produce the effect. The bank was to make the distress—a thing easy for it to do, from its own moneyed power, and its power over other moneyed institutions and money dealers; also to get up distress meetings and memorials, and to lead the public press: the politicians were to make the panic, by the alarms which they created for the safety of the laws, of the constitution, the public liberty, and the public money: and most zealously did each division of the combination perform its part, and for the long period of three full months. The decision of the resolution condemning General Jackson, on which all this machinery of distress and panic was hung, required no part of that time. There was the same majority to vote it the first day as the last; but the time was wanted to get up the alarm and the distress; and the vote, when taken, was not from any exhaustion of the means of terrifying and agonizing the country, but for the purpose of having the sentence of condemnation ready for the Virginia elections—ready for spreading over Virginia at the approach of the April elections. The end proposed to themselves by the combined parties, was, for the bank, a recharter and the restoration of the deposits; for the politicians, an ascent to power upon the overthrow of Jackson.

The friends of General Jackson saw the advantages which were presented to them in the unhallowed combination between the moneyed and a political power—in the personal and vindictive character which they gave to the proceedings—the private griefs of the leading assailants—the unworthy objects to be attained—and the cruel means to be used for their attainment. These friends were also numerous, zealous, able, determined; and animated by the consciousness that they were on the side of their country. They were, in the Senate:—Messrs. Forsyth of Georgia; Grundy of Tennessee; Hill of New Hampshire; Kane of Illinois; King of Alabama; Rives of Virginia; Nathaniel Tallmadge of New York; Hugh L. White of Tennessee; Wilkins of Pennsylvania; Silas Wright of New-York; and the author of this Thirty Years' View. In the House, were:—Messrs. Beardsley of New-York; Cambreleng of New-York; Clay of Alabama; Gillett of New-York; Hubbard of New Hampshire; McKay of North Carolina; Polk of Tennessee; Francis Thomas of Maryland; Vanderpoel of New-York; and Wayne of Georgia.

Mr. Clay opened the debate in a prepared speech, commencing in the style which the rhetoricians call *ex abruptu*—being the style of opening which the occasion required—that of rousing and alarming the passions. It will be found (its essential parts) in the next chapter.

99. Mr. Clay's Speech Against President Jackson On The Removal Of The Deposits—Extracts

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

"The judiciary has not been exempted from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded, and the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the government, and recognized and established by numerous laws and treaties, have been subverted; the rights of the helpless and unfortunate aborigines trampled in the dust, and they brought under subjection to unknown laws, in which they have no voice, promulgated in an unknown language. The most extensive and most valuable public domain that ever fell to the lot of one nation is threatened with a total sacrifice. The general currency of the country, the life-blood of all its business, is in the most imminent danger of universal disorder and confusion. The power of internal improvement lies crushed beneath the veto. The system of protection of American industry was snatched from impending destruction at the last session; but we are now coolly told by the Secretary of the Treasury, without a blush, 'that it is understood to be *conceded on all hands* that a tariff for protection merely is to be finally abandoned.' By the 3d of March, 1837, if the progress of innovation continue, there will be scarcely a vestige remaining of the government and its policy as they existed prior to the 3d of March, 1829. In a term of years, a little more than equal to that which was required to establish our liberties, the government will have been transformed into an elective monarchy—the worst of all forms of government.

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

our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

"It is not among the least unfortunate symptoms of the times, that a large proportion of the good and enlightened men of the Union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776-'77, was one of the gloomiest periods of our revolution; but on this day, fifty-seven years ago, the father of his country achieved a glorious victory, which diffused joy, and gladness, and animation throughout the States. Let us cherish the hope that, since he has gone from among us, Providence, in the dispensation of his mercies, has near at hand, in reserve for us, though yet unseen by us, some sure and happy deliverance from all impending dangers.

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

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

"Up to the period of the termination of the last session of Congress, the exclusive constitutional power of Congress over the treasury of the United States had never been contested. Among its earliest acts was one to establish the treasury department, which provided for the appointment of a treasurer, who was required to give bond and security, in a very large amount, 'to receive and keep the moneys of the United States, and disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, and not otherwise.' Prior to the establishment of the present Bank of the United States, no treasury or place had been provided or designated by law for the safe keeping of the public moneys, but the treasurer was left to his own discretion

and responsibility. When the existing bank was established, it was provided that the public moneys should be deposited with it, and, consequently, that bank became the treasury of the United States; for, whatever place is designated by law for the keeping of the public money of the United States, under the care of the treasurer of the United States, is, for the time being, the treasury. Its safety was drawn in question by the Chief Magistrate, and an agent was appointed a little more than a year ago to investigate its ability. He reported to the Executive that it was perfectly safe. His apprehensions of its solidity were communicated by the President to Congress, and a committee was appointed to examine the subject; they, also, reported in favor of its security. And, finally, among the last acts of the House of Representatives, prior to the close of the last session, was the adoption of a resolution, manifesting its entire confidence in the ability and solidity of the bank.

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

"I agree, sir, and I am very happy whenever I can agree with the President, as to the immense importance of these questions. He says, in the paper which I hold in my hand, that he looks upon the pending question as involving higher considerations than the 'mere transfer of a sum of money from one bank to another. Its decision may affect the character of our government for ages to come.' And, with him. I view it as 'of transcendent importance, both in the principles and the consequences it involves.' It is a question of all time, for posterity as well as for us—of constitutional government or monarchy—of liberty or slavery. As I regard it, I hold the bank as nothing, as perfectly insignificant, faithful as it has been in the performance of all its duties. I hold a sound currency as nothing, essential as it is to the prosperity of every branch of business, and to all conditions of society, and efficient as the agency of the bank has been in providing the country with a currency as sound as ever existed, and unsurpassed by any in Christendom. I consider even the public faith, sacred and inviolable as it ever should be, as comparatively nothing. All these questions are merged in the greater and mightier question of the constitutional distribution of the powers of the government, as affected by the recent executive innovation. The real inquiry is, shall all the barriers which have been erected by the caution and wisdom of our ancestors, for the preservation of civil liberty, be prostrated and trodden under foot, and the sword and the purse be at once united in the hands of one man? Shall the power of Congress over the treasury of the United States, hitherto never contested, be wrested from its possession, and be henceforward wielded by the Chief Magistrate? Entertaining these views of the magnitude of the question before us, I shall not, at least to-day, examine the reasons which the President has assigned for his act. If he has no power to perform it, no reasons, however cogent, can justify the deed. None can sanctify an illegal or unconstitutional act.

"The question is, by virtue of whose will, power, dictation, was the removal of the deposits effected? By whose authority and determination were they transferred from the Bank of the United States, where they were required by the law to be placed, and put in banks which the law had never designated? And I tell gentlemen opposed to me, that I am not to be answered by the exhibition of a formal order bearing the signature of R. B. Taney, or any one else. I

want to know, not the amanuensis or clerk who prepared or signed the official form, but the authority or the individual who dictated or commanded it; not the hangman who executes the culprit, but the tribunal which pronounced the sentence. I want to know that power in the government, that original and controlling authority, which required and commanded the removal of the deposits. And, I repeat the question, is there a senator, or intelligent man in the whole country, who entertains a solitary doubt?

"Hear what the President himself says in his manifesto read to his cabinet: 'The President deems it his duty to communicate in this manner to his cabinet the final conclusions of his own mind, and the reasons on which they are founded.' And, at the conclusion of this paper, what does he say? 'The President again repeats that he begs his cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers, in the establishment of our happy system of government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and he therefore names the 1st day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made.' Sir, is there a senator here who will now tell me that the removal was not the measure and the act of the President?

"Thus is it evident that the President, neither by the act creating the treasury department, nor by the bank charter, has any power over the public treasury. Has he any by the constitution? None, none. We have already seen that the constitution positively forbids any money from being drawn from the treasury but in virtue of a previous act of appropriation. But the President himself says that 'upon him has been devolved, by the constitution, and the suffrages of the American people, the duty of superintending the operation of the executive departments of the government, and seeing that the laws are faithfully executed.' If there existed any such double source of executive power, it has been seen that the treasury department is not an executive department; but that, in all that concerns the public treasury, the Secretary is the agent or representative of Congress, acting in obedience to their will, and maintaining a direct intercourse with them. By what authority does the President derive power from the mere result of an election? In another part of this same cabinet paper he refers to the suffrages of the people as a source of power independent of a system in which power has been most carefully separated, and distributed between three separate and independent departments. We have been told a thousand times, and all experience assures us, that such a division is indispensable to the existence and preservation of freedom. We have established and designated offices, and appointed officers in each of those departments, to execute the duties respectively allotted to them. The President, it is true, presides over the whole; specific duties are often assigned by particular laws to him alone, or to other officers under his superintendence. His parental eye is presumed to survey the whole extent of the system in all its movements; but has he power to come into Congress, and to say such laws only shall you pass; to go into the courts, and prescribe the decisions which they may pronounce; or even to enter the offices of administration, and, where duties are specifically confided to those officers, to substitute his will to their duty? Or, has he a right, when those functionaries, deliberating upon their own solemn obligations to the people, have moved forward in their assigned spheres, to arrest their lawful progress, because they have dared to act contrary to his pleasure? No, sir; no, sir. His is a high and glorious station, but it is one of observation

and superintendence. It is to see that obstructions in the forward movement of government, unlawfully interposed, shall be abated by legitimate and competent means.

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

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

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

"'Finding the city in a more settled condition than he expected, and many senators there, he addressed them in a mild and gracious manner [as the President addressed his late Secretary of the Treasury], and desired them to send deputies to Pompey with an offer of honorable terms of peace,' &c. As Metellus, the tribune, opposed his taking money out of the public treasury, and cited some laws against it—[such, Sir, I suppose, as I have endeavored to cite on this occasion]—Cæsar said 'Arms and laws do not flourish together. If you are not pleased

at what I am about, you have only to withdraw. [Leave the office, Mr. Duane!] War, indeed, will not tolerate much liberty of speech. When I say this, I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the treasury, and, as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death if he gave him any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the menace, retired; and Cæsar was afterwards easily and readily supplied with every thing necessary for that war.

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

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

"I have, nevertheless, persevered; and, under every discouragement, during the short time that I expect to remain in the public councils, I will persevere. And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech Him, as the greatest favor He could grant to me here below, to spare me until I live to behold the people, rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome; to rescue the public treasury from pillage, to preserve the constitution of the United States; to uphold the Union against the danger of the concentration and consolidation of *all* power in the hands of the Executive; and to sustain the liberties of the people of this country against the imminent perils to which they now stand exposed.

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

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

usual incidents of approaching tyranny. The land is filled with spies and informers, and detraction and denunciation are the orders of the day. People, especially official incumbents in this place, no longer dare speak in the fearless tones of manly freemen, but in the cautious whispers of trembling slaves. The premonitory symptoms of despotism are upon us; and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die—base, mean, and abject slaves; the scorn and contempt of mankind; unpitied, unwept, unmourned!”

100. Mr. Benton’s Speech In Reply To Mr. Clay—Extracts

Mr. Clay had spoken on three successive days, being the last days of the year 1833. Mr. Benton followed him,—and seeing the advantage which was presented in the character of the resolve, and that of the speech in support of it, all bearing the impress of a criminal proceeding, without other result than to procure a sentence of condemnation against the President for violating the laws and the constitution, endangering the public liberty and establishing a tyranny,—he took up the proceeding in that sense; and immediately turned all the charges against the resolution itself and its mover, as a usurpation of the rights of the House of Representatives in originating an impeachment, and a violation of law and constitution in trying it *ex parte*; and said:

“The first of these resolutions contained impeachable matter, and was in fact, though not in form, a direct impeachment of the President of the United States. He recited the constitutional provision, that the President might be impeached—1st, for treason; 2d, for bribery; 3d, for high crimes; 4th, for misdemeanors; and said that the first resolution charged both a high crime and a misdemeanor upon the President; a high crime, in violating the laws and constitution, to obtain a power over the public treasure, to the danger of the liberties of the people; and a misdemeanor, in dismissing the late Secretary of the Treasury from office. Mr. B. said that the terms of the resolution were sufficiently explicit to define a high crime, within the meaning of the constitution, without having recourse to the arguments and declarations used by the mover in illustration of his meaning; but, if any doubt remained on that head, it would be removed by the whole tenor of the argument, and especially that part of it which compared the President’s conduct to that of Cæsar, in seizing the public treasure, to aid him in putting an end to the liberties of his country; and every senator, in voting upon it, would vote as directly upon the guilt or innocence of the President, as if he was responding to the question of guilty or not guilty, in the concluding sentence of a formal impeachment.

“We are, then, said Mr. B., trying an impeachment! But how? The constitution gives to the House of Representatives the sole power to originate impeachments; yet we originate this impeachment ourselves. The constitution gives the accused a right to be present; but he is not here. It requires the Senate to be sworn as judges; but we are not so sworn. It requires the Chief Justice of the United States to preside when the President is tried; but the Chief Justice is not presiding. It gives the House of Representatives a right to be present, and to manage the prosecution; but neither the House nor its managers are here. It requires the forms of criminal justice to be strictly observed; yet all these forms are neglected and violated. It is a proceeding in which the First Magistrate of the republic is to be tried without being heard, and in which his accusers are to act as his judges!

“Mr. B. called upon the Senate to consider well what they did before they proceeded further in the consideration of this resolution. He called upon them to consider what was due to the House of Representatives, whose privilege was invaded, and who had a right to send a message to the Senate, complaining of the proceeding, and demanding its abandonment. He conjured them to consider what was due to the President, who was thus to be tried in his absence for a most enormous crime; what was due to the Senate itself, in thus combining the incompatible characters of accusers and judges, and which would itself be judged by Europe and America. He dwelt particularly on the figure which the Senate would make in going on with the consideration of this resolution. It accused the President of violating the constitution;

and itself committed twenty violations of the same constitution in making the accusation! It accused him of violating a single law, and itself violated all the laws of criminal justice in prosecuting him for it. It charged him with designs dangerous to the liberties of the citizens, and immediately trampled upon the rights of all citizens, in the person of their Chief Magistrate.

"Mr. B. descanted upon the extraordinary organization of the Senate, and drew an argument from it in favor of the reserve and decorum of their proceedings. The Senate were lawgivers, and ought to respect the laws already made; they were the constitutional advisers of the President, and should observe, as nearly as possible, the civil relations which the office of adviser presumes; they might be his judges, and should be the last in the world to stir up an accusation against him, to prejudge his guilt, or to attack his character with defamatory language. Decorum, the becoming ornament of every functionary, should be the distinguishing trait of an American senator, who combines, in his own office, the united dignities of the executive, the legislative, and the judicial character. In his judicial capacity especially, he should sacrifice to decorum and propriety; and shun, as he would the contagious touch of sin and pestilence, the slightest approach to the character of prosecutor. He referred to British parliamentary law to show that the Lords could not join in an accusation, because they were to try it; but here the Senate was sole accuser, and had nothing from the House of Representatives to join; but made the accusation out and out, and tried it themselves. He said the accusation was a double one—for a high crime and a misdemeanor—and the latter a more flagrant proceeding than the former; for it assumed to know for what cause the President had dismissed his late Secretary, and undertook to try the President for a thing which was not triable or impeachable.

"From the foundation of the government, it had been settled that the President's right to dismiss his secretaries resulted from his constitutional obligation to see that the laws were faithfully executed. Many Presidents had dismissed secretaries, and this was the first time that the Senate had ever undertaken to found an impeachment upon it, or had assumed to know the reasons for which it was done.

"Mr. B. said that two other impeachments seemed to be going on, at the same time, against two other officers, the Secretary of the Treasury and the Treasurer; so that the Senate was brimful of criminal business. The Treasurer and the Secretary of the Treasury were both civil officers, and were both liable to impeachment for misdemeanors in office; and great misdemeanors were charged upon them. They were, in fact, upon trial, without the formality of a resolution; and, if hereafter impeached by the House of Representatives, the Senate, if they believed what they heard, would be ready to pronounce judgment and remove them from office, without delay or further examination.

"Mr. B. then addressed himself to the Vice-President (Mr. Van Buren), upon the novelty of the scene which was going on before him, and the great change which had taken place since he had served in the Senate. He commended the peculiar delicacy and decorum of the Vice-President himself, who, in six years' service, in high party times, and in a decided opposition, never uttered a word, either in open or secret session, which could have wounded the feelings of a political adversary, if he had been present and heard it. He extolled the decorum of the opposition to President Adams' administration. If there was one brilliant exception, the error was redeemed by classic wit, and the heroic readiness with which a noble heart bared its bosom to the bullets of those who felt aggrieved. Still addressing himself to the Vice-President, Mr. B. said that if he should receive some hits in the place where he sat, without the right to reply, he must find consolation in the case of his most illustrious predecessor, the great apostle of American liberty (Mr. Jefferson), who often told his friends of the manner in

which he had been cut at when presiding over the Senate, and personally annoyed by the inferior—no, young and inconsiderate—members of the federal party.

"Mr. B. returned to the point in debate. The President, he repeated, was on trial for a high crime, in seizing the public treasure in violation of the laws and the constitution. Was the charge true? Does the act which he has done deserve the definition which has been put upon it? He had made up his own mind that the public deposits ought to be removed from the Bank of the United States. He communicated that opinion to the Secretary of the Treasury; the Secretary refused to remove them; the President removed him, and appointed a Secretary who gave the order which he thought the occasion required. All this he did in virtue of his constitutional obligation to see the laws faithfully executed; and in obedience to the same sense of duty which would lead him to dismiss a Secretary of War, or of the Navy, who would refuse to give an order for troops to march, or a fleet to sail. True, it is made the duty of the Secretary of the Treasury to direct the removal of the deposits; but the constitution makes it the duty of the President to see that the Secretary performs his duty; and the constitution is as much above law as the President is above the Secretary.

"The President is on trial for a misdemeanor—for dismissing his Secretary without sufficient cause. To this accusation there are ready answers: first, that the President may dismiss his Secretaries without cause; secondly, that the Senate has no cognizance of the case; thirdly, that the Senate cannot assume to know for what cause the Secretary in question was dismissed.

"The Secretary of the Treasury is on trial. In order to get at the President, it was found necessary to get at a gentleman who had no voice on this floor. It had been found necessary to assail the Secretary of the Treasury in a manner heretofore unexampled in the history of the Senate. His religion, his politics, his veracity, his understanding, his Missouri restriction vote, had all been arraigned. Mr. B. said he would leave his religion to the constitution of the United States, Catholic as he was, and although 'the Presbyterian might cut off his head the first time he went to mass;' for he could see no other point to the anecdote of Cromwell and the capitulating Catholics, to whom he granted the free exercise of their religion, only he would cut off their heads if they went to mass. His understanding he would leave to himself. The head which could throw the paper which was taken for a stone on this floor, but which was, in fact, a double-headed chain-shot fired from a forty-eight pounder, carrying sails, masts, rigging, all before it, was a head that could take care of itself. His veracity would be adjourned to the trial which was to take place for misquoting a letter of Secretary Crawford, and he had no doubt would end as the charge did for suppressing a letter which was printed *in extenso* among our documents, and withholding the name and compensation of an agent; when that name and the fact of no compensation was lying on the table. The Secretary of the Treasury was arraigned for some incidental vote on the Missouri restriction, when he was a member of the Maryland legislature. Mr. B. did not know what that vote was; but he did know that a certain gentleman, who lately stood in the relation of *sergeant* to another gentleman, in a certain high election, was the leader of the forces which deforced Missouri of her place in the Union for the entire session which he first attended (not served) in the Congress of the United States. His politics could not be severely tried in the time of the alien and sedition law, when he was scarce of age; but were well tried during the late war, when he sided with his country, and received the constant denunciations of that great organ of federalism, the Federal Republican newspaper. For the rest, Mr. B. admitted that the Secretary had voted for the elder Adams to be President of the United States, but denied the right of certain persons to make that an objection to him. Mr. B. dismissed these personal charges, for the present, and would adjourn their consideration until his (Mr. Taney's) trial came on, for which the senator from Kentucky (Mr. Clay), stood pledged; and after the trial

was over, he had no doubt but that the Secretary of the Treasury, although a Catholic and a federalist, would be found to maintain his station in the first rank of American gentlemen and American patriots.

“Mr. B. took up the serious charges against the Secretary: that of being the mere instrument of the President in removing the deposits, and violating the constitution and laws of the land. How far he was this mere instrument, making up his mind, in three days, to do what others would not do at all, might be judged by every person who would refer to the opposition papers for the division in the cabinet about the removal of the deposits; and which constantly classed Mr. Taney, then the Attorney General, on the side of removal. This classification was correct, and notorious, and ought to exempt an honorable man, if any thing could exempt him, from the imputation of being a mere instrument in a great transaction of which he was a prime counsellor. The fact is, he had long since, in his character of legal adviser to the President, advised the removal of these deposits; and when suddenly and unexpectedly called upon to take the office which would make it his duty to act upon his own advice, he accepted it from the single sense of honor and duty; and that he might not seem to desert the President in flinching from the performance of what he had recommended. His personal honor was clean; his personal conduct magnanimous; his official deeds would abide the test of law and truth.

“Mr. B. said he would make short work of long accusations, and demolish, in three minutes, what had been concocting for three months, and delivering for three days in the Senate. He would call the attention of the Senate to certain clauses of law, and certain treasury instructions which had been left out of view, but which were decisive of the accusation against the Secretary. The first was the clause in the bank charter, which invested the Secretary with the power of transferring the public funds from place to place. It was the 15th section of the charter: he would read it. It enacted that whenever required by the Secretary of the Treasury, the bank should give the necessary facilities for transferring the public funds from place to place, within the United States, or territories thereof; and for distributing the same in payment of the public creditors, &c.

“Here is authority to the Secretary to transfer the public moneys from place to place, limited only by the bounds of the United States and its territories; and this clause of three lines of law puts to flight all the nonsense about the United States Bank being the treasury, and the Treasurer being the keeper of the public moneys, with which some politicians and newspaper writers have been worrying their brains for the last three months. In virtue of this clause, the Secretary of the Treasury gave certain transfer drafts to the amount of two millions and a quarter; and his legal right to give the draft was just as clear, under this clause of the bank charter, as his right to remove the deposits was under another clause of it. The transfer is made by draft; a payment out of the treasury is made upon a warrant; and the difference between a transfer draft and a treasury warrant was a thing necessary to be known by every man who aspired to the office of illuminating a nation, or of conducting a criminal prosecution, or even of understanding what he is talking about. They have no relation to each other. The warrant takes the money out of the treasury: the draft transfers it from point to point, for the purpose of making payment: and all this attack upon the Secretary of the Treasury is simply upon the blunder of mistaking the draft for the warrant.

“The senator from Kentucky calls upon the people to rise, and drive the Goths from the capital. Who are those Goths? They are General Jackson and the democratic party,—he just elected President over the senator himself, and the party just been made the majority in the House—all by the vote of the people. It is their act that has put these Goths in possession of the capital to the discomfiture of the senator and his friends; and he ought to be quite sure that

he felt no resentment at an event so disastrous to his hopes, when he has indulged himself with so much license in vituperating those whom the country has put over him.

“The senator from Kentucky says the eyes and the hopes of the country are now turned upon Congress. Yes, Congress is his word, and I hold him to it. And what do they see? They see one House of Congress—the one to which the constitution gives the care of the purse, and the origination of impeachments, and which is fresh from the popular elections: they see that body with a majority of above fifty in favor of the President and the Secretary of the Treasury, and approving the act which the senator condemns. They see that popular approbation in looking at one branch of Congress, and the one charged by the constitution with the inquisition into federal grievances. In the other branch they see a body far removed from the people, neglecting its proper duties, seizing upon those of another branch, converting itself into a grand inquest, and trying offences which itself prefers; and in a spirit which bespeaks a zeal quickened by the sting of personal mortification. He says the country feels itself deceived and betrayed—insulted and wronged—its liberties endangered—and the treasury robbed: the representatives of the people in the other House, say the reverse of all this—that the President has saved the country from the corrupt dominion of a great corrupting bank, by taking away from her the public money which she was using in bribing the press, subsidizing members, purchasing the venal, and installing herself in supreme political power.

“The senator wishes to know what we are to do? What is our duty to do? I answer, to keep ourselves within our constitutional duties—to leave this impeachment to the House of Representatives—leave it to the House to which it belongs, and to those who have no private griefs to avenge—and to judges, each of whom should retire from the bench, if he happened to feel in his heart the spirit of a prosecutor instead of a judge. The Senate now tries General Jackson; it is subject to trial itself—to be tried by the people, and to have its sentence reversed.”

The corner-stone of Mr. Clay’s whole argument was, that the Bank of the United States was the treasury of the United States. This was his fundamental position, and utterly unfounded, and shown to be so by the fourteenth article of what was called the constitution of the bank. It was the article which provided for the establishment of branches of the mother institution, and all of which except the branch at Washington city, were to be employed, or not employed, as the directors pleased, as depositories of the public money; and consequently were not made so by any law of Congress. The article said:

“The directors of said corporation shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such office of discount and deposit in any State in which two thousand shares shall have been subscribed, or may be held, whenever, upon application of the legislature of such State, Congress may, by law, require the same: Provided, The directors aforesaid shall not be bound to establish such office before the whole of the capital of the bank shall have been paid up. And it shall be lawful for the directors of the said corporation to establish offices of discount and deposit wheresoever they shall think fit, within the United States or the territories thereof, to such persons, and under such regulations, as they shall deem proper, not being contrary to law, or the constitution of the bank. Or, instead of establishing such offices, it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than for the purposes of discount, to be managed and transacted by such officers, under such agreements, and subject to such regulations, as they shall deem just and proper.

“Mr. B. went on to remark upon this article, that it placed the establishment of but one branch in the reach or power of Congress, and that one was in the District of Columbia—in a district of ten miles square—leaving the vast extent of twenty-four States, and three Territories, to obtain branches for themselves upon contingencies not dependent upon the will or power of Congress; or requiring her necessities, or even her convenience, to be taken into the account. A law of Congress could obtain a branch in this district; but with respect to every State, the establishment of the branch depended, first, upon the mere will and pleasure of the bank; and, secondly, upon the double contingency of a subscription, and a legislative act, within the State. If then, the mother bank does not think fit, for its own advantage, to establish a branch; or, if the people of a State do not acquire 2,000 shares of the stock of the bank, and the legislature, therefore, demand it, no branch will be established in any State, or any Territory of the Union. Congress can only require a branch, in any State, after two contingencies have happened in the State; neither of them having the slightest reference to the necessities, or even convenience, of the federal government.

“Here, then, said Mr. B., is the Treasury established for the United States! A Treasury which is to have an existence but at the will of the bank, or the will of a State legislature, and a few of its citizens, enough to own 2,000 shares of stock worth $100 a share! A Treasury which Congress has no hand in establishing, and cannot preserve after it is established; for the mother bank, after establishing her branches, may shut them up, or withdraw them. Such a thing has already happened. Branches in the West have been, some shut up, some withdrawn; and, in these cases, the Treasury was broken up, according to the new-fangled conception of a national Treasury. No! said Mr. B., the Federal bank is no more the Treasury of the United States than the State banks are. One is just as much the Treasury as the other; and made so by this very 14th fundamental article of the constitution of the bank. Look at it! Look at the alternative! Where branches are not established, the State banks are to be employed!

“The Bank of the United States is to select the State bank; the Secretary of the Treasury is to approve the selection; and if he does so the State bank so selected, and so approved becomes the keeper of the public moneys; it becomes the depository of the public moneys; it transfers them; it pays them out; it does every thing except make discounts for the mother bank and issue notes; it does everything which the federal government wants done; and that is nothing but what a bank of deposit can do. The government makes no choice between State banks and branch banks. They are all one to her. They stand equal in her eyes; they stand equal in the charter of the bank itself; and the horror that has now broken out against the State banks is a thing of recent conception—a very modern impulsion; which is rebuked and condemned by the very authority to which it traces its source. Mr. B. said, the State banks were just as much made the federal treasury by the bank charter, as the United States Bank itself was: and that was sufficient to annihilate the argument which now sets up the federal bank for the federal treasury. But the fact was, that neither was made the Treasury; and it would be absurd to entertain such an idea for an instant; for the federal bank may surrender her charter, and cease to exist—it can do so at any moment it pleases—the State banks may expire upon their limitation; they may surrender; they may be dissolved in many ways, and so cease to exist; and then there would be no Treasury! What an idea, that the existence of the Treasury of this great republic is to depend, not upon itself, but upon corporations, which may cease to exist, on any day, by their own will, or their own crimes.”

The debates on this subject brought out the conclusion that the treasury of the United States had a legal, not a material existence—that the Treasurer having no buildings, and keepers, to hold the public moneys, resorted (when the treasury department was first established), to the collectors of the revenue, leaving the money in their hands until drawn out for the public service—which was never long, as the revenues were then barely adequate to meet the daily

expenses of the government; afterwards to the first Bank of the United States—then to local banks; again to the second bank; and now again to local banks. In all these cases the keepers of the public moneys were nothing but keepers, being the mere agents of the Secretary of the treasury in holding the moneys which he had no means of holding himself. From these discussions came the train of ideas which led to the establishment of the independent treasury—that is to say, to the creation of officers, and the erection of buildings, to hold the public moneys.

101. Condemnation Of President Jackson—Mr. Calhoun's Speech—Extracts

It was foreseen at the time of the coalition between Mr. Calhoun and Mr. Clay, in which they came together—a conjunction of the two political poles—on the subject of the tariff, and laid it away for a term to include two presidential elections—that the effect would be (even if it was not the design), to bring them together upon all other subjects against General Jackson. This expectation was not disappointed. Early in the debate on Mr. Clay's condemnatory resolution, Mr. Calhoun took the floor in its support; and did Mr. Clay the honor to adopt his leading ideas of a revolution, and of a robbery of the treasury. He not only agreed that we were in the middle of a revolution, but also asserted, by way of consolation to those who loved it, that revolutions never go backwards—an aphorism destined, in this case, to be deceived by the event. In the pleasing anticipation of this aid from Mr. Calhoun and his friends, Mr. Clay had complacently intimated the expectation of this aid in his opening speech; and in that intimation there was no mistake. Mr. Calhoun responded to it thus:

"The Senator from Kentucky [Mr. Clay] anticipates with confidence that the small party, who were denounced at the last session as traitors and disunionists, will be found, on this trying occasion, standing in the front rank, and manfully resisting the advance of despotic power. I (said Mr. C.) heard the anticipation with pleasure, not on account of the compliment which it implied, but the evidence which it affords that the cloud which has been so industriously thrown, over the character and motive of that small but patriotic party begins to be dissipated. The Senator hazarded nothing in the prediction. That party is the determined, the fixed, and sworn enemy to usurpation, come from what quarter and under what form it may—whether from the executive upon the other departments of this government, or from this government on the sovereignty and rights of the States. The resolution and fortitude with which it maintained its position at the last session, under so many difficulties and dangers, in defence of the States against the encroachments of the general government, furnished evidence not to be mistaken, that that party, in the present momentous struggle, would be found arrayed in defence of the rights of Congress against the encroachments of the President. And let me tell the Senator from Kentucky (said Mr. C.) that, if the present struggle against executive usurpation be successful, it will be owing to the success with which we, the nullifiers—I am not afraid of the word—maintained the rights of the States against the encroachment of the general government at the last session."

This assurance of aid was no sooner given than complied with. Mr. Calhoun, and all his friends came immediately to the support of the resolution, and even exceeded their author in their zeal against the President and his Secretary. Notwithstanding the private grief which Mr. Calhoun had against General Jackson in the affair of the "correspondence" and the "exposition"—the contents of which latter were well known though not published—and notwithstanding every person was obliged to remember that grief while Mr. Calhoun was assailing the General, and alleging patriotism for the motive, and therefore expected that it should have imposed a reserve upon him; yet, on the contrary he was most personally bitter, and used language which would be incredible, if not found, as it is, in his revised reports of his speeches. Thus, in enforcing Mr. Clay's idea of a robbery of the treasury after the manner of Julius Cæsar, he said:

"The senator from Kentucky, in connection with this part of his argument, read a striking passage from one of the most pleasing and instructive writers in any language [Plutarch], the

description of Cæsar forcing himself, sword in hand, into the treasury of the Roman commonwealth. We are at the same stage of our political revolution, and the analogy between the two cases is complete, varied only by the character of the actors and the circumstances of the times. That was a case of an intrepid and bold warrior, as an open plunderer, seizing forcibly the treasury of the country, which, in that republic, as well as ours, was confined to the custody of the legislative department of the government. The actors in our case are of a different character—artful, cunning, and corrupt politicians, and not fearless warriors. They have entered the treasury, not sword in hand, as public plunderers, but, with the false keys of sophistry, as pilferers, under the silence of midnight. The motive and the object are the same, varied in like manner by circumstances and character. 'With money I will get men, and with men money,' was the maxim of the Roman plunderer. With money we will get partisans, with partisans votes, and with votes money, is the maxim of our public pilferers. With men and money Cæsar struck down Roman liberty, at the fatal battle of Pharsalia, never to rise again; from which disastrous hour all the powers of the Roman republic were consolidated in the person of Cæsar, and perpetuated in his line. With money and corrupt partisans a great effort is now making to choke and stifle the voice of American liberty, through all its natural organs; by corrupting the press; by overawing the other departments; and, finally, by setting up a new and polluted organ, composed of office-holders and corrupt partisans, under the name of a national convention, which, counterfeiting the voice of the people, will, if not resisted, in their name dictate the succession; when the deed will be done, the revolution be completed, and all the powers of our republic, in like manner, be consolidated in the President, and perpetuated by his dictation."

On the subject of the revolution, "bloodless as yet," in the middle of which we were engaged, and which was not to go backwards, Mr. Calhoun said:

"Viewing the question in its true light, as a struggle on the part of the Executive to seize on the power of Congress, and to unite in the President the power of the sword and the purse, the senator from Kentucky [Mr. Clay] said truly, and, let me add, philosophically, that we are in the midst of a revolution. Yes, the very existence of free governments rests on the proper distribution and organization of power; and, to destroy this distribution, and thereby concentrate power in any one of the departments, is to effect a revolution. But while I agree with the senator that we are in the midst of a revolution, I cannot agree with him as to the time at which it commenced, or the point to which it has progressed. Looking to the distribution of the powers of the general government, into the legislative, executive, and judicial departments, and confining his views to the encroachment of the executive upon the legislative, he dates the commencement of the revolution but sixty days previous to the meeting of the present Congress. I (said Mr. C.) take a wider range, and date it from an earlier period. Besides the distribution among the departments of the general government, there belongs to our system another, and a far more important division or distribution of power—that between the States and the general government, the reserved and delegated rights, the maintenance of which is still more essential to the preservation of our institutions. Taking this wide view of our political system, the revolution, in the midst of which we are, began, not as supposed by the senator from Kentucky, shortly before the commencement of the present session, but many years ago, with the commencement of the restrictive system, and terminated its first stage with the passage of the force bill of the last session, which absorbed all the rights and sovereignty of the States, and consolidated them in this government. Whilst this process was going on, of absorbing the reserved powers of the States, on the part of the general government, another commenced, of concentrating in the executive the powers of the other two—the legislative and judicial departments of the government; which constitutes the second stage of the revolution, in which we have advanced almost to the termination."

Mr. Calhoun brought out in this debate the assertion, in which he persevered afterwards until it produced the quarrel in the Senate between himself and Mr. Clay, that it was entirely owing to the military and nullifying attitude of South Carolina that the "compromise" act was passed, and that Mr. Clay himself would have been prostrated in the attempt to compromise. He thus, boldly put forward that pretension:

"To the interposition of the State of South Carolina we are indebted for the adjustment of the tariff question; without it, all the influence of the senator from Kentucky over the manufacturing interest, great as it deservedly is, would have been wholly incompetent, if he had even thought proper to exert it, to adjust the question. The attempt would have prostrated him, and those who acted with him, and not the system. It was the separate action of the State that gave him the place to stand upon, created the necessity for the adjustment, and disposed the minds of all to compromise."

The necessity of his own position, and the indispensability of Mr. Calhoun's support, restrained Mr. Clay, and kept him quiet under this cutting taunt; but he took ample satisfaction for it some years later, when the triumph of General Jackson in the "expunging resolution," and the decline of their own prospects for the Presidency, dissolved their coalition, and remitted them to their long previous antagonistic feelings. But there was another point in which Mr. Calhoun intelligibly indicated what was fully believed at the time, namely, that the basis of the coalition which ostensibly had for its object the reduction of the tariff, was in reality a political coalition to act against General Jackson, and to the success of which it was essential that their own great bone of contention was to be laid aside, and kept out of the way, while the coalition was in force. It was to enable them to unite their forces against the "encroachments and corruptions of the Executive" that the tariff was then laid away; and although the removal of the deposits was not then foreseen, as the first occasion for this conjunction, yet there could have been no failure of finding occasions enough for the same purpose when the will was so strong—as subsequent events so fully proved. General Jackson could do but little during the remainder of his Presidency which was not found to be "unconstitutional, illegal, corrupt, usurping, and dangerous to the liberties of the people;" and as such, subject to the combined attack of Mr. Clay and Mr. Calhoun and their respective friends. All this was as good as told, and with an air of self-satisfaction at the foresight of it, in these paragraphs of Mr. Calhoun's speech:

"Now, I put the solemn question to all who hear me: if the tariff had not then been adjusted—if it was now an open question—what hope of successful resistance against the usurpations of the Executive, on the part of this or any other branch of the government, could be entertained? Let it not be said that this is the result of accident—of an unforeseen contingency. It was clearly perceived, and openly stated, that no successful resistance could be made to the corruption and encroachments of the Executive, while the tariff question remained open, while it separated the North from the South, and wasted the energy of the honest and patriotic portions of the community against each other, the joint effort of which is indispensably necessary to expel those from authority who are converting the entire powers of government into a corrupt electioneering machine; and that, without separate State interposition, the adjustment was impossible. The truth of this position rests not upon the accidental state of things, but on a profound principle growing out of the nature of government, and party struggles in a free State. History and reflection teach us, that when great interests come into conflict, and the passions and the prejudices of men are aroused, such struggles can never be composed by the influence of any individuals, however great; and if there be not somewhere in the system some high constitutional power to arrest their progress, and compel the parties to adjust the difference, they go on till the State falls by corruption or violence.

"I will (said Mr. C.) venture to add to these remarks another, in connection with the point under consideration, not less true. We are not only indebted to the cause which I have stated for our present strength in this body against the present usurpation of the Executive, but if the adjustment of the tariff had stood alone, as it ought to have done, without the odious bill which accompanied it—if those who led in the compromise had joined the State-rights party in their resistance to that unconstitutional measure, and thrown the responsibility on its real authors, the administration, their party would have been so prostrated throughout the entire South, and their power, in consequence, so reduced, that they would not have dared to attempt the present measure; or, if they had, they would have been broken and defeated."

Mr. Calhoun took high ground of contempt and scorn against the Secretary's reasons for removing the deposits, so far as founded in the misconduct of the bank directors—declaring that he would not condescend to notice them—repulsing them as intrusive—and shutting his eyes upon these accusations, although heinous in their nature, then fully proved; and since discovered to be far more criminal than then suspected, and such as to subject their authors, a few years afterwards, to indictments in the Court of General Sessions, for the county of Philadelphia, for a "conspiracy to cheat and defraud the stockholders;"—indictments on which they were saved from jury trials by being "*habeas corpus'd*" out of the custody of the sheriff of the county, who had arrested them on bench warrants. Mr. Calhoun thus repulsed all notice of these accusations:

"The Secretary has brought forward many and grievous charges against the bank. I will not condescend to notice them. It is the conduct of the Secretary, and not that of the bank, which is immediately under examination; and he has no right to drag the conduct of the bank into the issue, beyond its operations in regard to the deposits. To that extent I am prepared to examine his allegations against it; but beyond that he has no right—no, not the least—to arraign the conduct of the bank; and I, for one, will not, by noticing his charges beyond that point, sanction his authority to call its conduct in question. But let the point in issue be determined, and I, as far as my voice extends, will give to those who desire it the means of the freest and most unlimited inquiry into its conduct."

But, while supporting Mr. Clay generally in his movement against the President, Mr. Calhoun disagreed with him in the essential averment in his resolve, that his removal of Mr. Duane because he would not, and the appointment of Mr. Taney because he would, remove them was a usurpation of power. Mr. Calhoun held it to be only an "abuse;" and upon that point he procured a modification of his resolve from Mr. Clay, notwithstanding the earnestness of his speech on the charge of usurpation. And he thus stated his objection:

"But, while I thus severely condemn the conduct of the President in removing the former Secretary and appointing the present, I must say, that in my opinion it is a case of the abuse, and not of the usurpation of power. I cannot doubt that the President has, under the constitution, the right of removal from office; nor can I doubt that the power of removal, wherever it exists, does, from necessity, involve the power of general supervision; nor can I doubt that it might be constitutionally exercised in reference to the deposits. Reverse the present case; suppose the late Secretary, instead of being against, had been in favor of the removal; and that the President, instead of being for, had been against it, deeming the removal not only inexpedient, but, under circumstances illegal; would any man doubt that, under such circumstances, he had a right to remove his Secretary, if it were the only means of preventing the removal of the deposits? Nay, would it not be his indispensable duty to have removed him? and, had he not, would not he have been universally and justly held responsible?"

In all the vituperation of the Secretary, as being the servile instrument of the President's will, the members who indulged in that species of attack were acting against public and recorded testimony. Mr. Taney was complying with his own sense of public duty when he ordered the removal. He had been attorney-general of the United States when the deposit-removal question arose, and in all the stages of that question had been in favor of the removal; so that his conduct was the result of his own judgment and conscience; and the only interference of the President was to place him in a situation where he would carry out his convictions of duty. Mr. Calhoun, in this speech, absolved himself from all connection with the bank, or dependence upon it, or favors from it. Though its chief author, he would have none of its accommodations: and said:

"I am no partisan of the bank; I am connected with it in no way, by moneyed or political ties. I might say, with truth, that the bank owes as much to me as to any other individual in the country; and I might even add that, had it not been for my efforts, it would not have been chartered. Standing in this relation to the institution, a high sense of delicacy, a regard to independence and character, has restrained me from any connection with the institution whatever, except some trifling accommodations, in the way of ordinary business, which were not of the slightest importance either to the bank or myself."

Certainly there was no necessity for Mr. Calhoun to make this disclaimer. His character for pecuniary integrity placed him above the suspicion of a venal motive. His errors came from a different source—from the one that Cæsar thought excusable when empire was to be attained. Mr. Clay also took the opportunity to disclaim any present connection with, or past favors from the bank; and,

"Begged permission to trespass a few moments longer on the Senate, to make a statement concerning himself personally. He had heard that one high in office had allowed himself to assert that a dishonorable connection had subsisted between him (Mr. C), and the Bank of the United States. When the present charter was granted, he voted for it; and, having done so, he did not feel himself at liberty to subscribe, and he did not subscribe, for a single share in the stock of the bank, although he confidently anticipated a great rise in the value of the stock. A few years afterwards, during the presidency of Mr. Jones, is was thought, by some of his friends at Philadelphia, expedient to make him (Mr. C), a director of the Bank of the United States; and he was made a director without any consultation with him. For that purpose five shares were purchased for him, by a friend, for which he (Mr. C), afterwards paid. When he ceased to be a director, a short time subsequently, he disposed of those shares. He does not now own, and has not for many years been the proprietor of, a single share.

"When Mr. Cheves was appointed president of the bank, its affairs in the States of Kentucky and Ohio were in great disorder; and his (Mr. C.'s), professional services were engaged during several years for the bank in those States. He brought a vast number of suits, and transacted a great amount of professional business for the bank. Among other suits was that for the recovery of the one hundred thousand dollars, seized under the authority of a law of Ohio, which he carried through the inferior and supreme courts. He was paid by the bank the usual compensation for these services, and no more. And he ventured to assert that no professional fees were ever more honestly and fairly earned. He had not, however, been the counsel for the bank for upwards of eight years past. He does not owe the bank, or any one of its branches, a solitary cent. About twelve or fifteen years ago, owing to the failure of a highly estimable (now deceased), friend, a large amount of debt had been, as his indorser, thrown upon him (Mr. C), and it was principally due to the Bank of the United States. He (Mr C.) established for himself a rigid economy, a sinking fund, and worked hard, and paid off the debt long since, without receiving from the bank the slightest favor. Whilst others around him

were discharging their debts in property, at high valuations, he periodically renewed his note, paying the discount, until it was wholly extinguished."

But it was not every member who could thus absolve himself from bank connection, favor, or dependence. The list of congressional borrowers, or retainers, was large—not less than fifty of the former at a time, and a score of the latter; and even after the failure of the bank and the assignment of its effects, and after all possible liquidations had been effected by taking property at "high valuation," allowing largely for "professional services," and liberal resorts to the "profit and loss" account, there remained many to be sued by the assignees to whom their notes were passed; and some of such early date as to be met by a plea of the statute of limitations in bar of the stale demand. Mr. Calhoun concluded with a "lift to the panic" in a reference to the "fearful crisis" in which we were involved—the dangers ahead to the liberties of the country—the perils of our institutions—and a hint at his permanent remedy—his panacea for all the diseases of the body politic—dissolution of the Union. He ended thus:

"We have (said Mr. C), arrived at a fearful crisis; things cannot long remain as they are. It behooves all who love their country, who have affection for their offspring, or who have any stake in our institutions, to pause and reflect. Confidence is daily withdrawing from the general government. Alienation is hourly going on. These will necessarily create a state of things inimical to the existence of our institutions, and, if not speedily arrested, convulsions must follow, and then comes dissolution or despotism; when a thick cloud will be thrown over the cause of liberty and the future prospects of our country."

102. Public Distress

From the moment of the removal of the deposits, it was seen that the plan of the Bank of the United States was to force their return, and with it a renewal of its charter, by operating on the business of the country and the alarms of the people. For this purpose, loans and accommodations were to cease at the mother bank and all its branches, and in all the local banks over which the national bank had control; and at the same time that discounts were stopped, curtailments were made; and all business men called on for the payment of all they owed, at the same time that all the usual sources of supply were stopped. This pressure was made to fall upon the business community, especially upon large establishments employing a great many operatives; so as to throw as many laboring people as possible out of employment. At the same time, politicians engaged in making panic, had what amounts they pleased, an instance of a loan of $100,000 to a single one of these agitators, being detected; and a loan of $1,100,000 to a broker, employed in making distress, and in relieving it in favored cases at a usury of two and a half per centum per month. In this manner, the business community was oppressed, and in all parts of the Union at the same time: the organization of the national bank, with branches in every State, and its control over local banks, being sufficient to enable it to have its policy carried into effect in all places, and at the same moment. The first step in this policy was to get up distress meetings—a thing easily done—and then to have these meetings properly officered and conducted. Men who had voted for Jackson, but now renounced him, were procured for president, vice-presidents, secretaries, and orators; distress orations were delivered; and, after sufficient exercise in that way, a memorial and a set of resolves, prepared for the occasion, were presented and adopted. After adoption, the old way of sending by the mail was discarded, and a deputation selected to proceed to Washington and make delivery of their lugubrious document. These memorials generally came in duplicate, to be presented, in both Houses at once, by a senator from the State and the representative from the district. These, on presenting the petition, delivered a distress harangue on its contents, often supported by two or three adjunct speakers, although there was a rule to forbid any thing being said on such occasions, except to make a brief statement of the contents. Now they were read in violation of the rule, and spoke upon in violation of the rule, and printed never to be read again, and referred to a committee, never more to be seen by it; and bound up in volumes to encumber the shelves of the public documents. Every morning, for three months, the presentation of these memorials, with speeches to enforce them, was the occupation of each House: all the memorials bearing the impress of the same mint, and the orations generally cast after the same pattern. These harangues generally gave, in the first place, some topographical or historical notice of the county or town from which it came—sometimes with a hint of its revolutionary services—then a description of the felicity which it enjoyed while the bank had the deposits; then the ruin which came upon it, at their loss; winding up usually with a great quantity of indignation against the man whose illegal and cruel conduct had occasioned such destruction upon their business. The meetings were sometimes held by young men; sometimes by old men; sometimes by the laboring, sometimes by the mercantile class; sometimes miscellaneous, and irrespective of party; and usually sprinkled over with a smart number of former Jackson-men, who had abjured him on account of this conduct to the bank. Some passages will be given from a few of these speeches, as specimens of the whole; the quantity of which contributed to swell the publication of the debates of that Congress to four large volumes of more than one thousand pages each. Thus, Mr. Tyler of Virginia, in presenting a memorial from Culpeper county, and hinting at the military character of the county, said:

"The county of Culpeper, as he had before observed, had been distinguished for its whiggism from the commencement of the Revolution; and, if it had not been the first to hoist the revolutionary banner, at the tap of the drum, they were second to but one county, and that was the good county of Hanover, which had expressed the same opinion with them on this all-important subject. He presented the memorial of these sons of the whigs of the Revolution, and asked that it might be read, referred to the appropriate committee, and printed."

Mr. Robbins of Rhode Island, in presenting memorials from the towns of Smithfield and Cumberland in that State:

"A small river runs through these towns, called Blackstone River; a narrow stream, of no great volume of water, but perennial and unfailing, and possessing great power from the frequency and greatness of its falls. Prior to 1791, this power had always run to waste, except here and there a saw mill or a grist mill, to supply the exigencies of a sparse neighborhood, and one inconsiderable forge. Since that period, from time to time, and from place to place, that power, instead of running to waste, has been applied to the use of propelling machinery, till the valley of that small river has become the Manchester of America. That power is so unlimited, that scarcely any limitation can be fixed to its capability of progressive increase in its application. That valley, in these towns, already has in it over thirty different establishments; it has in it two millions of fixed capital in those establishments; it has expended in it annually, in the wages of manual labor, five hundred thousand dollars; it has in it one hundred thousand spindles in operation. I should say it had—for one half of these spindles are already suspended, and the other half soon must be suspended, if the present state of things continues. On the bank of that river, the first cotton spindle was established in America. The invention of Arkwright, in 1791, escaped from the jealous prohibitions of England, and planted itself there. It was brought over by a Mr. Slater, who had been a laboring manufacturer in England, but who was not a machinist. He brought it over, not in models, but in his own mind, and fortunately he was blessed with a mind capacious of such things, and which by its fair fruits, has made him a man of immense fortune, and one of the greatest benefactors to his adopted country. There he made the first essays that laid the foundation of that system which has spread so far and wide in this country, and risen to such a height that it makes a demand annually for two hundred and fifty thousand bales of cotton—about one fourth of all the cotton crop of all our cotton-growing States; makes for those States, for their staple, the best market in the world, except that of England: it was rapidly becoming to them the best market in the world, not excepting that of England; still better, it was rapidly becoming for them a market to weigh down and preponderate in the scale against all the other markets of the world taken together. Now, all those prospects are blasted by one breath of the Executive administration of this country. Now every thing in that valley, every thing in possession, every thing in prospect, is tottering to its fall. One half of those one hundred thousand spindles are, as I before stated, already stopped; the other half are still continued, but at a loss to the owners, and purely from charity to the laborers; but this charity has its limit; and regard to their own safety will soon constrain them to stop the other half. Five months ago, had one travelled through that valley and witnessed the scenes then displayed there—their numerous and dense population, all industrious, and thriving, and contented—had heard the busy hum of industry in their hours of labor—the notes of joy in their hours of relaxation—had seen the plenty of their tables, the comforts of their firesides—had, in a word, seen in every countenance the content of every heart; and if that same person should travel through the same valley hereafter, and should find it then deserted, and desolate, and silent as the valley of death, and covered over with the solitary and mouldering ruins of those numerous establishments, he would say, 'Surely the hand of the ruthless destroyer has been here!' Now, if the present state of things is to be continued, as surely as

blood follows the knife that has been plunged to the heart, and death ensues, so surely that change there is to take place; and he who ought to have been their guardian angel, will have been that ruthless destroyer."

And thus Mr. Webster, in presenting a memorial from Franklin county, in the State of Pennsylvania:

"The county of Franklin was one of the most respectable and wealthy in the great State of Pennsylvania. It was situated in a rich limestone Valley, and, in its main character, was agricultural. He had the pleasure, last year, to pass through it, and see it for the first time, when its rich fields of wheat and rye were ripening, and, certainly, he little thought then, that he should, at this time have to present to the Senate such undeniable proofs of their actual, severe and pressing distress. As he had said, the inhabitants of Franklin county were principally agriculturists, and, of these, the majority were the tillers of their own land. They were interested, also, in manufactures to a great extent; they had ten or twelve forges, and upwards of four thousand persons engaged in the manufacture of iron, dependent for their daily bread on the product of their own labor. The hands employed in this business were a peculiar race—miners, colliers, &c.—and, if other employment was to be afforded them, they would find themselves unsuited for it. These manufactories had been depressed, from causes so well explained, and so well understood, that nobody could now doubt them. They were precisely in the situation of the cotton factories he had adverted to some days ago. There was no demand for their products. The consignee did not receive them—he did not hope to dispose of them, and would not give his paper for them. It was well known that, when a manufactured article was sent to the cities, the manufacturer expected to obtain an advance on them, which he got cashed. This whole operation having stopped, in consequence of the derangement of the currency, the source of business was dried up. There were other manufactories in that county that also felt the pressure—paper factories and manufactories of straw paper, which increased the gains of agriculture. These, too, have been under the necessity of dismissing many of those employed by them, which necessity brought this matter of Executive interference home to every man's labor and property. He had ascertained the prices of produce as now, and in November last, in the State of Pennsylvania, and from these, it would be seen that, in the interior region, on the threshing floors, they had not escaped the evils which had affected the prices of corn and rye at Chambersburg. They were hardly to be got rid of at any price. The loss on wheat, the great product of the county, was thirty cents. Clover seed, another great product, had fallen from six dollars per bushel to four dollars. This downfall of agricultural produce described the effect of the measure of the Executive better than all the evidences that had been hitherto offered. These memorialists, for themselves, were sick, sick enough of the Executive experiment."

And thus Mr. Southard in presenting the memorial of four thousand "young men" of the city of Philadelphia:

"With but very few of them am I personally acquainted—and must rely, in what I say of them, upon what I know of those few, and upon the information received from others, which I regard as sure and safe. And on these, I venture to assure the Senate, that no meeting of young men can be collected, in any portion of our wide country, on any occasion, containing more intelligence—more virtuous purpose—more manly and honorable feeling—more decided and energetic character. What they say, they think. What they resolve they will accomplish. Their proceedings were ardent and animated—their resolutions are drawn with spirit; but are such as, I think, may be properly received and respected by the Senate. They relate to the conduct of the Executive—to the present condition of the country—to the councils which now direct its destinies. They admit that older and more mature judgments

may better understand the science of government and its practical operations, but they act upon a feeling just in itself, and valuable in its effects, that they are fit to form and express opinions on public measures and public principles, which shall be their own guide in their present and future conduct; and they express a confident reliance on the moral and physical vigor and untamable love of freedom of the young men of the United States to save us from despotism, open and avowed, or silent, insidious, and deceitful. They were attracted, or rather urged, sir, to this meeting, and to the expression of their feelings and opinions, by what they saw around, and knew of the action of the Executive upon the currency and prosperity of the country. They have just entered, or are about entering, on the busy occupations of manhood, and are suddenly surprised by a state of things around them, new to their observation and experience. Calamity had been a stranger in their pathway. They have grown up through their boyhood in the enjoyments of present comfort, and the anticipations of future prosperity—their seniors actively and successfully engaged in the various occupations of the community, and the whole circle of employments open before their own industry and hopes—the institutions of their country beloved, and their protecting influence covering the exertions of all for their benefit and happiness. In this state they saw the public prosperity, with which alone they were familiar, blasted, and for the time destroyed. The whole scene, their whole country, was changed; they witnessed fortunes falling, homesteads ruined, merchants failing, artisans broken, mechanics impoverished, all the employments on which they were about to enter, paralyzed; labor denied to the needy, and reward to the industrious; losses of millions of property and gloom settling where joy and happiness before existed. They felt the sirocco pass by, and desolate the plains where peace, and animation, and happiness exulted."

And thus Mr. Clay in presenting a memorial from Lexington, Kentucky:

"If there was any spot in the Union, likely to be exempt from the calamities that had afflicted the others, it would be the region about Lexington and its immediate neighborhood. Nowhere, to no other country, has Providence been more bountiful in its gifts. A country so rich and fertile that it yielded in fair and good seasons from sixty to seventy bushels of corn to the acre. It was a most beautiful country—all the land in it, not in a state of cultivation, was in parks (natural meadows), filled with flocks and herds, fattening on its luxuriant grass. But in what country, in what climate, the most favored by Heaven, can happiness and prosperity exist against bad government, against misrule, and against rash and ill-advised experiments? On the mountain's top, in the mountain's cavern, in the remotest borders of the country, every where, every interest has been affected by the mistaken policy of the Executive. While he admitted that the solicitude of his neighbors and friends was excited in some degree by the embarrassments of the country, yet they felt a deeper solicitude for the restoration of the rightful authority of the constitution and the laws. It is this which excites their apprehensions, and creates all their alarm. He would not, at this time, enlarge further on the subject of this memorial. He would only remark, that hemp, the great staple of the part of the country from whence the memorial came, had fallen twenty per cent. since he left home, and that Indian corn, another of its greatest staples, the most valuable of the fruits of the earth for the use of man, which the farmer converted into most of the articles of his consumption, furnishing him with food and raiment, had fallen to a equal extent. There were in that county six thousand fat bullocks now remaining unsold, when, long before this time last year, there was scarcely one to be purchased. They were not sold, because the butchers could not obtain from the banks the usual facilities in the way of discounts; they could not obtain funds in anticipation of their sales wherewith to purchase; and now $100,000 worth of this species of property remains on hand, which, if sold, would have been scattered through the country by the graziers, producing all the advantages to be derived from so large a circulation. Every farmer was too well aware of these facts one moment to doubt them. We are, said Mr. C., not a complaining

people. We think not so much of distress. Give us our laws—guarantee to us our constitution—and we will be content with almost any form of government."

And Mr. Webster thus, in presenting a memorial from Lynn, Massachusetts:

"Those members of the Senate, said Mr. W., who have travelled from Boston to Salem, or to Nahant, will remember the town of Lynn. It is a beautiful town, situated upon the sea, is highly industrious, and has been hitherto prosperous and flourishing. With a population of eight thousand souls, its great business is the manufacture of shoes. Three thousand persons, men, women, and children, are engaged in this manufacture. They make and sell, ordinarily, two millions of pairs of shoes a year, for which, at 75 cents a pair, they receive one million five hundred thousand dollars. They consume half a million of dollars worth of leather, of which they buy a large portion in Philadelphia and Baltimore, and the rest in their own neighborhood. The articles manufactured by them are sent to all parts of the country, finding their way into every principal port, from Eastport round to St. Louis. Now, sir, when I was last among the people of this handsome town, all was prosperity and happiness. Their business was not extravagantly profitable; they were not growing rich over fast, but they were comfortable, all employed, and all satisfied and contented. But, sir, with them, as with others, a most serious change has taken place. They find their usual employments suddenly arrested, from the same cause which has smitten other parts of the country with like effects; and they have sent forward a memorial, which I have now the honor of laying before the Senate. This memorial, sir, is signed by nine hundred of the legal voters of the town; and I understand the largest number of votes known to have been given is one thousand. Their memorial is short; it complains of the illegal removal of the deposits, of the attack on the bank, and of the effect of these measures on their business."

And thus Mr. Kent, of Maryland, in presenting petitions from Washington county in that State:

"They depict in strong colors the daily increasing distress with which they are surrounded. They deeply deplore it, without the ability to relieve it, and they ascribe their condition to the derangement of the currency, and a total want of confidence, not only between man and man, but between banks situated even in the same neighborhood—all proceeding, as they believe, from the removal of the public deposits from the Bank of the United States. Four mouths since, and the counties from whence these memorials proceed, presented a population as contented and prosperous as could be found in any section of the country. But, sir, in that short period, the picture is reversed. Their rich and productive lands, which last fall were sought after with avidity at high prices, they inform us, have fallen 25 per cent., and no purchasers are to be found even at that reduced price. Wheat, the staple of that region of the country, was never much lower, if as low. Flour is quoted in Alexandria at $3 75, where a large portion of their crops seek a market. These honest, industrious people cannot withstand the cruel and ruinous consequences of this desperate and unnecessary experiment. The country cannot bear it, and unless speedy relief is afforded, the result of it will be as disastrous to those who projected it, as to the country at large, who are afflicted with it."

And thus Mr. Webster, presenting a petition from the master builders of Philadelphia, sent on by a large deputation:

"I rise, sir, to perform a pleasing duty. It is to lay before the Senate the proceedings of a meeting of the building mechanics of the city and county of Philadelphia, convened for the purpose of expressing their opinions on the present state of the country, on the 24th of February. This meeting consisted of three thousand persons, and was composed of carpenters,

masons, brickmakers, bricklayers, painters and glaziers, lime burners, plasterers, lumber merchants and others, whose occupations are connected with the building of houses. I am proud, sir, that so respectable, so important, and so substantial a class of mechanics, have intrusted me with the presentment of their opinions and feelings respecting the present distress of the country, to the Senate. I am happy if they have seen, in the course pursued by me here, a policy favorable to the protection of their interest, and the prosperity of their families. These intelligent and sensible men, these highly useful citizens, have witnessed the effect of the late measures of government upon their own concerns; and the resolutions which I have now to present, fully express their convictions on the subject. They propose not to reason, but to testify; they speak what they do know.

"Sir, listen to the statement; hear the facts. The committee state, sir, that eight thousand persons are ordinarily employed in building houses, in the city and county of Philadelphia; a number which, with their families, would make quite a considerable town. They further state, that the average number of houses, which this body of mechanics has built, for the last five years, is twelve hundred houses a year. The average cost of these houses is computed at two thousand dollars each. Here is a business, then, sir, of two millions four hundred thousand dollars a year. Such has been the average of the last five years. And what is it now? Sir, the committee state that the business has fallen off seventy-five per cent. at least; that is to say, that, at most, only one-quarter part of their usual employment now remains. This is the season of the year in which building contracts are made. It is now known what is to be the business of the year. Many of these persons, who have heretofore had, every year, contracts for several houses on hand, have this year no contract at all. They have been obliged to dismiss their hands, to turn them over to any scraps of employment they could find, or to leave them in idleness, for want of any employment.

"Sir, the agitations of the country are not to be hushed by authority. Opinions, from however high quarters, will not quiet them. The condition of the nation calls for action, for measures, for the prompt interposition of Congress; and until Congress shall act, be it sooner or be it later, there will be no content, no repose, no restoration of former prosperity. Whoever supposes, sir, that he, or that any man, can quiet the discontents, or hush the complaints of the people by merely saying, "peace, be still!" mistakes, shockingly mistakes, the real condition of things. It is an agitation of interests, not of opinions; a severe pressure on men's property and their means of living, not a barren contest about abstract sentiments. Even, sir, the voice of party, often so sovereign, is not of power to subdue discontents and stifle complaints. The people, sir, feel great interests to be at stake, and they are rousing themselves to protect those interests. They consider the question to be, whether the government is made for the people, or the people for the government. They hold the former of these two propositions, and they mean to prove it.

"Mr. President, this measure of the Secretary has produced a degree of evil that cannot be borne. Talk about it as we will, it cannot be borne. A tottering state of credit, cramped means, loss of property and loss of employment, doubts of the condition of others, doubts of their own condition, constant fear of failures and new explosions, an awful dread of the future—sir when a consciousness of all these things accompanies a man, at his breakfast, his dinner and his supper; when it attends him through his hours, both of labor and rest; when it even disturbs and haunts his dreams, and when he feels, too, that that which is thus gnawing upon him is the pure result of foolish and rash measures of government, depend upon it he will not bear it. A deranged and disordered currency the ruin of occupation, distress for present means the prostration of credit and confidence, and all this without hope of improvement or change, is a state of things which no intelligent people can long endure."

Mr. Clay rose to second the motion of Mr Webster to refer and print this memorial; and, after giving it as his opinion that the property of the country had been reduced four hundred millions of dollars in value, by the measures of the government, thus apostrophized the Vice-President (Mr. Van Buren), charging him with a message of prayer and supplication to President Jackson:

"But there is another quarter which possesses sufficient power and influence to relieve the public distresses. In twenty-four hours, the executive branch could adopt a measure which would afford an efficacious and substantial remedy, and re-establish confidence. And those who, in this chamber, support the administration, could not render a better service than to repair to the executive mansion, and, placing before the Chief Magistrate the naked and undisguised truth, prevail upon him to retrace his steps and abandon his fatal experiment. No one, sir, can perform that duty with more propriety than yourself. [The Vice-President.] You can, if you will, induce him to change his course. To you, then, sir, in no unfriendly spirit, but with feelings softened and subdued by the deep distress which pervades every class of our countrymen, I make the appeal. By your official and personal relations with the President, you maintain with him an intercourse which I neither enjoy nor covet. Go to him and tell him, without exaggeration, but in the language of truth and sincerity, the actual condition of his bleeding country. Tell him it is nearly ruined and undone by the measures which he has been induced to put in operation. Tell him that his experiment is operating on the nation like the philosopher's experiment upon a convulsed animal, in an exhausted receiver, and that it must expire, in agony, if he does not pause, give it free and sound circulation, and suffer the energies of the people to be revived and restored. Tell him that, in a single city, more than sixty bankruptcies, involving a loss of upwards of fifteen millions of dollars, have occurred. Tell him of the alarming decline in the value of all property, of the depreciation of all the products of industry, of the stagnation in every branch of business, and of the close of numerous manufacturing establishments, which, a few short months ago, were in active and flourishing operation. Depict to him, if you can find language to portray, the heart-rending wretchedness of thousands of the working classes cast out of employment. Tell him of the tears of helpless widows, no longer able to earn their bread, and of unclad and unfed orphans who have been driven, by his policy, out of the busy pursuits in which but yesterday they were gaining an honest livelihood. Say to him that if firmness be honorable, when guided by truth and justice, it is intimately allied to another quality, of the most pernicious tendency, in the prosecution of an erroneous system. Tell him how much more true glory is to be won by retracing false steps, than by blindly rushing on until his country is overwhelmed in bankruptcy and ruin. Tell him of the ardent attachment, the unbounded devotion, the enthusiastic gratitude, towards him, so often signally manifested by the American people, and that they deserve, at his hands, better treatment. Tell him to guard himself against the possibility of an odious comparison with that worst of the Roman emperors, who, contemplating with indifference the conflagration of the mistress of the world, regaled himself during the terrific scene in the throng of his dancing courtiers. If you desire to secure for yourself the reputation of a public benefactor, describe to him truly the universal distress already produced, and the certain ruin which must ensue from perseverance in his measures. Tell him that he has been abused, deceived, betrayed, by the wicked counsels of unprincipled men around him. Inform him that all efforts in Congress to alleviate or terminate the public distress are paralyzed and likely to prove totally unavailing, from his influence upon a large portion of the members, who are unwilling to withdraw their support, or to take a course repugnant to his wishes and feelings. Tell him that, in his bosom alone, under actual circumstances, does the power abide to relieve the country; and that, unless he opens it to conviction, and corrects the errors of his administration, no human imagination can conceive, and no human tongue can express the awful consequences which may follow. Entreat him to

pause, and to reflect that there is a point beyond which human endurance cannot go; and let him not drive this brave, generous, and patriotic people to madness and despair."

During the delivery of this apostrophe, the Vice-President maintained the utmost decorum of countenance, looking respectfully, and even innocently at the speaker, all the while, as if treasuring up every word he said to be faithfully repeated to the President. After it was over, and the Vice-President had called some senator to the chair, he went up to Mr. Clay, and asked him for a pinch of his fine maccoboy snuff (as he often did); and, having received it, walked away. But a public meeting in Philadelphia took the performance seriously to heart, and adopted this resolution, which the indefatigable Hezekiah Niles "registered" for the information of posterity:

"*Resolved*, That Martin Van Buren deserves, and will receive the execrations of all good men, should he shrink from the responsibility of conveying to Andrew Jackson the message sent by the honorable Henry Clay, when the builders' memorial was presented to the Senate. I charge you, said he, go the President and tell him—tell him if he would save his country—if he would save himself—tell him to stop short, and ponder well his course—tell him to retrace his steps, before the injured and insulted people, infuriated by his experiment upon their happiness, rises in the majesty of power, and hurls the usurper down from the seat he occupies, like Lucifer, never to rise again."

Mr. Benton replied to these distress petitions, and distress harangues, by showing that they were nothing but a reproduction, with a change of names and dates, of the same kind of speeches and petitions which were heard in the year 1811, when the charter of the first national bank was expiring, and when General Jackson was not President—when Mr. Taney was not Secretary of the Treasury—when no deposits had been removed, and when there was no quarrel between the bank and the government; and he read copiously from the Congress debates of that day to justify what he said; and declared the two scenes, so far as the distress was concerned, to be identical. After reading from these petitions and speeches, he proceeded to say:

"All the machinery of alarm and distress was in as full activity at that time as at present, and with the same identical effects. Town meetings—memorials—resolutions—deputations to Congress—alarming speeches in Congress. The price of all property was shown to be depressed. Hemp sunk in Philadelphia from $350 to $250 per ton; flour sunk from $11 a barrel to $7 75; all real estate fell thirty per cent.; five hundred houses were suspended in their erection; the rent of money rose to one and a half per month on the best paper. Confidence destroyed—manufactories stopped—workmen dismissed—and the ruin of the country confidently predicted. This was the scene then; and for what object? Purely and simply to obtain a recharter of the bank—purely and simply to force a recharter from the alarm and distress of the country; for there was no removal of deposits then to be complained of, and to be made the scape-goat of a studied and premeditated attempt to operate upon Congress through the alarms of the people and the destruction of their property. There was not even a curtailment of discounts then. The whole scene was fictitious; but it was a case in which fiction does the mischief of truth. A false alarm in the money market produces all the effects of real danger; and thus, as much distress was proclaimed in Congress in 1811—as much distress was proved to exist, and really did exist—then as now; without a single cause to be alleged then, which is alleged now. But the power and organization of the bank made the alarm then; its power and organization make it now; and fictitious on both occasions; and men were ruined then, as now, by the power of imaginary danger, which in the moneyed world, has all the ruinous effects of real danger. No deposits were removed then, and the reason was, as assigned by Mr. Gallatin to Congress, that the government had borrowed more

than the amount of the deposits from the bank; and this loan would enable her to protect her interest in every contingency. The open object of the bank then was a recharter. The knights entered the lists with their visors off—no war in disguise then for the renewal of a charter under the tilting and jousting of a masquerade scuffle for recovery of deposits."

This was a complete reply, to which no one could make any answer; and the two distresses all proved the same thing, that a powerful national bank could make distress when it pleased; and would always please to do it when it had an object to gain by it—either in forcing a recharter or in reaping a harvest of profit by making a contraction of debts after having made an expansion of credits.

It will be difficult for people in after times to realize the degree of excitement, of agitation and of commotion which was produced by this organized attempt to make panic and distress. The great cities especially were the scene of commotions but little short of frenzy—public meetings of thousands, the most inflammatory harangues, cannon firing, great feasts—and the members of Congress who spoke against the President received when they travelled with public honors, like conquering generals returning from victorious battle fields—met by masses, saluted with acclamations, escorted by processions, and their lodgings surrounded by thousands calling for a view of their persons. The gaining of a municipal election in the city of New-York put the climax upon this enthusiasm; and some instances taken from the every day occurrences of the time may give some faint idea of this extravagant exaltation. Thus:

"Mr. Webster, on his late journey to Boston, was received and parted with at Philadelphia, New-York, Providence, &c., by thousands of the people."

"Messrs. Poindexter, Preston and McDuffie visited Philadelphia the beginning of this week, and received the most flattering attention of the citizens—thousands having waited upon to honor them; and they were dined, &c., with great enthusiasm."

"A very large public meeting was held at the Musical Fund Hall, Philadelphia, on Monday afternoon last, to compliment the 'whigs' of New-York on the late victory gained by them. Though thousands were in the huge room, other thousands could not get in! It was a complete 'jam.' John Sergeant was called to the chair, and delivered an address of 'great power and ability'—'one of the happiest efforts' of that distinguished man. Mr. Preston of the Senate, and Mr. McDuffie of the House of Representatives, were present. The first was loudly called for, when Mr. Sergeant had concluded, and he addressed the meeting at considerable length. Mr. McDuffie was then as loudly named, and he also spoke with his usual ardency and power, in which he paid a handsome compliment to Mr. Sergeant, who, though he had differed in opinion with him, he regarded as a 'sterling patriot,' &c. Each of these speeches were received with hearty and continued marks of approbation, and often interrupted with shouts of applause. The like, it is said, had never before been witnessed in Philadelphia. The people were in the highest possible state of enthusiasm."

"An immense multitude of people partook of a collation in Castle Garden, New-York, on Tuesday afternoon, to celebrate the victory gained in the 'three days.' The garden was dressed with flags, and every thing prepared on a grand scale. Pipes of wine and barrels of beer were present in abundance, with a full supply of eatables. After partaking of refreshments (in which a great deal of business was done in a short time, by the thousands employed—for many mouths, like many hands, make quick work!) the meeting was organized, by appointing Benjamin Wells, carpenter, president, twelve vice-presidents, and four secretaries, of whom there was one cartman, one sail maker, one grocer, one watchmaker, one ship carpenter, one potter, one mariner, one physician, one printer, one surveyor, four merchants, &c. The president briefly, but strongly, addressed the multitude, as

did several other gentlemen. A committee of congratulation from Philadelphia was presented to the people and received with shouts. When the time for adjournment arrived, the vast multitude, in a solid column, taking a considerable circuit, proceeded to Greenwich-street, where Mr. Webster was dining with a friend. Loudly called for, he came forward, and was instantly surrounded by a dense mass of merchants and cartmen, sailors and mechanics, professional men and laborers, &c., seizing him by his hands. He was asked to say a few words to the people, and did so. He exhorted them to perseverance in support of the constitution, and, as a dead silence prevailed, he was heard by thousands. He thanked them, and ended by hoping that God would bless them all."

"Saturday Messrs. Webster, Preston and Binney were expected at Baltimore; and, though raining hard, thousands assembled to meet them. Sunday they arrived, and were met by a dense mass, and speeches exacted. A reverend minister of the Gospel, in excuse of such a gathering on the Sabbath, said that in revolutionary times there were no Sabbaths. They were conducted to the hotel, where 5,000 well-dressed citizens received them with enthusiasm."

"Mr. McDuffie reached Baltimore in the afternoon of Saturday last, on his return to Washington, and was received by from 1,500 to 2,000 people, who were waiting on the wharf for the purpose. He was escorted to the City Hotel, and, from the steps, addressed the crowd (now increased to about 3,000 persons), in as earnest a speech, perhaps, as he ever pronounced—and the *manner* of his delivery was not less forcible than the *matter* of his remarks. Mr. McD. spoke for about half an hour; and, while at one moment he produced a roar of laughter, in the next he commanded the entire attention of the audience, or elicited loud shouts of applause.

"The brief addresses of Messrs. Webster, Binney, McDuffie, and Preston, to assembled multitudes in Baltimore, and the manner in which they were received, show a new state of feelings and of things in this city. When Mr. McDuffie said that ten days after the entrance of soldiers into the Senate chamber, to send the senators home, that 200,000 volunteers would be in Washington, there was such a shout as we have seldom before heard."

"There was a mighty meeting of the people, and such a feast as was never before prepared in the United States, held near Philadelphia, on Tuesday last, as a rallying 'to support the constitution,' and 'in honor of the late whig victory at New-York,' a very large delegation from that city being in attendance, bringing with them their frigate-rigged and highly-finished boat, called the 'Constitution,' which had been passed through the streets during the 'three days.' The arrival of the steamboat with this delegation on board, and the procession that was then formed, are described in glowing terms. The whole number congregated was supposed not to be less than fifty thousand, multitudes attending from adjacent parts of Pennsylvania, New Jersey, Delaware, &c. Many cattle and other animals had been roasted whole, and there were 200 great rounds of beef, 400 hams, as many beeves' tongues, &c. and 15,000 loaves of bread, with crackers and cheese, &c., and equal supplies of wine, beer, and cider. This may give some idea of the magnitude of the feast. John Sergeant presided, assisted by a large number of vice-presidents, &c. Strong bands of music played at intervals, and several salutes were fired from the miniature frigate, which were returned by heavy artillery provided for the purpose."

Notices, such as these, might be cited in any number; but those given are enough to show to what a degree people can be excited, when a great moneyed power, and a great political party, combine for the purpose of exciting the passions through the public sufferings and the public alarms. Immense amounts of money were expended in these operations; and it was notorious that it chiefly came from the great moneyed corporation in Philadelphia.

103. Senatorial Condemnation Of President Jackson: His Protest: Notice Of The Expunging Resolution

Mr. Clay and Mr. Calhoun were the two leading spirits in the condemnation of President Jackson. Mr. Webster did not speak in favor of their resolution, but aided it incidentally in the delivery of his distress speeches. The resolution was theirs, modified from time to time by themselves, without any vote of the Senate, and by virtue of the privilege which belongs to the mover of any motion to change it as he pleases, until the Senate, by some action upon it, makes it its own. It was altered repeatedly, and up to the last moment; and after undergoing its final mutation, at the moment when the yeas and nays were about to be called, it was passed by the same majority that would have voted for it on the first day of its introduction. The yeas were: Messrs. Bibb of Kentucky; Black of Mississippi; Calhoun; Clay; Clayton of Delaware; Ewing of Ohio; Frelinghuysen of New Jersey; Kent of Maryland; Knight of Rhode Island; Leigh of Virginia; Mangum of North Carolina; Naudain of Delaware; Poindexter of Mississippi; Porter of Louisiana; Prentiss of Vermont; Preston of South Carolina; Robbins of Rhode Island; Silsbee of Massachusetts; Nathan Smith of Connecticut; Southard of New Jersey; Sprague of Maine; Swift of Vermont; Tomlinson of Connecticut; Tyler of Virginia; Waggaman of Louisiana; Webster.—26. The nays were: Messrs. Benton; Brown of North Carolina; Forsyth of Georgia; Grundy of Tennessee; Hendricks of Indiana; Hill of New Hampshire; Kane of Illinois; King of Alabama; King of Georgia; Linn of Missouri; McKean of Pennsylvania; Moore of Alabama; Morris of Ohio; Robinson of Illinois; Shepley of Maine; Tallmadge of New York; Tipton of Indiana; Hugh L. White of Tennessee; Wilkins of Pennsylvania; Silas Wright of New York.—20. And thus the resolution was passed, and was nothing but an empty fulmination—a mere personal censure—having no relation to any business or proceeding in the Senate; and evidently intended for effect on the people. To increase this effect, Mr. Clay proposed a resolve that the Secretary should count the names of the signers to the memorials for and against the act of the removal, and strike the balance between them, which he computed at an hundred thousand: evidently intending to add the effect of this popular voice to the weight of the senatorial condemnation. The number turned out to be unexpectedly small, considering the means by which they were collected.

When passed, the total irrelevance of the resolution to any right or duty of the Senate was made manifest by the insignificance that attended its decision. There was nothing to be done with it, or upon it, or under it, or in relation to it. It went to no committee, laid the foundation for no action, was not communicable to the other House, or to the President; and remained an intrusive fulmination on the Senate Journal: put there not for any legislative purpose, but purely and simply for popular effect. Great reliance was placed upon that effect. It was fully believed—notwithstanding the experience of the Senate, in Mr. Van Buren's case—that a senatorial condemnation would destroy whomsoever it struck—even General Jackson. Vain calculation! and equally condemned by the lessons of history, and by the impulsions of the human heart. Fair play is the first feeling of the masses; a fair and impartial trial is the law of the heart, as well as of the land; and no condemnation is tolerated of any man by his enemies. All such are required to retire from the box and the bench, on a real trial: much more to refrain from a simulated one; and above all from instigating one. Mr. Calhoun and Mr. Clay were both known to have their private griefs against General Jackson and also to have been in vehement opposition to each other, and that they had "compromised" their own bone of

contention to be able to act in conjunction against him. The instinctive sagacity of the people saw all this; and their innate sense of justice and decorum revolted at it; and at the end of these proceedings, the results were in exact contradiction to the calculation of their effect. General Jackson was more popular than ever; the leaders in the movement against him were nationally crippled; their friends, in many instances, were politically destroyed in their States. It was a second edition of "Fox's martyrs."

During all the progress of this proceeding—while a phalanx of orators and speakers were daily fulminating against him—while many hundred newspapers incessantly assailed him—while public meetings were held in all parts, and men of all sorts, even beardless youths, harangued against him as if he had been a Nero—while a stream of committees was pouring upon him (as they were called), and whom he soon refused to receive in that character; during the hundred days that all this was going on, and to judge from the imposing appearance which the crowds made that came to Washington to bring up the "distress," and to give countenance to the Senate, and emphasis to its proceedings, and to fill the daily gallery, applauding the speakers against the President—saluting with noise and confusion those who spoke on his side: during all this time, and when a nation seemed to be in arms, and the earth in commotion against him, he was tranquil and quiet, confident of eventual victory, and firmly relying upon God and the people to set all right. I was accustomed to see him often during that time, always in the night (for I had no time to quit my seat during the day); and never saw him appear more truly heroic and grand than at this time. He was perfectly mild in his language, cheerful in his temper, firm in his conviction; and confident in his reliance on the power in which he put his trust. I have seen him in a great many situations of peril, and even of desperation, both civil and military, and always saw him firmly relying upon the success of the right through God and the people; and never saw that confidence more firm and steady than now. After giving him an account of the day's proceedings, talking over the state of the contest, and ready to return to sleep a little, and prepare much, for the combats of the next day, he would usually say: "We shall whip them yet. The people will take it up after a while." But he also had good defenders present, and in both Houses, and men who did not confine themselves to the defensive—did not limit themselves to returning blow for blow—but assailed the assailants—boldly charging upon them their own illegal conduct—exposing the rottenness of their ally, the bank—showing its corruption in conciliating politicians, and its criminality in distressing the people—and the unholiness of the combination which, to attain political power and secure a bank charter, were seducing the venal, terrifying the timid, disturbing the country, destroying business and property, and falsely accusing the President of great crimes and misdemeanors; because, faithful and fearless, he stood sole obstacle to the success of the combined powers. Our labors were great and incessant, for we had superior numbers, and great ability to contend against. I spoke myself above thirty times; others as often; all many times; and all strained to the utmost; for we felt, that the cause of Jackson was that of the country—his defeat that of the people—and the success of the combination, the delivering up of the government to the domination of a moneyed power which knew no mode of government but that of corruption and oppression. We contended strenuously in both Houses; and as courageously in the Senate against a fixed majority as if we had some chance for success; but our exertions were not for the Senate, but for the people—not to change senatorial votes, but to rouse the masses throughout the land; and while borne down by a majority of ten in the Senate, we looked with pride to the other end of the building; and derived confidence from the contemplation of a majority of fifty, fresh from the elections of the people, and strong in their good cause. It was a scene for Mons. De Tocqueville to have looked on to have learnt which way the difference lay between the men of the direct vote of the people, and those of the indirect vote of the General Assembly, "filtrated" through the "refining" process of an intermediate body.

But although fictitious and forged, yet the distress was real, and did an immensity of mischief. Vast numbers of individuals were ruined, or crippled in their affairs; a great many banks were broken—a run being made upon all that would not come into the system of the national bank. The deposit banks above all were selected for pressure. Several of them were driven to suspension—some to give up the deposits—and the bank in Washington, in which the treasury did its business, was only saved from closing its doors by running wagons with specie through mud and mire from the mint in Philadelphia to the bank in Washington, to supply the place of what was hauled from the bank in Washington to the national bank in Philadelphia—the two sets of wagons, one going and one coming, often passing each other on the road. But, while ruin was going on upon others, the great corporation in Philadelphia was doing well. The distress of the country was its harvest; and its monthly returns showed constant increases of specie.

When all was over, and the Senate's sentence had been sent out to do its office among the people, General Jackson felt that the time had come for him to speak; and did so in a "Protest," addressed to the Senate, and remarkable for the temperance and moderation of its language. He had considered the proceeding against him, from the beginning, as illegal and void—as having no legislative aim or object—as being intended merely for censure; and, therefore, not coming within any power or duty of the Senate. He deemed it extra-judicial and unparliamentary, legally no more than the act of a town meeting, while invested with the forms of a legal proceeding; and intended to act upon the public mind with the force of a sentence of conviction on an impeachment, while in reality but a personal act against him in his personal, and not in his official character. This idea he prominently put forth in his "Protest;" from which some passages are here given:

"The resolution in question was introduced, discussed, and passed, not as a joint, but as a separate resolution. It asserts no legislative power, proposes no legislative action; and neither possesses the form nor any of the attributes of a legislative measure. It does not appear to have been entertained or passed, with any view or expectation of its issuing in a law or joint resolution, or in the repeal of any law or joint resolution, or in any other legislative action.

"Whilst wanting both the form and substance of a legislative measure, it is equally manifest, that the resolution was not justified by any of the executive powers conferred on the Senate. These powers relate exclusively to the consideration of treaties and nominations to office; and they are exercised in secret session, and with closed doors. This resolution does not apply to any treaty or nomination, and was passed in a public session.

"Nor does this proceeding in any way belong to that class of incidental resolutions which relate to the officers of the Senate, to their chamber, and other appurtenances, or to subjects of order, and other matters of the like nature—in all which either House may lawfully proceed without any co-operation with the other, or with the President.

"On the contrary the whole phraseology and sense of the resolution seem to be judicial. Its essence, true character, and only practical effect, are to be found in the conduct which it charges upon the President, and in the judgment which it pronounces on that conduct. The resolution, therefore, though discussed and adopted by the Senate in its legislative capacity, is, in its office, and in all its characteristics, essentially judicial.

"That the Senate possesses a high judicial power, and that instances may occur in which the President of the United States will be amenable to it, is undeniable. But under the provisions of the constitution, it would seem to be equally plain that neither the President nor any other officer can be rightfully subjected to the operation of the judicial power of the Senate except in the cases and under the forms prescribed by the constitution.

"The constitution declares that 'the President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors'—that the House of Representatives 'shall have the sole power of impeachment'—that the Senate 'shall have the sole power to try all impeachments'—that 'when sitting for that purpose, they shall be on oath or affirmation'—that 'when the President of the United States is tried, the Chief Justice shall preside'—that no person shall be convicted without the concurrence of two-thirds of the members present'—and that 'judgment shall not extend further than to remove from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States.'

"The resolution above quoted, charges in substance that in certain proceedings relating to the public revenue, the President has usurped authority and power not conferred upon him by the constitution and laws, and that in doing so he violated both. Any such act constitutes a high crime—one of the highest, indeed, which the President can commit—a crime which justly exposes him to impeachment by the House of Representatives, and upon due conviction, to removal from office, and to the complete and immutable disfranchisement prescribed by the constitution.

"The resolution, then, was in substance an impeachment of the President; and in its passage amounts to a declaration by a majority of the Senate, that he is guilty of an impeachable offence. As such it is spread upon the journals of the Senate—published to the nation and to the world—made part of our enduring archives—and incorporated in the history of the age. The punishment of removal from office and future disqualification, does not, it is true, follow this decision; nor would it have followed the like decision, if the regular forms of proceeding had been pursued, because the requisite number did not concur in the result. But the moral influence of a solemn declaration, by a majority of the Senate, that the accused is guilty of the offence charged upon him, has been as effectually secured, as if the like declaration had been made upon an impeachment expressed in the same terms. Indeed, a greater practical effect has been gained, because the votes given for the resolution, though not sufficient to authorize a judgment of guilty on an impeachment, were numerous enough to carry that resolution.

"That the resolution does not expressly allege that the assumption of power and authority, which it condemns, was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned, necessarily implies volition and design in the individual to whom it is imputed, and being unlawful in its character, the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. The charge is not of a mistake in the exercise of supposed powers, but of the assumption of powers not conferred by the constitution and laws, but in derogation of both, and nothing is suggested to excuse or palliate the turpitude of the act. In the absence of any such excuse, or palliation, there is room only for one inference; and that is, that the intent was unlawful and corrupt. Besides, the resolution not only contains no mitigating suggestion, but on the contrary, it holds up the act complained of as justly obnoxious to censure and reprobation; and thus as distinctly stamps it with impurity of motive, as if the strongest epithets had been used.

"The President of the United States, therefore, has been by a majority of his constitutional triers, accused and found guilty of an impeachable offence; but in no part of this proceeding have the directions of the constitution been observed.

"The impeachment, instead of being preferred and prosecuted by the House of Representatives, originated in the Senate, and was prosecuted without the aid or concurrence of the other House. The oath or affirmation prescribed by the constitution, was not taken by the senators; the Chief Justice did not preside; no notice of the charge was given to the

accused; and no opportunity afforded him to respond to the accusation, to meet his accusers face to face, to cross-examine the witnesses, to procure counteracting testimony, or to be heard in his defence. The safeguards and formalities which the constitution has connected with the power of impeachment, were doubtless supposed by the framers of that instrument, to be essential to the protection of the public servant, to the attainment of justice, and to the order, impartiality, and dignity of the procedure. These safeguards and formalities were not only practically disregarded, in the commencement and conduct of these proceedings, but in their result, I find myself convicted by less than two-thirds of the members present, of an impeachable offence."

Having thus shown the proceedings of the Senate to have been extra-judicial and the mere fulmination of a censure, such as might come from a "mass meeting," and finding no warrant in any right or duty of the body, and intended for nothing but to operate upon him personally, he then showed that senators from three States had voted contrary to the sense of their respective State legislatures. On this point he said:

"There are also some other circumstances connected with the discussion and passage of the resolution, to which I feel it to be, not only my right, but my duty to refer. It appears by the journal of the Senate, that among the twenty-six senators who voted for the resolution on its final passage, and who had supported it in debate, in its original form, were one of the senators from the State of Maine, the two senators from New Jersey, and one of the senators from Ohio. It also appears by the same journal, and by the files of the Senate, that the legislatures of these States had severally expressed their opinions in respect to the Executive proceedings drawn in question before the Senate.

"It is thus seen that four senators have declared by their votes that the President, in the late Executive proceedings in relation to the revenue, had been guilty of the impeachable offence of 'assuming upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' whilst the legislatures of their respective States had deliberately approved those very proceedings, as consistent with the constitution, and demanded by the public good. If these four votes had been given in accordance with the sentiments of the legislatures, as above expressed, there would have been but twenty-four votes out of forty-six for censuring the President, and the unprecedented record of his conviction could not have been placed upon the journals of the Senate.

"In thus referring to the resolutions and instructions of State legislatures, I disclaim and repudiate all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents and their country. The facts now stated belong to the history of these proceedings, and are important to the just development of the principles and interests involved in them, as well as to the proper vindication of the Executive department, and with that view, and that view only, are they here made the topic of remark."

The President then entered his solemn protest against the Senate's proceedings in these words:

"With this view, and for the reasons which have been stated, I do hereby solemnly protest against the aforementioned proceedings of the Senate, as unauthorized by the constitution; contrary to its spirit and to several of its express provisions; subversive of that distribution of the powers of government which it has ordained and established; destructive of the checks and safeguards by which those powers were intended, on the one hand, to be controlled, and, on the other, to be protected; and calculated, by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to

the people, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice."

And it concluded with an affecting appeal to his private history for the patriotism and integrity of his life, and the illustration of his conduct in relation to the bank, and showed his reliance on God and the People to sustain him; and looked with confidence to the place which justice would assign him on the page of history. This moving peroration was in these words:

"The resolution of the Senate contains an imputation upon my private as well as upon my public character; and as it must stand for ever on their journals, I cannot close this substitute for that defence which I have not been allowed to present in the ordinary form, without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character and purposes from such an imputation. In vain do I bear upon my person, enduring memorials of that contest in which American liberty was purchased; in vain have I since perilled property, fame, and life, in defence of the rights and privileges so dearly bought: in vain am I now, without a personal aspiration, or the hope of individual advantage, encountering responsibilities and dangers, from which, by mere inactivity in relation to a single point, I might have been exempt—if any serious doubts can be entertained as to the purity of my purposes and motives. If I had been ambitious, I should have sought an alliance with that powerful institution, which even now aspires to no divided empire. If I had been venal, I should have sold myself to its designs. Had I preferred personal comfort and official ease to the performance of my arduous duty, I should have ceased to molest it. In the history of conquerors and usurpers, never, in the fire of youth, nor in the vigor of manhood, could I find an attraction to lure me from the path of duty; and now, I shall scarcely find an inducement to commence the career of ambition, when gray hairs and a decaying frame, instead of inviting to toil and battle, call me to the contemplation of other worlds, where conquerors cease to be honored, and usurpers expiate their crimes. The only ambition I can feel, is to acquit myself to Him to whom I must soon render an account of my stewardship, to serve my fellow-men, and live respected and honored in the history of my country. No; the ambition which leads me on, is an anxious desire and a fixed determination, to return to the people, unimpaired, the sacred trust they have confided to my charge—to heal the wounds of the constitution and preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid government, supported by powerful monopolies and aristocratical establishments, that they will find happiness, or their liberties protected, but in a plain system, void of pomp—protecting all, and granting favors to none—dispensing its blessings like the dews of heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce. It is such a government that the genius of our people requires—such a one only under which our States may remain for ages to come, united, prosperous, and free. If the Almighty Being who has hitherto sustained and protected me, will but vouchsafe to make my feeble powers instrumental to such a result, I shall anticipate with pleasure the place to be assigned me in the history of my country, and die contented with the belief, that I have contributed in some small degree, to increase the value and prolong the duration of American liberty.

"To the end that the resolution of the Senate may not be hereafter drawn into precedent, with the authority of silent acquiescence on the part of the Executive department; and to the end, also, that my motives and views in the Executive proceeding denounced in that resolution may be known to my fellow-citizens, to the world, and to all posterity, I respectfully request that this message and protest may be entered at length on the journals of the Senate."

No sooner was this Protest read in the Senate than it gave rise to a scene of the greatest excitement. Mr. Poindexter, of Mississippi, immediately assailed it as a breach of the

privileges of the Senate, and unfit to be received by the body. He said: “I will not dignify this paper by considering it in the light of an Executive message: it is no such thing. I regard it simply as a paper, with the signature of Andrew Jackson; and, should the Senate refuse to receive it, it will not be the first paper with the same signature which has been refused a hearing in this body, on the ground of the abusive and vituperative language which it contained. This effort to denounce and overawe the deliberations of the Senate may properly be regarded as capping the climax of that systematic plan of operations which had for several years been in progress, designed to bring this body into disrepute among the people, and thereby remove the only existing barrier to the arbitrary encroachments and usurpations of Executive power:”—and he moved that the paper, as he called it, should not be received. Mr. Benton deemed this a proper occasion to give notice of his intention to move a strong measure which he contemplated—an expunging resolution against the sentence of the Senate:—a determination to which he had come from his own convictions of right, and which he now announced without consultation with any of his friends. He deemed this movement too bold to be submitted to a council of friends—too daring to expect their concurrence;—and believed it was better to proceed without their knowledge, than against their decision. He, therefore, delivered his notice *ex abruptu*, accompanied by an earnest invective against the conduct of the Senate; and committed himself irrevocably to the prosecution of the “expunging resolution” until he should succeed in the effort, or terminate his political life: He said:

“The public mind was now to be occupied with a question of the very first moment and importance, and identical in all its features with the great question growing out of the famous resolutions of the English House of Commons in the case of the Middlesex election in the year 1768; and which engrossed the attention of the British empire for fourteen years before it was settled. That question was one in which the House of Commons was judged, and condemned, for adopting a resolution which was held by the subjects of the British crown to be a violation of their constitution, and a subversion of the rights of Englishmen: the question now before the Senate, and which will go before the American people, grows out of a resolution in which he (Mr. B.) believed that the constitution had been violated—the privileges of the House of Representatives invaded—and the rights of an American citizen, in the person of the President, subverted. The resolution of the House of Commons, after fourteen years of annual motions, was expunged from the Journal of the House; and he pledged himself to the American people to commence a similar series of motions with respect to this resolution of the Senate. He had made up his mind to do so without consultation with any human being, and without deigning to calculate the chances or the time of success. He rested under the firm conviction that the resolution of the Senate, which had drawn from the President the calm, temperate, and dignified protest, which had been read at the table, was a resolution which ought to be expunged from the Journal of the Senate; and if any thing was necessary to stimulate his sense of duty in making a motion to that effect, and in encouraging others after he was gone, in following up that motion to success, it would be found in the history and termination of the similar motion which was made in the English House of Commons to which he had referred. That motion was renewed for fourteen years—from 1768 to 1782—before it was successful. For the first seven years, the lofty and indignant majority did not condescend to reply to the motion. They sunk it under a dead vote as often as presented. The second seven years they replied; and at the end of the term, and on the assembling of a new Parliament, the veteran motion was carried by more than two to one; and the gratifying spectacle was beheld of a public expurgation, in the face of the assembled Commons of England, of the obnoxious resolution from the Journal of the House. The elections in England were septennial, and it took two terms of seven years, or two general elections, to bring the sense of the kingdom to bear upon their representatives. The elections

of the Senate were sexennial, with intercalary exits and entrances, and it might take a less, or a longer period, he would not presume to say which, to bring the sense of the American people to bear upon an act of the American Senate. Of that, he would make no calculation; but the final success of the motion in the English House of Commons, after fourteen years' perseverance, was a sufficient encouragement for him to begin, and doubtless would encourage others to continue, until the good work should be crowned with success; and the only atonement made which it was in the Senate's power to make, to the violated majesty of the constitution, the invaded privileges of the House of Representatives and the subverted rights of an American citizen.

"In bringing this great question before the American people, Mr. B. should consider himself as addressing the calm intelligence of an enlightened community. He believed the body of the American people to be the most enlightened community upon earth; and, without the least disparagement to the present Senate, he must be permitted to believe that many such Senates might be drawn from the ranks of the people, and still leave no dearth of intelligence behind. To such a community—in an appeal, on a great question of constitutional law, to the understandings of such a people—declamation, passion, epithets, opprobrious language, would stand for nothing. They would float, harmless and unheeded, through the empty air, and strike in vain upon the ear of a sober and dispassionate tribunal. Indignation, real or affected; wrath, however hot; fury, however enraged; asseverations, however violent; denunciation, however furious; will avail nothing. Facts—inexorable facts—are all that will be attended to; reason, calm and self-possessed, is all that will be listened to. An intelligent tribunal will exact the respect of an address to their understandings; and he that wishes to be heard in this great question, or being heard, would wish to be heeded, will have occasion to be clear and correct in his facts; close and perspicuous in his application of law; fair and candid in his conclusions and inferences; temperate and decorous in his language; and scrupulously free from every taint of vengeance and malice. Solemnly impressed with the truth of all these convictions, it was the intention of himself (Mr. B.), whatever the example or the provocation might be—never to forget his place, his subject, his audience, and his object—never to forget that he was speaking in the American Senate, on a question of violated constitution and outraged individual right, to an audience comprehending the whole body of the American people, and for the purpose of obtaining a righteous decision from the calm and sober judgment of a high-minded, intelligent, and patriotic community.

"The question immediately before the Senate was one of minor consequence; it might be called a question of small import, except for the effect which the decision might have upon the Senate itself. In that point of view, it might be a question of some moment; for, without reference to individuals, it was essential to the cause of free governments, that every department of the government, the Senate inclusive, should so act as to preserve to itself the respect and the confidence of the country. The immediate question was, upon the rejection of the President's message. It was moved to reject it—to reject it, not after it was considered, but before it was considered! and thus to tell the American people that their President shall not be heard—should not be allowed to plead his defence—in the presence of the body that condemned him—neither before the condemnation, nor after it! This is the motion: and certainly no enemy to the Senate could wish it to miscarry. The President, in the conclusion of his message, has respectfully requested that his defence might be entered upon the Journal of the Senate—upon that same Journal which contains the record of his conviction. This is the request of the President. Will the Senate deny it? Will they refuse this act of sheer justice and common decency? Will they go further, and not only refuse to place it on the Journal, but refuse even to suffer it to remain in the Senate? Will they refuse to permit it to remain on file, but send it back, or throw it out of doors, without condescending to reply to it? For that is the

exact import of the motion now made! Will senators exhaust their minds, and their bodies also, in loading this very communication with epithets, and then say that it shall not be received? Will they receive memorials, resolutions, essays, from all that choose to abuse the President, and not receive a word of defence from him? Will they continue the spectacle which had been presented here for three months—a daily presentation of attacks upon the President from all that choose to attack him, young and old, boys and men—attacks echoing the very sound of this resolution, and which are not only received and filed here, but printed, which, possibly, the twenty-six could not unite here, nor go to trial upon any where! He remarked, in the third place, upon the effect produced in the character of the resolution, and affirmed that it was nothing. He said that the same charge ran through all three. They all three imputed to the President a violation of the constitution and laws of the country—of that constitution which he was sworn to support, and of those laws which he was not only bound to observe himself, but to cause to be faithfully observed by all others.

"A violation of the constitution and of the laws, Mr. B. said, were not abstractions and metaphysical subtleties. They must relate to persons or things. The violations cannot rest in the air; they must affix themselves to men or to property; they must connect themselves with the transactions of real life. They cannot be ideal and contemplative. In omitting the specifications relative to the dismission of one Secretary of the Treasury, and the appointment of another, what other specifications were adopted or substituted? Certainly none! What others were mentally intended? Surely none! What others were suggested? Certainly none! The general charge then rests upon the same specification; and so completely is this the fact, that no supporter of the resolutions has thought it necessary to make the least alteration in his speeches which supported the original resolution, or to say a single additional word in favor of the altered resolution as finally passed. The omission of the specification is then an omission of form and not of substance; it is a change of words and not of things; and the substitution of a derogation of the laws and constitution, for dangerous to the liberties of the people, is a still more flagrant instance of change of words without change of things. It is tautologous and nonsensical. It adds nothing to the general charge, and takes nothing from it. It neither explains it nor qualifies it. In the technical sense it is absurd; for it is not the case of a statute in derogation of the common law, to wit, repealing a part of it; in the common parlance understanding, it is ridiculous, for the President is not even charged with defaming the constitution and the laws; and, if he was so charged, it would present a curious trial of *scandalum magnatum* for the American Senate to engage in. No! said Mr. B., this derogation clause is an expletion! It is put in to fill up! The regular impeaching clause of dangerous to the liberties of the people, had to be taken out. There was danger, not in the people certainly, but to the character of the resolution, if it staid in. It identified that resolution as an impeachment, and, therefore, constituted a piece of internal evidence which it was necessary to withdraw; but in withdrawing which, the character of the resolution was not altered. The charge for violating the laws and the constitution still stood; and the substituted clause was nothing but a stopper to a vacuum—additional sound without additional sense, to fill up a blank and round off a sentence.

"After showing the impeaching character of the Senate's resolution, from its own internal evidence, Mr. B. had recourse to another description of evidence, scarcely inferior to the resolutions themselves, in the authentic interpretations of their meaning. He alluded to the speeches made in support of them, and which had resounded in this chamber for three months, and were now circulating all over the country in every variety of newspaper and pamphlet form. These speeches were made by the friends of the resolution to procure its adoption here, and to justify its adoption before the country. Let the country then read, let the people read, what has been sent to them for the purpose of justifying these resolutions which

they are now to try! They will find them to be in the character of prosecution pleadings against an accused man, on his trial for the commission of great crimes! Let them look over these speeches, and mark the passages; they will find language ransacked, history rummaged, to find words sufficiently strong, and examples sufficiently odious, to paint and exemplify the enormity of the crime of which the President was alleged to be guilty. After reading these passages, let any one doubt, if he can, as to the character of the resolution which was adopted. Let him doubt, if he can, of the impeachable nature of the offence which was charged upon the President. Let him doubt, if he can, that every Senator who voted for that resolution, voted the President to be guilty of an impeachable offence—an offence, for the trial of which this Senate is the appointed tribunal—an offence which it will be the immediate duty of the House of Representatives to bring before the Senate, in a formal impeachment, unless they disbelieve in the truth and justice of the resolution which has been adopted.

"Mr. B. said there were three characters in which the Senate could act; and every time it acted it necessarily did so in one or the other of these characters. It possessed executive, legislative, and judicial characters. As a part of the executive, it acted on treaties and nominations to office; as a part of the legislative, it assisted in making laws; as a judicial tribunal, it decided impeachments. Now, in which of these characters did the Senate act when it adopted the resolution in question? Not in its executive character, it will be admitted; not in its legislative character, it will be proved: for the resolution was, in its nature, wholly foreign to legislation. It was directed, not to the formation of a law, but to the condemnation of the President. It was to condemn him for dismissing one Secretary, because he would not do a thing, and appointing another that he might do it; and certainly this was not matter for legislation; for Mr. Duane could not be restored by law, nor Mr. Taney be put out by law. It was to convict the President of violating the constitution and the laws; and surely these infractions are not to be amended by laws, but avenged by trial and punishment. The very nature of the resolution proves it to be foreign to all legislation; its form proves the same thing; for it is not joint, to require the action of the House of Representatives, and thus ripen into law; nor is it followed by an instruction to a committee to report a bill in conformity to it. No such instruction could even now be added without committing an absurdity of the most ridiculous character. There was another resolution, with which this must not be confounded, and upon which an instruction to a committee might have been bottomed; it was the resolution which declared the Secretary's reasons for removing the deposits to be insufficient and unsatisfactory; but no such instruction has been bottomed even upon that resolution; so that it is evident that no legislation of any kind was intended to follow either resolution, even that to which legislation might have been appropriate, much less that to which it would have been an absurdity. Four months have elapsed since the resolutions were brought in. In all that time, there has been no attempt to found a legislative act upon either of them; and it is too late now to assume that the one which, in its nature and in its form, is wholly foreign to legislation, is a legislative act, and adopted by the Senate in its legislative character. No! This resolution is judicial; it is a judgment pronounced upon an imputed offence; it is the declared sense of a majority of the Senate, of the guilt of the President of a high crime and misdemeanor. It is, in substance, an impeachment—an impeachment in violation of all the forms prescribed by the constitution—in violation of the privileges of the House of Representatives—in subversion of the rights of the accused, and the record of which ought to be expunged from the Journal of the Senate.

"Mr. B. said the selection of a tribunal for the trial of impeachments was felt, by the convention which framed the constitution, as one of the most delicate and difficult tasks which they had to perform. Those great men were well read in history, both ancient and modern, and knew that the impeaching power—the usual mode for trying political men for political offences—was often an engine for the gratification of factious and ambitious

feelings. An impeachment was well known to be the beaten road for running down a hated or successful political rival. After great deliberation—after weighing all the tribunals, even that of the Supreme Court—the Senate of the United States was fixed upon as the body which, from its constitution, would be the most impartial, neutral, and equitable, that could be selected, and, with the check of a previous inquisition, and presentment of charges by the House of Representatives, would be the safest tribunal to which could be confided a power so great in itself, and so susceptible of being abused. The Senate was selected; and to show that he had not overstated the difficulties of the convention in making the selection, he would take leave to read a passage from a work which was canonical on this subject, and from an article in that work which was written by the gentleman whose authority would have most weight on this occasion. He spoke of the Federalist, and of the article written by General Hamilton on the impeaching power:

"'A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained, in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men; or, in other words, from the abuse or violation of some public trust. They are of a nature which may, with peculiar propriety, be denominated political, as they relate chiefly to injuries done immediately to society itself. The prosecution of them, for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases, it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence, and interest, on one side or on the other; and, in such cases, there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstrations of innocence or guilt. The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs, speak for themselves. The difficulty of placing it rightly in a government resting entirely on the basis of periodical elections, will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction; and, on this account, can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny.

"'The division of the powers of impeachment between the two branches of the legislature, assigning to one the right of accusing, to the other the right of trying, avoids the inconvenience of making the same persons both accusers and judges; and guards against the danger of persecution from the prevalency of a factious spirit in either of those branches.'

"Mr. B. said there was much matter for elucidation of the present object of discussion in the extract which he had read. Its definition of an impeachable offence covered the identical charge which was contained in the resolution adopted by the Senate against the President. The offence charged upon him possessed every feature of the impeachment defined by General Hamilton. It imputes misconduct to a public man, for the abuse and violation of a public trust. The discussion of the charge has agitated the passions of the whole community; it has divided the people into parties, some friendly, some inimical, to the accused; it has connected itself with the pre-existing parties, enlisting the whole of the opposition parties under one banner, and calling forth all their animosities—all their partialities—all their influence—all their interest; and, what was not foreseen by General Hamilton, it has called forth the tremendous moneyed power, and the pervading organization of a great moneyed power, wielding a mass of forty millions of money, and sixty millions of debt; wielding the whole in aid and support of this charge upon the President, and working the double battery of seduction, on one hand, and oppression on the other, to put down the man against whom it is

directed! This is what General Hamilton did not foresee; but the next feature in the picture he did foresee, and most accurately describe, as it is now seen by us all. He said that the decision of these impeachments would often be regulated more by the comparative strength of parties than by the guilt or innocence of the accused. How prophetic! Look to the memorials, resolutions, and petitions, sent in here to criminate the President, so clearly marked by a party line, that when an exception occurs, it is made the special subject of public remark. Look at the vote in the Senate, upon the adoption of the resolution, also as clearly defined by a party line as any party question can ever be expected to be.

"To guard the most conspicuous characters from being persecuted—Mr. B. said he was using the language of General Hamilton—to guard the most conspicuous characters from being persecuted by the leaders or the tools of the most cunning or the most numerous faction—the convention had placed the power of trying impeachments, not in the Supreme Court, not even in a body of select judges chosen for the occasion, but in the Senate of the United States, and not even in them without an intervening check to the abuse of that power, by associating the House of Representatives, and forbidding the Senate to proceed against any officer until that grand inquest of the nation should demand his trial. How far fortunate, or otherwise, the convention may have been in the selection of its tribunal for the trial of impeachments, it was not for him, Mr. B., to say. It was not for him to say how far the requisite neutrality towards those whose conduct may be under scrutiny, may be found, or has been found, in this body. But he must take leave to say, that if a public man may be virtually impeached—actually condemned by the Senate of an impeachable offence, without the intervention of the House of Representatives, then has the constitution failed at one of its most vital points and a ready means found for doing a thing which had filled other countries with persecution, faction, and violence, and which it was intended should never be done here.

"Mr. B. called upon the Senate to recollect what was the feature in the famous court of the Star Chamber, which rendered that court the most odious that ever sat in England. It was not the mass of its enormities—great as they were—for the regular tribunals which yet existed, exceeded that court, both in the mass and in the atrocity of their crimes and oppressions. The regular courts in the compass of a single reign—that of James the Second; a single judge, in a single riding—Jeffries, on the Western Circuit—surpassed all the enormities of the Star Chamber, in the whole course of its existence. What then rendered that court so intolerably odious to the English people? Sir, said Mr. B., it was because that court had no grand jury—because it proceeded without presentment, without indictment—upon information alone—and thus got at its victims without the intervention, without the restraint, of an accusing body. This is the feature which sunk the Star Chamber in England. It is the feature which no criminal tribunal in this America is allowed to possess. The most inconsiderable offender, in any State of the Union, must be charged by a grand jury before he can be tried by the court. In this Senate, sitting as a high court of impeachment, a charge must first be presented by the House of Representatives, sitting as the grand inquest of the nation. But if the Senate can proceed, without the intervention of this grand inquest, wherein is it to differ from the Star Chamber, except in the mere execution of its decrees? And what other execution is now required for delinquent public men, than the force of public opinion? No! said Mr. B., we live in an age when public opinion over public men, is omnipotent and irreversible!—when public sentiment annihilates a public man more effectually than the scaffold. To this new and omnipotent tribunal, all the public men of Europe and America are now happily subject. The fiat of public opinion has superseded the axe of the executioner. Struck by that opinion, kings and emperors in Europe, and the highest functionaries among ourselves, fall powerless from the political stage, and wander, while their bodies live, as shadows and phantoms over the land. Should he give examples? It might be invidious; yet all would recollect an eminent

example of a citizen, once sitting at the head of this Senate, afterwards falling under a judicial prosecution, from which he escaped untouched by the sword of the law, yet that eminent citizen was more utterly annihilated by public opinion, than any execution of a capital sentence could ever have accomplished upon his name.

"What occasion then has the Senate, sitting as a court of impeachment, for the power of execution? The only effect of a regular impeachment now, is to remove from office, and disqualification for office. An irregular impeachment will be tantamount to removal and disqualification, if the justice of the sentence is confided in by the people. If this condemnation of the President had been pronounced in the first term of his administration, and the people had believed in the truth and justice of the sentence, certainly President Jackson would not have been elected a second time; and every object that a political rival, or a political party, could have wished from his removal from office, and disqualification for office, would have been accomplished. Disqualification for office—loss of public favor—political death—is now the object of political rivalship; and all this can be accomplished by an informal, as well as by a formal impeachment, if the sentence is only confided in by the people. If the people believed that the President has violated the constitution and the laws, he ceases to be the object of their respect and their confidence; he loses their favor; he dies a political death; and that this might be the object of the resolution, Mr. B. would leave to the determination of those who should read the speeches which were delivered in support of the measure, and which would constitute a public and lasting monument of the temper in which the resolution was presented, and the object intended to be accomplished by it.

"It was in vain to say there could be no object, at this time, in annihilating the political influence of President Jackson, and killing him off as a public man, with a senatorial conviction for violating the laws and constitution of the country. Such an assertion, if ventured upon by any one, would stand contradicted by facts, of which Europe and America are witnesses. Does he not stand between the country and the bank? Is he not proclaimed the sole obstacle to the recharter of the bank; and in its recharter is there not wrapped up the destinies of a political party, now panting for power? Remove this sole obstacle—annihilate its influence—kill off President Jackson with a sentence of condemnation for a high crime and misdemeanor, and the charter of the bank will be renewed, and in its renewal, a political party, now thundering at the gates of the capitol, will leap into power. Here then is an object for desiring the extinction of the political influence of President Jackson! An object large enough to be seen by all America! and attractive enough to enlist the combined interest of a great moneyed power, and of a great political party."

Thus spoke Mr. Benton; but the debate on the protest went on; and the motion of Mr. Poindexter, digested into four different propositions, after undergoing repeated modifications upon consultations among its friends, and after much acrimony on both sides, was adopted by the fixed majority of twenty-seven. In voting that the protest was a breach of the privileges of the Senate, that body virtually affirmed the impeachment character of the condemnatory resolutions, and involved itself in the predicament of voting an impeachable matter without observing a single rule for the conduct of impeachments. The protest placed it in a dilemma. It averred the Senate's judgment to be without authority—without any warrant in the constitution—any right in the body to pronounce it. To receive that protest, and enter it on the journal, was to record a strong evidence against themselves; to reject it as a breach of privilege was to claim for their proceeding the immunity of a regular and constitutional act; and as the proceeding was on criminal matter, amounting to a high crime and misdemeanor, on which matter the Senate could only act in its judicial capacity; therefore it had to claim the immunity that would belong to it in that capacity; and assume a violation of privilege. Certainly if the Senate had tried an impeachment in due form, the protest, impeaching its

justice, might have been a breach of privilege; but the Senate had no privilege to vote an impeachable matter without a regular impeachment; and therefore it was no breach of privilege to impugn the act which they had no privilege to commit.

104. Mr. Webster’s Plan Of Relief

It has already been seen that Mr. Webster took no direct part in promoting the adoption of the resolutions against General Jackson. He had no private grief to incite him against the President; and, as first drawn up, it would have been impossible for him, honored with the titles of “expounder and defender of the constitution,” to have supported the resolve: bearing plainly on its face impeachable matter. After several modifications, he voted for it; but, from the beginning, he had his own plan in view, which was entirely different from an attack on the President; and solely looked to the advantage of the bank, and the relief of the distress, in a practical and parliamentary mode of legislation. He looked to a renewal of the bank charter for a short term, and with such modifications as would tend to disarm opposition, and to conciliate favor for it. The term of the renewal was only to be for six years: a length of time well chosen; because, from the shortness of the period, it would have an attraction for all that class of members—always more or less numerous in every assembly—who, in every difficulty, are disposed to temporize and compromise; while, to the bank, in carrying its existence beyond the presidential term of General Jackson, it felt secure in the future acquisition of a full term. Besides the attraction in the short period, Mr. Webster proposed another amelioration, calculated to have serious effect; it was to give up the exclusive or monopoly feature in the charter—leaving to Congress to grant any other charter, in the mean time, to a new company, if it pleased. The objectionable branch bank currency of petty drafts was also given up. Besides this, and as an understanding that the corporation would not attempt to obtain a further existence beyond the six years, the directors were to be at liberty to begin to return the capital to the stockholders at any time within the period of three years, before the expiration of the six renewed years. The deposits were not to be restored until after the first day of July; and, as an agreeable concession to the enemies of small paper currency the bank was to issue, or use, no note under the amount of twenty dollars. He had drawn up a bill with these provisions, and asked leave to bring it in; and, asking the leave, made a very plausible business speech in its favor: the best perhaps that could have been devised. In addition to his own weight, and the recommendations in the bill, it was understood to be the preference of Mr. Biddle himself—his own choice of remedies in the difficulties which surrounded his institution. But he met opposition from quarters not to be expected: from Mr. Clay, who went for the full term of twenty years; and Mr. Calhoun, who went for twelve. It was difficult to comprehend why these two gentlemen should wish to procure for the bank more than it asked, and which it was manifestly impossible for it to gain. Mr. Webster’s bill was the only one that stood the least chance of getting through the two Houses; and on that point he had private assurances of support from friends of the administration, if all the friends of the bank stood firm. In favoring this charter for twelve years, Mr. Calhoun felt that an explanation of his conduct was due to the public, as he was well known to have been opposed to the renewed charter, when so vehemently attempted, in 1832; and also against banks generally. His explanation was, that he considered it a currency question, and a question between the national and local banks; and that the renewed charter was to operate against them; and, in winding itself up, was to cease for ever, having first established a safe currency. His frequent expression was, that his plan was to “unbank the banks:” a process not very intelligibly explained at the time, and on which he should be allowed to speak for himself. Some passages are, therefore, given from his speech:

“After a full survey of the whole subject, I can see no means of extricating the country from its present danger, and to arrest its further increase, but a bank, the agency of which, in some form; or under some authority, is indispensable. The country has been brought into the

present diseased state of the currency by banks, and must be extricated by their agency. We must, in a word, use a bank to unbank the banks, to the extent that may be necessary to restore a safe and stable currency—just as we apply snow to a frozen limb, in order to restore vitality and circulation, or hold up a burn to the flame to extract the inflammation. All must see that it is impossible to suppress the banking system at once. It must continue for a time. Its greatest enemies, and the advocates of an exclusive specie circulation, must make it a part of their system to tolerate the banks for a longer or a shorter period. To suppress them at once, would, if it were possible, work a greater revolution: a greater change in the relative condition of the various classes of the community than would the conquest of the country by a savage enemy. What, then, must be done? I answer, a new and safe system must gradually grow up under, and replace, the old; imitating, in this respect, the beautiful process which we sometimes see, of a wounded or diseased part in a living organic body, gradually superseded by the healing process of nature.

"How is this to be effected? How is a bank to be used as the means of correcting the excess of the banking system? And what bank is to be selected as the agent to effect this salutary change? I know, said Mr. C., that a diversity of opinion will be found to exist, as to the agent to be selected, among those who agree on every other point, and who, in particular, agree on the necessity of using some bank as the means of effecting the object intended; one preferring a simple recharter of the existing bank—another, the charter of a new bank of the United States—a third, a new bank ingrafted upon the old—and a fourth, the use of the State banks, as the agent. I wish, said Mr. C., to leave all these as open questions, to be carefully surveyed and compared with each other, calmly and dispassionately, without prejudice or party feeling; and that to be selected which, on the whole, shall appear to be best—the most safe; the most efficient; the most prompt in application, and the least liable to constitutional objection. It would, however, be wanting in candor on my part, not to declare that my impression is, that a new Bank of the United States, ingrafted upon the old, will be found, under all the circumstances of the case, to combine the greatest advantages, and to be liable to the fewest objections; but this impression is not so firmly fixed as to be inconsistent with a calm review of the whole ground, or to prevent my yielding to the conviction of reason, should the result of such review prove that any other is preferable. Among its peculiar recommendations, may be ranked the consideration, that, while it would afford the means of a prompt and effectual application for mitigating and finally removing the existing distress, it would, at the same time, open to the whole community a fair opportunity of participation in the advantages of the institution, be they what they may.

"Let us then suppose (in order to illustrate and not to indicate a preference) that the present bank be selected as the agent to effect the intended object. What provisions will be necessary? I will suggest those that have occurred to me, mainly, however, with a view of exciting the reflection of those much more familiar with banking operations than myself, and who, of course, are more competent to form a correct judgment on their practical effect.

"Let, then, the bank charter be renewed for twelve years after the expiration of the present term, with such modifications and limitations as may be judged proper, and that after that period, it shall issue no notes under ten dollars; that government shall not receive in its dues any sum less than ten dollars, except in the legal coins of the United States; that it shall not receive in its dues the notes of any bank that issues notes of a denomination less than five dollars; and that the United States Bank shall not receive in payment, or on deposit, the notes of any bank whose notes are not receivable in dues of the government; nor the notes of any bank which may receive the notes of any bank whose notes are not receivable by the government. At the expiration of six years from the commencement of the renewed charter, let the bank be prohibited from issuing any note under twenty dollars, and let no sum under

that amount be received in the dues of the government, except in specie; and let the value of gold be raised at least equal to that of silver, to take effect immediately, so that the country may be replenished with the coin, the lightest and the most portable in proportion to its value, to take the place of the receding bank notes. It is unnecessary for me to state, that at present, the standard value of gold is several per cent. less than that of silver, the necessary effect of which has been to expel gold entirely from our circulation, and thus to deprive us of a coin so well calculated for the circulation of a country so great in extent, and having so vast an intercourse, commercial, social, and political, between all its parts, as ours. As an additional recommendation to raise its relative value, gold has, of late, become an important product of three considerable States of the Union, Virginia, North Carolina, and Georgia—to the industry of which, the measure proposed would give a strong impulse, and which in turn would greatly increase the quantity produced.

"Such are the means which have occurred to me. There are members of this body far more competent to judge of their practical operation than myself, and as my object is simply to suggest them for their reflection, and for that of others who are more familiar with this part of the subject, I will not at present enter into an inquiry as to their efficiency, with a view of determining whether they are fully adequate to effect the object in view or not. There are doubtless others of a similar description, and perhaps more efficacious, that may occur to the experienced, which I would freely embrace, as my object is to adopt the best and most efficient. And it may be hoped that, if on experience it should be found that neither these provisions nor any other in the power of Congress, are fully adequate to effect the important reform which I have proposed, the co-operation of the States may be afforded, at least to the extent of suppressing the circulation of notes under five dollars, where such are permitted to be issued under their authority."

The ultimate object proposed to be accomplished by Mr. Calhoun in this process of "unbanking the banks," was to arrive eventually and by slow degrees, at a metallic currency, and the revival of gold. This had been my object, and so declared in the Senate, from the time of the first opposition to the United States Bank. He had talked his plan over to myself and others: we had talked over ours to him. There was a point at which we all agreed—the restoration of a metallic currency; but differed about the means—he expecting to attain it slowly and eventually, through the process which he mentioned; and we immediately, through the revival of the gold currency, the extinction of the Bank of the United States, the establishment of an independent treasury, and the exclusion of all paper money from the federal receipts and payments. Laying hold of the point on which we agreed, (and which was also the known policy of the President), Mr. Calhoun appealed to Mr. Silas Wright and myself and other friends of the administration, to support his plan. He said:

"If I understand their views, as expressed by the senator from Missouri, behind me (Mr. Benton)—the senator from New-York (Mr. Wright); and other distinguished members of the party, and the views of the President, as expressed in reported conversations, I see not how they can reject the measure (*to wit*: his plan). They profess to be the advocates of a metallic currency. I propose to restore it by the most effectual measures that can be devised, gradually and slowly, and to the extent that experience may show that it can be done consistently with due regard to the public interest. Further, no one can desire to go."

The reference here made by Mr. Calhoun to the views of the senator from Missouri was to conversations held between them; in which each freely communicated his own plan. Mr. Benton had not then brought forward his proposition for the revival of the gold currency; but did so, (in a speech which he had studied), the moment Mr. Calhoun concluded. That was a thing understood between them. Mr. Calhoun had signified his wish to speak first; to which

Mr. Benton readily assented: and both took the opportunity presented by Mr. Webster's motion, and the presentation of his plan, to present their own respectively. Mr. Benton presented his the moment Mr. Calhoun sat down, in a much considered speech, which will be given in the next chapter; and which was the first of his formal speeches in favor of reviving the gold currency. In the mean time, Mr. Webster's plan lingered on the motion for leave to bring in his bill. That leave was not granted. Things took a strange turn. The friends of the bank refused in a body to give Mr. Webster the leave asked: the enemies of the bank were in favor of giving him the leave—chiefly, perhaps, because his friends refused it. In this state of contrariety among his friends, Mr. Webster moved to lay his own motion on the table; and Mr. Forsyth, to show that this balk came from his own side of the chamber, asked the yeas and nays; which were granted and were as follows:

"Yeas.—Messrs Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, King of Georgia, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Waggaman, Webster.

"Nays.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright."

The excuse for the movement—for this unexpected termination to Mr. Webster's motion—was that the Senate might proceed with Mr. Clay's resolution against General Jackson, and come to a conclusion upon it. It was now time for that conclusion. It was near the last of March, and the Virginia elections came on in April: but the real cause for Mr. Webster's motion was the settled opposition of his political friends to his plan; and that was proved by its subsequent fate. In his motion to lay his application on the table, he treated it as a temporary disposition of it—the application to be renewed it some future time: which it never was.

105. Revival Of The Gold Currency—Mr. Benton's Speech

Mr. Benton said it was now six years since he had begun to oppose the renewal of the charter of this bank, but he had not, until the present moment, found a suitable occasion for showing the people the kind of currency which they were entitled to possess, and probably would possess, on the dissolution of the Bank of the United States. This was a view of the subject which many wished to see, and which he felt bound to give; and which he should proceed to present, with all the brevity and perspicuity of which he was master.

1. In the first place, he was one of those who believed that the government of the United States was intended to be a hard money government: that it was the intention, and the declaration of the constitution of the United States, that the federal currency should consist of gold and silver; and that there is no power in Congress to issue, or to authorize any company of individuals to issue, any species of federal paper currency whatsoever.

Every clause in the constitution, said Mr. B., which bears upon the subject of money—every early statute of Congress which interprets the meaning of these clauses—and every historic recollection which refers to them, go hand in hand, in giving to that instrument the meaning which this proposition ascribes to it. The power granted to Congress to coin money is an authority to stamp metallic money, and is not an authority for emitting slips of paper containing promises to pay money. The authority granted to Congress to regulate the value of coin, is an authority to regulate the value of the metallic money, not of paper. The prohibition upon the States against making any thing but gold and silver a legal tender, is a moral prohibition, founded in virtue and honesty, and is just as binding upon the federal government as upon the State governments; and that without a written prohibition; for the difference in the nature of the two governments is such, that the States may do all things which they are not forbid to do; and the federal government can do nothing which it is not authorized by the constitution to do. The power to punish the crime of counterfeiting is limited to the current coin of the United States, and to the securities of the United States; and cannot be extended to the offence of forging paper money, but by that unjustifiable power of construction which founds an implication upon an implication, and hangs one implied power upon another. The word currency is not in the constitution, nor any word which can be made to cover a circulation of bank notes. Gold and silver is the only thing recognized for money. It is the money, and the only money, of the constitution; and every historic recollection, as well as every phrase in the constitution, and every early statute on the subject of money, confirms that idea. People were sick of paper money about the time that this constitution was formed. The Congress of the confederation, in the time of the Revolution, had issued a currency of paper money. It had run the full career of that currency. The wreck of two hundred millions of paper dollars lay upon the land. The framers of that constitution worked in the midst of that wreck. They saw the havoc which paper money had made upon the fortunes of individuals, and the morals of the public. They determined to have no more federal paper money. They created a hard money government; they intended the new government to recognize nothing for money but gold and silver; and every word admitted into the constitution, upon the subject of money, defines and establishes that sacred intention.

Legislative enactment, continued Mr. B., came quickly to the aid of constitutional intention and historic recollection. The fifth statute passed at the first session of the first Congress that ever sat under the present constitution, was full and explicit on this head. It defined the kind

of money which the federal treasury should receive. The enactments of the statute are remarkable for their brevity and comprehension, as well as for their clear interpretation of the constitution; and deserve to be repeated and remembered. They are: That the fees and duties payable to the federal government shall be received in gold and silver coin only; the gold coins of France, Spain, Portugal, and England, and all other gold coins of equal fineness, at eighty-nine cents for every pennyweight; the Mexican dollar at one hundred cents; the crown of France at one hundred and eleven cents; and all other silver coins of equal fineness, at one hundred and eleven cents per ounce. This statute was passed the 30th day of July, 1789—just one month after Congress had commenced the work of legislation. It shows the sense of the Congress composed of the men, in great part, who had framed the constitution, and who, by using the word only, clearly expressed their intention that gold and silver alone was to constitute the currency of the new government.

In support of this construction of the constitution, Mr. B. referred to the phrase so often used by our most aged and eminent statesmen, that this was intended to be a hard money government. Yes, said Mr. B., the framers of the constitution were hard money men; but the chief expounder and executor of that constitution was not a hard money man, but a paper system man! a man devoted to the paper system of England, with all the firmness of conviction, and all the fervor of enthusiasm. God forbid, said Mr. B., that I should do injustice to Gen. Hamilton—that I should say, or insinuate, aught to derogate from the just fame of that great man! He has many titles to the gratitude and admiration of his countrymen, and the heart could not be American which could dishonor or disparage his memory. But his ideas of government did not receive the sanction of general approbation; and of all his political tenets, his attachment to the paper system was most strongly opposed at the time, and has produced the most lasting and deplorable results upon the country. In the year 1791, this great man, then Secretary of the Treasury, brought forward his celebrated plan for the support of public credit—that plan which unfolded the entire scheme of the paper system, and immediately developed the great political line between the federalists and the republicans. The establishment of a national bank was the leading and predominant feature of that plan; and the original report of the Secretary, in favor of establishing the bank, contained this fatal and deplorable recommendation:

“The bills and notes of the bank, originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States.”

This fatal recommendation became a clause in the charter of the bank. It was transferred from the report of the Secretary to the pages of the statute book; and from that moment the moneyed character of the federal government stood changed and reversed. Federal bank notes took the place of hard money; and the whole edifice of the new government slid, at once, from the solid rock of gold and silver money, on which its framers had placed it, into the troubled and tempestuous ocean of a paper currency.

Mr. B. said it was no answer to this most serious charge of having changed the moneyed character of the federal government, and of the whole Union, to say that the notes of the Bank of the United States are not made a legal tender between man and man. There was no necessity, he said, for a statute law to that effect; it was sufficient that they were made a legal tender to the federal government; the law of necessity, far superior to that of the statute book, would do the rest. A law of tender was not necessary; a forced, incidental tender, resulted as an inevitable consequence from the credit and circulation which the federal government gave them. Whatever was received at the custom-houses, at the land-offices, at the post-offices, at the marshals’ and district attorneys’ offices, and in all the various dues to the federal

government, must be received and will be received by the people. It becomes the actual and practical currency of the land. People must take it, or get nothing; and thus the federal government, establishing a paper currency for itself, establishes it also for the States and for the people; and every body must use it from necessity, whether compelled by law or not.

Mr. B. said it was not to be supposed that the objection which he now took to the unconstitutionality of the clause which made the notes of the federal bank a legal tender to the federal government, was an objection which could be overlooked, or disregarded, by the adversaries of the bank in 1791. It was not overlooked, or disregarded; on the contrary, it was denounced, and combated, as in itself a separate and distinct breach of the constitution, going the whole length of emitting paper money; and the more odious and reprehensible because a privileged company was to have the monopoly of the emission. The genius of Hamilton was put in requisition to answer this objection; and the best answer which that great man could give it, was a confession of the omnipotence of the objection, and the total impossibility of doing it away. His answer surrendered the whole question of a currency. It sunk the notes of the bank, which were then to be tendered to the federal government, to the condition of supplies furnished to the government, and to be consumed by it. The answer took refuge under the natural power, independent of all constitutions, for the tax receiver to receive his taxes in what articles he pleased. To do justice to General Hamilton, and to detect and expose the true character of this bank paper, Mr. B. read a clause from Gen. Hamilton's reply to the cabinet opinions of Mr. Jefferson, and the Attorney General Randolph, when President Washington had the charter of the first bank under advisement with his Secretaries. It was the clause in which General Hamilton replied to the objection to the constitutionality of making the notes of the bank receivable in payment of public dues. "To designate or appoint the money or thing in which taxes are to be paid, is not only a proper, but a necessary exercise of the power of collecting them. Accordingly, Congress, in the law concerning the collection of the duties, imposts, and tonnage, has provided that they shall be payable in gold and silver. But, while it was an indispensable part of the work to say in what they should be paid, the choice of the specific thing was a mere matter of discretion. The payment might have been required in the commodities themselves. Taxes in kind, however ill judged, are not without precedents, even in the United States; or it might have been in the paper money of the several States; or in the bills of the Bank of North America, New-York, and Massachusetts, all, or either of them; it might have been in bills issued under the authority of the United States. No part of this, it is presumed, can be disputed. The appointment of the money or thing in which the taxes are to be paid, is an incident of the power of collection. And among the expedients which may be adopted, is that of bills issued under the authority of the United States." Mr. B. would read no further, although the argument of General Hamilton extended through several pages. The nature of the argument is fully disclosed in what is read. It surrenders the whole question of a paper currency. Neither the power to furnish a currency, or to regulate currency, is pretended to be claimed. The notes of the new bank are put upon the footing, not of money, but of commodities—things—articles in kind—which the tax receiver may accept from the tax payer; and which are to be used and consumed by the tax receiver, and not to be returned to the people, much less to be diffused over the country in place of money. This is the original idea and conception of these notes. It is the idea under which they obtained the legal capacity of receivability in payment of public dues; and from this humble conception, this degraded assimilation to corn and grain, to clothes and provisions, they have, by virtue of that clause in the charter, crept up to the character of money—become the real, practical currency of the land—driven the currency of the constitution from the land—and so depraved the public intellect as now to be called for as money, and proclaimed to be indispensable to the country, when the author of the bank could not rank it higher than an expedient for paying a tax.

2. In the next place, Mr. B. believed that the quantity of specie derivable from foreign commerce, added to the quantity of gold derivable from our own mines, were fully sufficient, if not expelled from the country by unwise laws, to furnish the people with an abundant circulation of gold and silver coin, for their common currency, without having recourse to a circulation of small bank notes.

The truth of these propositions, Mr. B. held to be susceptible of complete and ready proof. He spoke first of the domestic supply of native gold, and said that no mines had ever developed more rapidly than these had done, or promised more abundantly than they now do. In the year 1824 they were a spot in the State of North Carolina; they are now a region spreading into six States. In the year 1824 the product was $5,000; in the last year the product, in coined gold, was $868,000; in uncoined, as much more; and the product of the present year computed at two millions; with every prospect of continued and permanent increase. The probability was that these mines alone, in the lapse of a few years, would furnish an abundant supply of gold to establish a plentiful circulation of that metal, if not expelled from the country by unwise laws. But the great source of supply, both for gold and silver, Mr. B. said, was in our foreign commerce. It was this foreign commerce which filled the States with hard money immediately after the close of the Revolutionary War, when the domestic mines were unknown; and it is the same foreign commerce which, even now, when federal laws discourage the importation of foreign coins and compel their exportation, is bringing in an annual supply of seven or eight millions. With an amendment of the laws which now discourage the importation of foreign coins, and compel their exportation, there could be no delay in the rapid accumulation of a sufficient stock of the precious metals to supply the largest circulation which the common business of the country could require.

Mr. B. believed the product of foreign mines, and the quantity of gold and silver now in existence, to be much greater than was commonly supposed; and, as a statement of its amount would establish his proposition in favor of an adequate supply of these metals for the common currency of the country, he would state that amount, as he found it calculated in approved works of political economy. He looked to the three great sources of supply: 1. Mexico and South America; 2. Europe and Northern Asia; 3. The coast of Africa. Taking the discovery of the New World as the starting point from which the calculation would commence, and the product was:

1. Mexico and South America, $6,458,000,000

2. Europe and Northern Asia, 628,000,000

3. The coast of Africa, 150,000,000

—making a total product of seven thousand two hundred and thirty-six millions, in the short space of three centuries and a half. To this is to be added the quantity existing at the time the New World was discovered, and which was computed at $2,300,000,000. Upon all these data, the political economists, Mr. B. said, after deducting $2,000,000,000 for waste and consumption, still computed the actual stock of gold and silver in Europe, Asia, and America, in 1832, at about seven thousand millions of dollars; and that quantity constantly and rapidly increasing.

Mr. B. had no doubt but that the quantity of gold and silver in Europe, Asia, and America, was sufficient to carry on the whole business of the world. He said that states and empires—far greater in wealth and population than any now existing—far superior in public and private magnificence—had carried on all the business of private life, and all the affairs of national government, upon gold and silver alone; and that before the mines of Mexico and Peru were known, or dreamed of. He alluded to the great nations of antiquity—to the Assyrian and

Persian empires; to Egypt, Carthage, Rome; to the Grecian republics; the kingdoms of Asia Minor; and to the empire, transcending all these put together—the Saracenic empire of the Caliphs, which, taking for its centre the eastern limit of the Roman world, extended its dominion as far west as Rome had conquered, and further east than Alexander had marched. These great nations, whose armies crushed empires at a blow, whose monumental edifices still attest their grandeur, had no idea of bank credits and paper money. They used gold and silver alone. Such degenerate phrases as sound currency, paper medium, circulating media, never once sounded in their heroic ears. But why go back, exclaimed Mr. B., to the nations of antiquity? Why quit our own day? Why look beyond the boundaries of Europe? We have seen an empire in our own day, of almost fabulous grandeur and magnificence, carrying on all its vast undertakings upon a currency of gold and silver, without deigning to recognize paper for money. I speak, said Mr. B., of France—great and imperial France—and have my eye upon that first year of the consulate, when a young and victorious general, just transferred from the camp to a council, announced to his astonished ministers that specie payments should commence in France by a given day!—in that France which, for so many years, had seen nothing but a miserable currency of depreciated mandats and assignats! The annunciation was heard with the inward contempt, and open distrust, which the whole tribe of hack politicians every where feel for the statesmanship of military men. It was followed by the success which it belongs to genius to inspire and to command. Specie payments commenced in France on the day named; and a hard money currency has been the sole currency of France from that day to this.

Such, said Mr. B., is the currency of France; a country whose taxes exceed a thousand millions of francs—whose public and private expenditures require a circulation of three hundred and fifty millions of dollars—and which possesses that circulation, every dollar of it, in gold and silver. After this example, can any one doubt the capacity of the United States to supply itself with specie? Reason and history forbid the doubt. Reason informs us that hard money flows into the vacuum the instant that small bank notes are driven out. France recovered a specie circulation within a year after the consular government refused to recognize paper for money. England recovered a gold circulation of about one hundred millions of dollars within four years after the one and two pound notes were suppressed. Our own country filled up with Spanish milled dollars, French crowns, doubloons, half joes, and guineas, as by magic, at the conclusion of the Revolutionary War, and the suppression of the continental bills. The business of the United States would not require above sixty or seventy millions of gold and silver for the common currency of the people, and the basis of large bank notes and bills of exchange. Of that sum, more than one third is now in the country, but not in circulation. The Bank of the United States hoards above ten millions. At the expiration of her charter, in 1836, that sum will be paid out in redemption of its notes—will go into the hands of the people—and, of itself, will nearly double the quantity of silver now in circulation. Our native mines will be yielding, annually, some millions of gold; foreign commerce will be pouring in her accustomed copious supply; the correction of the erroneous value of gold, the liberal admission of foreign coins, and the suppression of small notes, will invite and retain an adequate metallic currency. The present moment is peculiarly favorable for these measures. Foreign exchanges are now in our favor; silver is coming here, although not current by our laws; both gold and silver would flow in, and that immediately, to an immense amount, if raised to their proper value, and put on a proper footing, by our laws. Three days' legislation on these subjects would turn copious supplies of gold and silver into the country, diffuse them through every neighborhood, and astonish gentlemen when they get home at midsummer, at finding hard money where they had left paper.

3. In the third place, Mr. B. undertook to affirm, as a proposition free from dispute or contestation, that the value now set upon gold, by the laws of the United States, was unjust and erroneous; that these laws had expelled gold from circulation; and that it was the bounden duty of Congress to restore that coin to circulation, by restoring it to its just value.

That gold was undervalued by the laws of the United States, and expelled from circulation, was a fact, Mr. B. said, which every body knew; but there was something else which every body did not know; which few, in reality, had an opportunity of knowing, but which was necessary to be known, to enable the friends of gold to go to work at the right place to effect the recovery of that precious metal which their fathers once possessed—which the subjects of European kings now possess—which the citizens of the young republics to the South all possess—which even the free negroes of San Domingo possess—but which the yeomanry of this America have been deprived of for more than twenty years, and will be deprived of for ever, unless they discover the cause of the evil, and apply the remedy to its root.

I have already shown, said Mr. B., that the plan for the support of public credit which General Hamilton brought forward, in 1791, was a plan for the establishment of the paper system in our America. We had at that time a gold currency which was circulating freely and fully all over the country. Gold is the antagonist of paper, and, with fair play, will keep a paper currency within just and proper limits. It will keep down the small notes; for, no man will carry a five, a ten, or a twenty dollar note in his pocket, when he can get guineas, eagles, half eagles, doubloons, and half joes to carry in their place. The notes of the new Bank of the United States, which bank formed the leading feature in the plan for the support of public credit, had already derived one undue advantage over gold, in being put on a level with it in point of legal tender to the federal government, and universal receivability in all payments to that government: they were now to derive another, and a still greater undue advantage over gold, in the law for the establishment of the national mint; an institution which also formed a feature of the plan for the support of public credit. It is to that plan that we trace the origin of the erroneous valuation of gold, which has banished that metal from the country. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, recommended that the relative value of gold to silver should be fixed at fifteen for one; and that recommendation became the law of the land; and has remained so ever since. At the same time, the relative value of these metals in Spain and Portugal, and throughout their vast dominions in the new world, whence our principal supplies of gold were derived, was at the rate of sixteen for one; thus making our standard six per cent. below the standard of the countries which chiefly produced gold. It was also below the English standard, and the French standard, and below the standard which prevailed in these States, before the adoption of the constitution, and which was actually prevailing in the States, at the time that this new proportion of fifteen to one was established.

Mr. B. was ready to admit that there was some nicety requisite in adjusting the relative value of two different kinds of money—gold and silver for example—so as to preserve an exact equipoise between them, and to prevent either from expelling the other. There was some nicety, but no insuperable or even extraordinary difficulty, in making the adjustment. The nicety of the question was aggravated in the year ‘92, by the difficulty of obtaining exact knowledge of the relative value of these metals, at that time, in France and England; and Mr. Gallatin has since shown that the information which was then relied upon was clearly erroneous. The consequence of any mistake in fixing our standard, was also well known in the year ‘92. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, expressly declared that the consequence of a mistake in the relative value of the two metals, would be the expulsion of the one that was undervalued. Mr. Jefferson, then Secretary of State, in his cotemporaneous report upon foreign coins, declared the same thing. Mr. Robert

Morris, financier to the revolutionary government, in his proposal to establish a mint, in 1782, was equally explicit to the same effect. The delicacy of the question and the consequence of a mistake, were then fully understood forty years ago, when the relative value of gold and silver was fixed at fifteen to one. But, at that time, it unfortunately happened that the paper system, then omnipotent in England, was making its transit to our America; and every thing that would go to establish that system—every thing that would go to sustain the new-born Bank of the United States—that eldest daughter and *spem gregis* of the paper system in America—fell in with the prevailing current, and became incorporated in the federal legislation of the day. Gold, it was well known, was the antagonist of paper; from its intrinsic value, the natural predilection of all mankind for it, its small bulk, and the facility of carrying it about, it would be preferred to paper, either for travelling or keeping in the house; and thus would limit and circumscribe the general circulation of bank notes, and prevent all plea of necessity for issuing smaller notes. Silver, on the contrary, from its inconvenience of transportation, would favor the circulation of bank notes. Hence the birth of the doctrine, that if a mistake was to be committed, it should be on the side of silver! Mr. Secretary Hamilton declares the existence of this feeling when, in his report upon the establishment of a mint, he says: “It is sometimes observed, that silver ought to be encouraged, rather than gold, as being more conducive to the extension of bank circulation, from the greater difficulty and inconvenience which its greater bulk, compared with its value, occasions in the transportation of it.” This passage in the Secretary’s report, proves the existence of the feeling in favor of silver against gold, and the cause of that feeling. Quotations might be made from the speeches of others to show that they acted upon that feeling; but it is due to General Hamilton to say that he disclaimed such a motive for himself, and expressed a desire to retain both metals in circulation, and even to have a gold dollar.

The proportion of fifteen to one was established. The 11th section of the act of April, 1792, enacted that every fifteen pounds weight of pure silver, should be equal in value, in all payments, with one pound of pure gold; and so in proportion for less quantities of the respective metals. This act was the death warrant to the gold currency. The diminished circulation of that coin soon began to be observable; but it was not immediately extinguished. Several circumstances delayed, but could not prevent that catastrophe. 1. The Bank of the United States then issued no note of less denomination than ten dollars, and but few of them. 2. There were but three other banks in the United States, and they issued but few small notes; so that a small note currency did not come directly into conflict with gold. 3. The trade to the lower Mississippi continued to bring up from Natchez and New Orleans, for many years, a large supply of doubloons; and long supplied a gold currency to the new States in the West. Thus, the absence of a small note currency, and the constant arrivals of doubloons from the lower Mississippi, deferred the fate of the gold currency; and it was not until the lapse of near twenty years after the adoption of the erroneous standard of 1792, that the circulation of that metal, both foreign and domestic, became completely and totally extinguished in the United States. The extinction is now complete, and must remain so until the laws are altered.

In making this annunciation, and in thus standing forward to expose the error, and to demand the reform of the gold currency, he (Mr. B.) was not setting up for the honors of a first discoverer, or first inventor. Far from it. He was treading in the steps of other, and abler men, who had gone before him. Four Secretaries of the Treasury, Gallatin, Dallas, Crawford, Ingham, had, each in their day, pointed out the error in the gold standard, and recommended its correction. Repeated reports of committees, in both Houses of Congress, had done the same thing. Of these reports he would name those of the late Mr. Lowndes of South Carolina; of Mr. Sanford, late a senator from New-York; of Mr. Campbell P. White, now a representative from the city of New-York. Mr. B. took pleasure in recalling and presenting to

public notice, the names of the eminent men who had gone before him in the exploration of this path. It was due to them, now that the good cause seemed to be in the road to success, to yield to them all the honors of first explorers; it was due to the cause also, in this hour of final trial, to give it the high sanction of their names and labors.

Mr. B. would arrest for an instant the current of his remarks, to fix the attention of the Senate upon a reflection which must suggest itself to the minds of all considerate persons. He would ask how it could happen that so many men, and such men as he had named, laboring for so many years, in a cause so just, for an object so beneficial, upon a state of facts so undeniable, could so long and so uniformly fail of success? How could this happen? Sir, exclaimed Mr. B., it happened because the policy of the Bank of the United States required it to happen! The same policy which required gold to be undervalued in 1792, when the first bank was chartered, has required it to be undervalued ever since, now that a second bank has been established; and the same strength which enabled these banks to keep themselves up, also enabled them to keep gold down. This is the answer to the question; and this the secret of the failure of all these eminent men in their laudable efforts to raise gold again to the dignity of money. This is the secret of their failure; and this secret being now known, the road which leads to the reformation of the gold currency lies uncovered and revealed before us: it is the road which leads to the overthrow of the Bank of the United States—to the sepulchre of that institution: for, while that bank lives, or has the hope of life, gold cannot be restored to life. Here then lies the question of the reform of the gold currency. If the bank is defeated, that currency is reformed; if the bank is victorious, gold remains degraded; to continue an article of merchandise in the hands of the bank, and to be expelled from circulation to make room for its five, its ten, and its twenty dollar notes. Let the people then, who are in favor of restoring gold to circulation, go to work in the right place, and put down the power that first put down gold, and which will never suffer that coin to rise while it has power to prevent it.

Mr. B. did not think it necessary to descant and expatiate upon the merits and advantages of a gold currency. These advantages had been too well known, from the earliest ages of the world, to be a subject of discussion in the nineteenth century; but, as it was the policy of the paper system to disparage that metal, and as that system, in its forty years' reign over the American people, had nearly destroyed a knowledge of that currency, he would briefly enumerate its leading and prominent advantages. 1. It had an intrinsic value, which gave it currency all over the world, to the full amount of that value, without regard to laws or circumstances. 2. It had a uniformity of value, which made it the safest standard of the value of property which the wisdom of man had ever yet discovered. 3. Its portability; which made it easy for the traveller to carry it about with him. 4. Its indestructibility; which made it the safest money that people could keep in their houses. 5. Its inherent purity; which made it the hardest money to be counterfeited, and the easiest to be detected, and, therefore, the safest money for the people to handle. 6. Its superiority over all other money; which gave to its possessor the choice and command of all other money. 7. Its power over exchanges; gold being the currency which contributes most to the equalization of exchange, and keeping down the rate of exchange to the lowest and most uniform point. 8. Its power over the paper money; gold being the natural enemy of that system, and, with fair play, able to hold it in check. 9. It is a constitutional currency and the people have a right to demand it, for their currency, as long as the present constitution is permitted to exist.

Mr. B. said, that the false valuation put upon gold had rendered the mint of the United States, so far as the gold coinage is concerned, a most ridiculous and absurd institution. It has coined, and that at a large expense to the United States, 2,262,717 pieces of gold, worth $11,852,890; and where are these pieces now? Not one of them to be seen! all sold, and exported! and so regular is this operation that the director of the mint, in his latest report to

Congress, says that the new coined gold frequently remains in the mint, uncalled for, though ready for delivery, until the day arrives for a packet to sail to Europe. He calculates that two millions of native gold will be coined annually hereafter; the whole of which, without a reform of the gold standard, will be conducted, like exiles, from the national mint to the sea-shore, and transported to foreign regions, to be sold for the benefit of the Bank of the United States.

Mr. B. said this was not the time to discuss the relative value of gold and silver, nor to urge the particular proportion which ought to be established between them. That would be the proper work of a committee. At present it might be sufficient, and not irrelevant, to say that this question was one of commerce—that it was purely and simply a mercantile problem—as much so as an acquisition of any ordinary merchandise from foreign countries could be. Gold goes where it finds its value, and that value is what the laws of great nations give it. In Mexico and South America—the countries which produce gold, and from which the United States must derive their chief supply—the value of gold is 16 to 1 over silver; in the island of Cuba it is 17 to 1; in Spain and Portugal it is 16 to 1; in the West Indies, generally, it is the same. It is not to be supposed that gold will come from these countries to the United States, if the importer is to lose one dollar in every sixteen that he brings; or that our own gold will remain with us, when an exporter can gain a dollar upon every fifteen that he carries out. Such results would be contrary to the laws of trade; and therefore we must place the same value upon gold that other nations do, if we wish to gain any part of theirs, or to regain any part of our own. Mr. B. said that the case of England and France was no exception to this rule. They rated gold at something less than 16 for 1, and still retained gold in circulation; but it was retained by force of peculiar laws and advantages which do not prevail in the United States. In England the circulation of gold was aided and protected by four subsidiary laws, neither of which exist here: one which prevented silver from being a tender for more than forty shillings; another which required the Bank of England to pay all its notes in gold; a third which suppressed the small note circulation; a fourth which alloyed their silver nine per cent. below the relative value of gold. In France the relative proportion of the two metals was also below what it was in Spain, Portugal, Mexico, and South America, and still a plentiful supply of gold remained in circulation; but this result was aided by two peculiar causes; first, the total absence of a paper currency; secondly, the proximity of Spain, and the inferiority of Spanish manufactures, which gave to France a ready and a near market for the sale of her fine fabrics, which were paid for in the gold of the New World. In the United States, gold would have none of these subsidiary helps; on the contrary it would have to contend with a paper currency, and would have to be obtained, the product of our own mines excepted, from Mexico and South America, where it is rated as sixteen to one for silver. All these circumstances, and many others, would have to be taken into consideration in fixing a standard for the United States. Mr. B. repeated that there was nicety, but no difficulty, in adjusting the relative value of gold and silver so as to retain both in circulation. Several nations of antiquity had done it; some modern nations also. The English have both in circulation at this time. The French have both, and have had for thirty years. The States of this Union also had both in the time of the confederation; and retained them until this federal government was established, and the paper system adopted. Congress should not admit that it cannot do for the citizens of the United States, what so many monarchies have done for their subjects. Gentlemen, especially, who decry military chieftains, should not confess that they themselves cannot do for America, what a military chieftain did for France.

Mr. B. made his acknowledgments to the great apostle of American liberty (Mr. Jefferson), for the wise, practical idea, that the value of gold was a commercial question, to be settled by its value in other countries. He had seen that remark in the works of that great man, and

treasured it up as teaching the plain and ready way to accomplish an apparently difficult object; and he fully concurred with the senator from South Carolina [Mr. Calhoun], that gold, in the United States, ought to be the preferred metal; not that silver should be expelled, but both retained; the mistake, of any, to be in favor of gold, instead of being against it.

IV. Mr. B. believed that it was the intention and declared meaning of the constitution, that foreign coins should pass currently as money, and at their full value, within the United States; that it was the duty of Congress to promote the circulation of these coins by giving them their full value; that this was the design of the States in conferring upon Congress the exclusive power of regulating the value of these coins; that all the laws of Congress for preventing the circulation of foreign coins, and underrating their value, were so many breaches of the constitution, and so many mischiefs inflicted upon the States; and that it was the bounden duty of Congress to repeal all such laws; and to restore foreign coins to the same free and favored circulation which they possessed when the federal constitution was adopted.

In support of the first branch of his first position Mr. B. quoted the words of the constitution which authorized Congress to regulate the value of foreign coins; secondly, the clause in the constitution which authorized Congress to provide for punishing the counterfeiting of current coin, in which term, foreign coin was included; thirdly, the clause which prohibited the States from making any thing but gold and silver coin a tender in payment of debts; a clause which did not limit the prohibition to domestic coins, and therefore included foreign ones. These three clauses, he said, were concurrent, and put foreign coin and domestic coin upon the same precise footing of equality, in every particular which concerned their current circulation, their value, and their protection from counterfeiters. Historical recollections were the next evidence to which Mr. B. referred to sustain his position. He said that foreign coins were the only coins known to the United States at the adoption of the constitution. No mint had been established up to that time. The coins of other nations furnished the currency, the exclusive metallic currency, which the States had used from the close of the Revolutionary War up to the formation of this federal government. It was these foreign coins then which the framers of the constitution had in view when they inserted all the clauses in the constitution which bear upon the value and current circulation of coin; its protection from counterfeiters, and the prohibitory restriction upon the States with respect to the illegality of tenders of any thing except of gold and silver. To make this point still plainer, if plainer it could be made, Mr. B. adverted to the early statutes of Congress which related to foreign coins. He had seen no less than nine statutes, passed in the first four years of the action of this federal government, all enacted for the purpose of regulating the value, protecting the purity, and promoting the circulation of these coins. Not only the well-known coins of the principal nations were provided for in these statutes, but the coins of all the nations with whom we traded, how rare or small might be the coin, or how remote or inconsiderable might be the nation. By a general provision of the act of 1789, the gold coins of all nations, which equalled those of England, France, Spain and Portugal, in fineness, were to be current at 89 cents the pennyweight; and the silver coins of all nations, which equalled the Spanish dollar in fineness, were to be current at 111 cents the ounce. Under these general provisions, a great influx of the precious metals took place; doubloons, guineas, half joes, were the common and familiar currency of farmers and laborers, as well as of merchants and traders. Every substantial citizen then kept in his house a pair of small scales to weigh gold, which are now used by his posterity to weigh physic. It is a great many years—a whole generation has grown up—since these scales were used for their original purpose; nor will they ever be needed again for that use until the just and wise laws of ‘89 and ‘90, for the general circulation of foreign coins, shall again be put in force. These early statutes, added to historical recollections, could leave no doubt of

the true meaning of the constitution, and that foreign coins were intended to be for ever current within the United States.

With this obvious meaning of the constitution, and the undeniable advantage which redounded to the United States from the acquisition of the precious metals from all foreign nations, the inquiry naturally presents itself, to know for what reason these coins have been outlawed by the Congress of the United States, and driven from circulation? The inquiring mind wishes to know how Congress could be brought, in a few short years after the adoption of the constitution, to contradict that instrument in a vital particular—to repeal the nine statutes which they had passed in favor of foreign coin—and to illegalize the circulation of that coin whose value they were to regulate, and whose purity to protect?

Sir, said Mr. B., I am unwilling to appear always in the same train, tracing up all the evils of our currency to the same fountain of mischiefs—the introduction of the paper system, and the first establishment of a federal bank among us. But justice must have its sway; historical truth must take its course; facts must be told; and authentic proof shall supply the place of narrative and assertion. We ascend, then, to the year ‘91—to the exhibition of the plan for the support of public credit—and see in that plan, as one of its features, a proposition for the establishment of a national mint; and in that establishment a subsidiary engine for the support of the federal bank. We have already seen that in the proposition for the establishment of the mint, gold was largely undervalued; and that this undervaluation has driven gold from the country and left a vacuum for the circulation of federal bank notes; we are now to see that the same mint establishment was to give further aid to the circulation of these notes, by excluding foreign coins, both gold and silver, from circulation, and thus enlarging the vacuum which was to be filled by bank paper. This is what we are now to see; and to see it, we will look at the plan for the support of public credit, and that feature of the plan which proposes the establishment of a national mint.

Mr. B. would remark, that four points were presented in this plan: 1. The eventual abolition of the currency of foreign coins; 2. The reduction of their value while allowed to circulate; 3. The substitution of domestic coins; and, 4. The substitution of bank notes in place of the uncurrent and undervalued foreign coins. Such were the recommendations of Secretary Hamilton; and legislative enactments quickly followed to convert his recommendations into law. The only power the constitution had given to Congress over foreign coins, was a power to regulate their value, and to protect them from debasement by counterfeiters. It was certainly a most strange construction of that authority, first, to underrate the value of these coins, and next, to prohibit their circulation! Yet both things were done. The mint went into operation in 1794; foreign coins were to cease to be a legal tender in 1797; but, at the end of that time, the contingencies on which the Secretary calculated, to enable the country to do without foreign coins, had not occurred; the substitutes had not appeared; the mint had not supplied the adequate quantity of domestic coin, nor had the circulation of bank notes become sufficiently familiar to the people to supersede gold. The law for the exclusion of foreign coins was found to be impracticable; and a suspension of it for three years was enacted. At the end of this time the evil was found to be as great as ever; and a further suspension of three years was made. This third term of three years also rolled over, the supply of domestic coins was still found to be inadequate, and the people continued to be as averse as ever to the bank note substitute. A fourth suspension of the law became necessary, and in 1806 a further suspension for three years was made; after that a fifth, and finally a sixth suspension, each for the period of three years; which brought the period for the actual and final cessation of the circulation of foreign coins, to the month of November, 1819. From that time there was no further suspension of the prohibitory act. An exception was continued, and still remains, in favor of Spanish milled dollars and parts of dollars; but all other foreign

coins, even those of Mexico and all the South American States, have ceased to be a legal tender, and have lost their character of current money within the United States. Their value is degraded to the mint price of bullion; and thus the constitutional currency becomes an article of merchandise and exportation. Even the Spanish milled dollar, though continued as a legal tender, is valued, not as money, but for the pure silver in it, and is therefore undervalued three or four per cent. and becomes an article of merchandise. The Bank of the United States has collected and sold 4,450,000 of them. Every money dealer is employed in buying, selling, and exporting them. The South and West, which receives them, is stripped of them.

Having gone through this narrative of facts, and shown the exclusion of foreign coins from circulation to be a part of the paper system, and intended to facilitate the substitution of a bank note currency, Mr B. went on to state the injuries resulting from the measure. At the head of these injuries he was bound to place the violation of the constitution of the United States, which clearly intended that foreign coins should circulate among us, and which, in giving Congress authority to regulate their value, and to protect them from counterfeiters, could never have intended to stop their circulation, and to abandon them to debasement. 2. He denounced this exclusion of foreign coins as a fraud, and a fraud of the most injurious nature, upon the people of the States. The States had surrendered their power over the coinage to Congress; they made the surrender in language which clearly implied that their currency of foreign coins was to be continued to them; yet that currency is suppressed; a currency of intrinsic value, for which they paid interest to nobody, is suppressed; and a currency without intrinsic value, a currency of paper subject to every fluctuation, and for the supply of which corporate bodies receive interest, is substituted in its place. 3. He objected to this suppression as depriving the whole Union, and especially the Western States, of their due and necessary supply of hard money. Since that law took effect, the United States had only been a thoroughfare for foreign coins to pass through. All that was brought into the country, had to go out of the country. It was exported as fast as imported. The custom-house books proved this fact. They proved, that from 1821 to 1833, the imports of specie were $89,428,462; the exports, for the same time, were $88,821,433; lacking but three quarters of a million of being precisely equal to the imports! Some of this coin was recoined before it was exported, a foolish and expensive operation on the part of the United States; but the greater part was exported in the same form that it was received. Mr. B. had only been able to get the exports and imports from 1821; if he could have obtained those of 1820, and the concluding part of 1819, when the prohibitory law took effect, the amount would have been about ninety-six millions of dollars; the whole of which was lost to the country by the prohibitory law, while much of it would have been saved, and retained for home circulation, if it had not been for this law. The loss of this great sum in specie was an injury to the whole Union, but especially to the Western States, whose sole resource for coin was from foreign countries; for the coinage of the mint could never flow into that region; there was nothing in the course of trade and exchanges, to carry money from the Atlantic States to the West, and the mint, if it coined thousands of millions, could not supply them. The taking effect of the law in the year 1819, was an aggravation of the injury. It was the most unfortunate and ruinous of all times for driving specie from the country. The Western banks, from their exertions to aid the country during the war, had stretched their issues to the utmost limit; their notes had gone into the land offices; the federal government turned them over to the Bank of the United States; and that bank demanded specie. Thus, the necessity for specie was increased at the very moment that the supply was diminished; and the general stoppage of the Western banks, was the inevitable and natural result of these combined circumstances.

Having shown the great evils resulting to the country from the operation of this law, Mr. B. called upon its friends to tell what reason could now be given for not repealing it? He

affirmed that, of the two causes to which the law owed its origin, one had failed *in toto*, and the other had succeeded to a degree to make it the curse and the nuisance of the country. One reason was to induce an adequate supply of foreign coins to be brought to the mint, to be recoined; the other to facilitate the substitution of a bank note currency. The foreign coins did not go to the mint, those excepted which were imported in its own neighborhood; and even these were exported nearly as fast as recoined. The authority of the director of the mint had already been quoted to show that the new coined gold was transferred direct from the national mint to the packet ships, bound to Europe. The custom-house returns showed the large exportation of domestic coins. They would be found under the head of "Domestic Manufactures Exported;" and made a large figure in the list of these exports. In the year 1832, it amounted to $2,058,474, and in the year 1833, to $1,410,941; and every year it was more or less; so that the national mint had degenerated into a domestic manufactory of gold and silver, for exportation to foreign countries. But the coins imported at New Orleans, at Charleston, and at other points remote from Philadelphia, did not go there to be recoined. They were, in part, exported direct from the place of import, and in part used by the people as current money, in disregard of the prohibitory law of 1819. But the greater part was exported—for no owner of foreign coin could incur the trouble, risk, and expense, of sending it some hundred or a thousand miles to Philadelphia, to have it recoined; and then incurring the same expense, risk, and trouble (lying out of the use of the money, and receiving no interest all the while), of bringing it back to be put into circulation; with the further risk of a deduction for want of standard fineness at the mint, when he could sell and export it upon the spot. Foreign coins could not be recoined, so as to supply the Union, by a solitary mint on the Atlantic coast. The great West could only be supplied from New Orleans. A branch of the mint, placed there, could supply the West with domestic coins. Mexico, since she became a free country, has established seven mints in different places, because it was troublesome and expensive to carry bullion from all parts of the country to be coined in the capital; and when coined there, there was nothing in the course of trade to carry them back into the country; and the owners of it would not be at the expense and trouble of carrying it back, and getting it into circulation, being the exact state of things at present in the gold mines of the Southern States. The United States, upon the same principles and for the same reasons, should establish branches of the mint in the South, convenient to the gold mine region, and at New Orleans, for the benefit of that city and the West. Without a branch of the mint at New Orleans, the admission of foreign coins is indispensable to the West; and thus the interest of that region joins itself to the voice of the constitution in demanding the immediate repeal of all laws for illegalizing the circulation of these coins, and for sinking them from their current value as money, to their mint value as bullion. The design of supplying the mint with foreign coins, for recoinage, had then failed; and in that respect the exclusion of foreign coins has failed in one of its objects—in the other, that of making room for a substitute of bank notes, the success of the scheme has been complete, excessive, and deplorable.

Foreign coins were again made a legal tender, their value regulated and their importation encouraged, at the expiration of the charter of the first Bank of the United States. This continued to be the case until after the present Bank of the United States was chartered; as soon as that event happened, and bank policy again became predominant in the halls of Congress, the circulation of foreign coins was again struck at and, in the second year of the existence of the bank, the old act of 1793, for rendering these coins uncurrent, was carried into final and complete effect. Since that time, the bank has enjoyed all her advantages from this exclusion. The expulsion of these coins has created a vacuum, to be filled up by her small note circulation; the traffic and trade in them has been as large a source of profit to her as of loss to the country. Gold coin she has sold at an advance of five or six per cent.; silver coin at about two or three per cent.; and, her hand being in, she made no difference between selling

domestic coin and foreign coin. Although forbid by her charter to deal in coin, she has employed her branches to gather $40,040,000 of coin from the States; a large part of which she admits that she has sold and transported to Europe. For the sale of the foreign coin, she sets up the lawyer-like plea, that it is not coin, but bullion! resting the validity of the plea upon English statute law! while, by the constitution of the United States, all foreign coins are coin; while, by her own charter, the coins, both gold and silver, of Great Britain, France, Spain, and Portugal, and their dominions, are declared to be coin; and, as such, made receivable in payment of the specie proportion of the bank stock—and, worse yet! while Spanish dollars, by statute, remain the current coin of the United States, the bank admits the sale of 4,450,142 of these identical Spanish milled dollars!

Mr. B. then took a rapid view of the present condition of the statute currency of the United States—of that currency which was a legal tender—that currency with which a debtor had a right by law to protect his property from execution, and his body from jail, by offering it as a matter of right, to his creditor in payment of his debt. He stated this statute currency to be: 1st. Coins from the mint of the United States; 2dly. Spanish milled dollars, and the parts of such dollars. This was the sum total of the statute currency of the United States; for happily no paper of any bank, State or federal, could be made a legal tender. This is the sum total out of which any man in debt can legally pay his debt: and what is his chance for making payment out of this brief list? Let us see. Coinage from the mint: not a particle of gold, nor a single whole dollar to be found; very few half dollars, except in the neighborhood of the mint, and in the hands of the Bank of the United States and its branches; the twenty, ten, and five cent pieces scarcely seen, except as a curiosity, in the interior parts of the country. So much for the domestic coinage. Now for the Spanish milled dollars—how do they stand in the United States? Nearly as scarce as our own dollars; for, there has been none coined since Spain lost her dominion over her colonies in the New World; and the coinage of these colonies, now independent States, neither is in law, nor in fact, Spanish milled. That term belongs to the coinage of the Spanish crown, with a Spanish king's head upon the face of it; although the coin of the new States, the silver dollars of Mexico, Central America, Peru, and Chili, are superior to Spanish dollars, in value, because they contain more pure silver, still they are not a tender; and all the francs from France, in a word, all foreign coin except Spanish milled dollars, the coinage of which has ceased, and the country stripped of all that were in it, by the Bank of the United States, are uncurrent, and illegal as tenders: so that the people of the United States are reduced to so small a list, and so small a supply of statute currency, out of which debts can legally be paid, that it may be fairly assumed that the whole debtor part of the community lie at the mercy of their creditors, to have their bodies sent to jail, or their property sold for nothing, at any time that their creditors please. To such a condition are the free and high-minded inhabitants of this country reduced! and reduced by the power and policy of the first and second Banks of the United States, and the controlling influence which they have exercised over the moneyed system of the Union, from the year 1791 down to the present day.

Mr. B. would conclude what he had to say, on this head, with one remark; it was this: that while the gold and silver coin of all the monarchs of Europe were excluded from circulation in the United States, the paper notes of their subjects were received as current money. The Bank of the United States was, in a great degree, a foreign institution. Foreigners held a great part of its stock, and may hold it all. The paper notes issued by this institution, thus composed in great part of the subjects of European kings, are made legal tenders to the federal government, and thus forced into circulation among the people; while the gold and silver coin of the kings to which they belong, is rejected and excluded, and expelled from the country!

He demanded if any thing could display the vice and deformity of the paper system in a more revolting and humiliating point of view than this single fact?

V. Mr. B. expressed his satisfaction at finding so many points of concurrence between his sentiments on currency, and those of the senator from South Carolina (Mr. Calhoun). Reform of the gold currency—recovery of specie—evils of excessive banking—and the eventual suppression of small notes—were all points in which they agreed, and on which he hoped they should be found acting together when these measures should be put to the test of legislative action. He regretted that he could not concur with that senator on the great points to which all the others might be found to be subordinate and accessorial. He alluded to the prolonged existence of the Bank of the United States! and especially to the practical views which that senator had taken of the beneficial operation of that institution, first, as the regulator of the local currencies, and next, as the supplier of a general currency to the Union. On both these points, he differed—immeasurably differed—from that senator; and dropping all other views of that bank, he came at once to the point which the senator from South Carolina marked out as the true and practical question of debate; and would discuss that question simply under its relation to the currency; he would view the bank simply as the regulator of local currencies and the supplier of a national currency, and would give his reasons for differing—irreconcilably differing—from the senator from South Carolina on these points.

Mr. B. took three distinct objections to the Bank of the United States, as a regulator of currency: 1, that this was a power which belonged to the government of the United States; 2, that it could not be delegated; 3, that it ought not be delegated to any bank.

1. The regulation of the currency of a nation, Mr. B. said, was one of the highest and most delicate acts of sovereign power. It was precisely equivalent to the power to create currency; for, a power to make more or less, was, in effect, a power to make much or none. It was the coining power; a power that belonged to the sovereign; and, where a paper currency was tolerated, the coining power was swallowed up and superseded by the manufactory which emitted paper. In the present state of the currency of the United States, the federal bank was the mint for issuing money; the federal mint was a manufactory for preparing gold and silver for exportation. The States, in the formation of the constitution, gave the coining power to Congress; with that power, they gave authority to regulate the currency of the Union, by regulating the value of gold and silver, and preventing any thing but metallic money from being made a tender in payment of debts. It is by the exercise of these powers that the federal government is to regulate the currency of the Union; and all the departments of the government are required to act their parts in effecting the regulation: the Congress, as the department that passes the law; the President, as the authority that recommends it, approves it, and sees that it is faithfully executed; the judiciary, as standing between the debtor and creditor, and preventing the execution from being discharged by any thing but gold and silver and that at the rate which the legislative department has fixed. This is the power, and sole power, of regulating currency which the federal constitution contains; this power is vested in the federal government, not in one department of it, but in the joint action of the three departments; and while this power is exercised by the government, the currency of the whole Union will be regulated, and the regulation effected according to the intention of the constitution, by keeping all the local banks up to the point of specie payment; and thereby making the value of their notes equivalent to specie.

2. This great and delicate power, thus involving the sacred relations of debtor and creditor, and the actual rise or fall in the value of every man’s property, Mr. B. undertook to affirm, could not be delegated. It was a trust from the State governments to the federal government.

The State governments divested themselves of this power, and invested the federal government with it, and made its exercise depend upon the three branches of the new government; and this new government could no more delegate it, than they could delegate any other great power which they were bound to execute themselves. Not a word of this regulating power, Mr. E. said, was heard of when the first bank was chartered, in the year 1791. No person whispered such a reason for the establishment of a bank at that time; the whole conception is newfangled—an afterthought—growing out of the very evils which the bank itself has brought upon the country, and which are to be cured by putting down that great bank; after which, the Congress and the judiciary will easily manage the small banks, by holding them up to specie payments, and excluding every unsolid note from revenue payments.

3. Mr. B. said that the government ought not to delegate this power, if it could. It was too great a power to be trusted to any banking company whatever, or to any authority but the highest and most responsible which was known to our form of government. The government itself ceased to be independent—it ceases to be safe—when the national currency is at the will of a company. The government can undertake no great enterprise, neither of war nor peace, without the consent and co-operation of that company; it cannot count its revenues for six months ahead without referring to the action of that company—its friendship or its enmity—its concurrence or opposition—to see how far that company will permit money to be plenty, or make it scarce; how far it will let the moneyed system go on regularly, or throw it into disorder; how far it will suit the interests, or policy, of that company to create a tempest, or to suffer a calm, in the moneyed ocean. The people are not safe when a company has such a power. The temptation is too great—the opportunity too easy—to put up and put down prices; to make and break fortunes; to bring the whole community upon its knees to the Neptunes who preside over the flux and reflux of paper. All property is at their mercy. The price of real estate—of every growing crop—of every staple article in market—is at their command. Stocks are their playthings—their gambling theatre—on which they gamble daily, with as little secrecy, and as little morality, and far more mischief to fortunes, than common gamblers carry on their operations. The philosophic Voltaire, a century ago, from his retreat in Ferney, gave a lively description of this operation, by which he was made a winner, without the trouble of playing. I have a friend, said he, who is a director in the Bank of France, who writes to me when they are going to make money plenty, and make stocks rise, and then I give orders to my broker to sell; and he writes to me when they are going to make money scarce, and make stocks fall, and then I write to my broker to buy; and thus, at a hundred leagues from Paris, and without moving from my chair, I make money. This, said Mr. B., is the operation on stocks to the present day; and it cannot be safe to the holders of stock that there should be a moneyed power great enough in this country to raise and depress the prices of their property at pleasure. The great cities of the Union are not safe, while a company, in any other city, have power over their moneyed system, and are able, by making money scarce or plenty—by exciting panics and alarms—to put up, or put down, the price of the staple articles in which they deal. Every commercial city, for its own safety, should have an independent moneyed system—should be free from the control and regulation of a distant, possibly a rival city, in the means of carrying on its own trade. Thus, the safety of the government, the safety of the people, the interest of all owners of property—of all growing crops—the holders of all stocks—the exporters of all staple articles—require that the regulation of the currency should be kept out of the hands of a great banking company; that it should remain where the constitution placed it—in the hands of the federal government—in the hands of their representatives who are elected by them, responsible to them, may be exchanged by them, who can pass no law for regulating currency which will not bear upon themselves as well as upon their constituents. This is what the safety of the community

requires; and, for one, he (Mr. B.) would not, if he could, delegate the power of regulating the currency of this great country to any banking company whatsoever. It was a power too tremendous to be trusted to a company. The States thought it too great a power to be trusted to the State governments; he (Mr. B.) thought so too. The States confided it to the federal government; he, for one, would confine it to the federal government, and would make that government exercise it. Above all, he would not confer it upon a bank which was itself above regulation; and on this point he called upon the Senate to recollect the question, apparently trite, but replete with profound sagacity—that sagacity which it belongs to great men to possess, and to express—which was put to the Congress of 1816, when this bank charter was under discussion, and the regulation of the currency was one of the attributes with which it was to be invested; he alluded to his late esteemed friend (Mr. Randolph), and to his call upon the House to tell him who was to bell the cat? That single question contains in its answer, and in its allusion, the exact history of the people of the United States, and of the Bank of the United States, at this day. It was a flash of lightning into the dark vista of futurity, showing in 1816 what we all see in 1834.

Mr. B. took up the second point on which he disagreed with the Senator from South Carolina [Mr. Calhoun], namely, the capacity of the Bank of the United States to supply a general currency to the Union. In handling this question he would drop all other inquiries—lay aside every other objection—overlook every consideration of the constitutionality and expediency of the bank, and confine himself to the strict question of its ability to diffuse and retain in circulation a paper currency over this extended Union. He would come to the question as a banker would come to it at his table, or a merchant in his counting-room, looking to the mere operation of a money system. It was a question for wise men to think of, and for abler men than himself to discuss. It involved the theory and the science of banking—Mr. B. would say the philosophy of banking, if such a term could be applied to a moneyed system. It was a question to be studied as the philosopher studies the laws which govern the material world—as he would study the laws of gravitation and attraction which govern the movements of the planets, or draw the waters of the mountains to the level of the ocean. The moneyed system, said Mr. B., has its laws of attraction and gravitation—of repulsion and adhesion; and no man may be permitted to indulge the hope of establishing a moneyed system contrary to its own laws. The genius of man has not yet devised a bank—the historic page is yet to be written which tells of a bank—which has diffused over an extensive country, and retained in circulation, a general paper currency. England is too small a theatre for a complete example; but even there the impossibility is confessed, and has been confessed for a century. The Bank of England, in her greatest day of pre-eminence, could not furnish a general currency for England alone—a territory not larger than Virginia. The country banks furnished the local paper currency, and still furnish it as far as it is used. They carried on their banking upon Bank of England notes, until the gold currency was restored; and local paper formed the mass of local circulation. The notes of the Bank of England flowed to the great commercial capitals, and made but brief sojourn in the counties. But England is not a fair example for the United States; it is too small; a fairer example is to be found nearer home, in our own country, and in this very Bank of the United States which is now existing, and in favor of which the function of supplying a general currency to this extended confederacy is claimed. We have the experiment of this bank, not once, but twice made; and each experiment proves the truth of the laws which govern the system. The theory of bank circulation, over an extended territory, is this, that you may put out as many notes as you may in any one place, they will immediately fall into the track of commerce—into the current of trade—into the course of exchange—and follow that current wherever it leads. In these United States the current sets from every part of the interior, and especially from the South and West into the Northeast—into the four commercial cities north of the Potomac; Baltimore, Philadelphia,

New-York, and Boston: and all the bank notes which will pass for money in those places, fall into the current which sets in that direction. When there, there is nothing in the course of trade to bring them back. There is no reflux in that current! It is a trade-wind which blows twelve months in the year in the same direction. This is the theory of bank circulation over extended territory; and the history of the present bank is an exemplification of the truth of that theory. Listen to Mr. Cheves. Read his report made to the stockholders at their triennial meeting in 1822. He stated this law of circulation, and explained the inevitable tendency of the branch bank notes to flow to the Northeast; the impossibility of preventing it; and the resolution which he had taken and executed, to close all the Southern and Western branches, and prevent them from issuing any more notes. Even while issuing their own notes, they had so far forgot their charter as to carry on operations, in part, upon the notes of the local banks—having collected those notes in great quantity, and loaned them out. This was reported by the investigating committee of 1819, and made one of the charges of misconduct against the bank at that time. To counteract this tendency, the bank applied to Congress for leave to issue their bank notes on terms which would have made them a mere local currency. Congress refused it; but the bank is now attempting to do it herself, by refusing to take the notes received in payment of the federal revenue, and sending it back to be paid where issued. Such was the history of the branch bank notes, and which caused that currency to disappear from all the interior, and from the whole South and West, so soon after the bank got into operation. The attempt to keep out branch notes, or to send the notes of the mother bank to any distance, being found impracticable, there was no branch currency of any kind in circulation for a period of eight or nine years, until the year 1827, when the branch checks were invented, to perform the miracle which notes could not. Mr. B. would say nothing about the legality of that invention; he would now treat them as a legal issue under the charter; and in that most favorable point of view for them, he would show that these branch checks were nothing but a quack remedy—an empirical contrivance—which made things worse. By their nature they were as strongly attracted to the Northeast as the branch notes had been; by their terms they were still more strongly attracted, for they bore Philadelphia on their face! they were payable at the mother bank! and, of course, would naturally flow to that place for use or payment. This was their destiny, and most punctually did they fulfil it. Never did the trade-winds blow more truly—never did the gulf stream flow more regularly—than those checks flowed to the Northeast! The average of four years next ensuing the invention of these checks, which went to the mother bank, or to the Atlantic branches north of the Potomac, including the branch notes which flowed with them, was about nineteen millions of dollars per annum! Mr. B. then exhibited a table to prove what he alleged, and from which it appeared that the flow of the branch paper to the Northeast was as regular and uniform as an operation of nature; that each city according to its commercial importance, received a greater or less proportion of this inland paper gulf stream; and that the annual variation was so slight as only to prove the regularity of the laws by which it was governed. The following is the table which he exhibited. It was one of the tabular statements obtained by the investigating committee in 1832:

Amount of Branch Bank Paper received at—

1828.

1829.

1830.

1831.

1. New-York,

11,938,350

11,294,960

9,168,370

12,284,320

2. Philadelphia,

4,453,150

4,106,985

4,579,725

5,398,800

3. Boston,

1,010,730

1,844,170

1,794,750

1,816,430

4. Baltimore,

1,437,100

1,420,360

1,376,320

1,588,680

18,888,330

18,666,475

16,919,160

21,092,230

After exhibiting this table, and taking it for complete proof of the truth of the theory which he had laid down, and that it demonstrated the impossibility of keeping up a circulation of the United States Bank paper in the remote and interior parts of the Union, Mr. B. went on to say that the story was yet but half told—the mischief of this systematic flow of national currency to the Northeast, was but half disclosed; another curtain was yet to be lifted—another vista was yet to be opened—and the effect of the system upon the metallic currency of the States was to be shown to the people and the States. This view would show, that as fast as the checks or notes of any branch were taken up at the mother bank, or at the branches north of the Potomac, an account was opened against the branch from which they came. The branch was charged with the amount of the notes or checks taken up; and periodically served with a copy of the account, and commanded to send on specie or bills of exchange to redeem them. When redeemed, they were remitted to the branch from which they came; while on the road they were called notes in transitu; and when arrived they were put into circulation again at that place—fell into the current immediately, which carried them back to the Northeast—there taken up again, charged to the branch—the branch required to redeem them again with specie or bills of exchange; and then returned to her, to be again put into circulation, and to undergo again and again, and until the branch could no longer redeem them, the endless

process of flowing to the Northeast. The result of the whole was, is, and for ever will be, that the branch will have to redeem its circulation till redemption is impossible; until it has exhausted the country of its specie; and then the country in which the branch is situated is worse off than before she had a branch; for she had neither notes nor specie left. Mr. B. said that this was too important a view of the case to be rested on argument and assertion alone; it required evidence to vanquish incredulity, and to prove it up; and that evidence was at hand. He then referred to two tables to show the amount of hard money which the mother bank, under the operation of this system, had drawn from the States in which her branches were situated. All the tables were up to the year 1831, the period to which the last investigating committee had brought up their inquiries. One of these statements showed the amount abstracted from the whole Union; it was $40,040,622 20; another showed the amount taken from the Southern and Western States; it was $22,523,387 94; another showed the amount taken from the branch at New Orleans; it was $12,815,798 10. Such, said Mr. B., has been the result of the experiment to diffuse a national paper currency over this extended Union. Twice in eighteen years it has totally failed, leaving the country exhausted of its specie, and destitute of paper. This was proof enough, but there was still another mode of proving the same thing; it was the fact of the present amount of United States Bank notes in circulation. Mr. B. had heard with pain the assertion made in so many memorials presented to the Senate, that there was a great scarcity of currency; that the Bank of the United States had been obliged to contract her circulation in consequence of the removal of the deposits, and that her notes had become so scarce that none could be found; and strongly contrasting the present dearth which now prevails with the abundant plenty of these notes which reigned over a happy land before that fatal measure came to blast a state of unparalleled prosperity. The fact was, Mr. B. said, that the actual circulation of the bank is greater now than it was before the removal of the deposits; greater than it has been in any month but one for upwards of a year past. The discounts were diminished, he said, but the circulation was increased.

Mr. B. then exhibited a table of the actual circulation of the Bank of the United States for the whole year 1833, and for the two past months of the present year; and stated it to be taken from the monthly statements of the bank, as printed and laid upon the tables of members. It was the net circulation—the quantity of notes and checks actually out—excluding all that were on the road returning to the branch banks, called notes in transitu, and which would not be counted till again issued by the branch to which they were returned.

The following is the table:

January, 1833,

$17,666,444

February, 1833,

18,384,050

March, 1833,

18,033,205

April, 1833,

18,384,075

May, 1833,

18,991,200

June, 1833,

19,366,555

July, 1833,

18,890,505

August, 1833,

18,413,287

September, 1833,

19,128,189

October, 1833,

18,518,000

November, 1833,

18,650,912

December, 1833,

not found.

January, 1834,

19,208,375

February, 1834,

19,260,472

By comparing the circulation of each month, as exhibited on this table, Mr. B. said, it would be seen that the quantity of United States Bank notes now in circulation is three quarters of a million greater than it was in October last, and a million and a half greater than it was in January, 1833. How, then, are we to account for this cry of no money, in which so many respectable men join? It is in the single fact of their flow to the Northeast. The pigeons, which lately obscured the air with their numbers, have all taken their flight to the North! But pigeons will return of themselves, whereas these bank notes will never return till they are purchased with gold and silver, and brought back. Mr. B. then alluded to a petition from a meeting in his native State, North Carolina, and in which one of his esteemed friends (Mr. Carson) late a member of the House of Representatives, was a principal actor, and which stated the absolute disappearance of United States Bank notes from all that region of country. Certainly the petition was true in that statement; but it is equally true that it was mistaken in supposing that the circulation of the bank was diminished. The table which he had read had shown the contrary; it showed an increase, instead of a diminution, of the circulation. The only difference was that it had all left that part of the country, and that it would do for ever! If a hundred millions of United States Bank notes were carried to the upper parts of North Carolina, and put into circulation, it would be but a short time before the whole would have fallen into the current which sweeps the paper of that bank to the Northeast. Mr. B. said there were four other classes of proof which he could bring in, but it would be a consumption of time, and a work of supererogation. He would not detail them, but state their heads: 1. One was the innumerable orders which the mother bank had forwarded to her branches to send on specie and bills of exchange to redeem their circulation—to pour in reinforcements to the points to which their circulation tends; 2. Another was in the examination of Mr. Biddle, president of the bank, by the investigating committee, in 1832, in which this absorbing tendency of the branch paper to flow to the Northeast was fully charged and admitted; 3. A third was in the monthly statement of the notes *in transitu*, which amount to an average of

four millions and a half for the last twelve months, making fifty millions for the year; and which consist, by far the greater part, of branch notes and checks redeemed in the Northeast, purchased back by the branches, and on their way back to the place from which they issued; and, 4. The last class of proof was in the fact, that the branches north of the Potomac, being unable or unwilling to redeem these notes any longer, actually ceased to redeem them last fall, even when taken in revenue payment to the United States, until coerced by the Secretary of the Treasury; and that they will not be redeemed for individuals now, and are actually degenerating into a mere local currency. Upon these proofs and arguments, Mr. B. rested his case, and held it to be fully established first, by argument, founded in the nature of bank circulation over an extended territory; and secondly, by proof, derived from the operation of the present bank of the United States, that neither the present bank, nor any one that the wisdom of man can devise, can ever succeed in diffusing a general paper circulation over the States of this Union.

VI. Dropping every other objection to the bank—looking at it purely and simply as a supplier of national currency—he, Mr. B., could not consent to prolong the existence of the present bank. Certainly a profuse issue of paper at all points—an additional circulation of even a few millions poured out at the destitute points—would make currency plenty for a little while, but for a little while only. Nothing permanent would result from such a measure. On the contrary, in one or two years, the destitution and distress would be greater than it now is. At the same time, it is completely in the power of the bank, at this moment, to grant relief, full, adequate, instantaneous relief! In making this assertion, Mr B. meant to prove it; and to prove it, he meant to do it in a way that it should reach the understanding of every candid and impartial friend that the bank possessed; for he meant to discard and drop from the inquiry, all his own views upon the subject; to leave out of view every statement made, and every opinion entertained by himself, and his friends, and proceed to the inquiry upon the evidence of the bank alone—upon that evidence which flowed from the bank directory itself, and from the most zealous, and best informed of its friends on this floor. Mr. B. assumed that a mere cessation to curtail discounts, at this time, would be a relief—that it would be the salvation of those who were pressed—and put an end to the cry of distress; he averred that this curtailment must now cease, or the bank must find a new reason for carrying it on; for the old reason is exhausted, and cannot apply. Mr. B. then took two distinct views to sustain his position: one founded in the actual conduct and present condition of the bank itself, and the other in a comparative view of the conduct and condition of the former Bank of the United States, at the approaching period of its dissolution.

I. As to the conduct and condition of the present bank.

Mr. B. appealed to the knowledge of all present for the accuracy of his assertion, when he said that the bank had now reduced her discounts, dollar for dollar, to the amount of public deposits withdrawn. The adversaries of the bank said the reduction was much larger than the abstraction; but he dropped that, and confined himself strictly to the admissions and declarations of the bank itself. Taking then the fact to be, as the bank alleged it to be, that she had merely brought down her business in proportion to the capital taken from her, it followed of course that there was no reason for reducing her business any lower. Her relative position—her actual strength—was the same now that it was before the removal; and the old reason could not be available for the reduction of another dollar. Next, as to her condition. Mr. B. undertook to affirm, and would quickly prove, that the general condition of the bank was better now than it had been for years past; and that the bank was better able to make loans, or to increase her circulation, than she was in any of those past periods in which she was so lavishly accommodating the public. For the proof of this, Mr. B. had recourse to her specie fund, always the true test of a bank's ability, and showed it to be greater now than it

had been for two years past, when her loans and circulation were so much greater than they are now. He took the month of May, 1832, when the whole amount of specie on hand was $7,890,347 59; when the net amount of notes in circulation was $21,044,415; and when the total discounts were $70,428,070 72: and then contrasted it with the condition of the bank at this time, that is to say, in the month of February last, when the last return was made; the items stands thus: specie, $10,523,385 69; net amount of notes in circulation, $19,260,472; total discounts, $54,842,973 64. From this view of figures, taken from the official bank returns, from which it appeared that the specie in the bank was nearly three millions greater than it was in May, 1832, her net circulation nearly two millions less, and her loans and discounts upwards of fifteen millions less; Mr. B. would submit it to all candid men to say whether the bank is not more able to accommodate the community now than she was then? At all events, he would demand if she was not now able to cease pressing them?

II. As to the comparative condition and conduct of the first Bank the United States at the period of its approaching dissolution.

Mr. B. took the condition of the bank from Mr. Gallatin's statement of its affairs to Congress, made in January, 1811, just three months before the charter expired; and which showed the discounts and loans of the bank to be $14,578,294 25, her capital being $10,000,000; so that the amount of her loans, three months before her dissolution, was nearly in proportion—near enough for all practical views—to the proportion which the present loans of the Bank of the United States bear to its capital of thirty-five millions. Fifty per cent. upon the former would give fifteen millions; fifty per cent. upon the latter would give fifty-two millions and a half. To make the relative condition of the two banks precisely equal, it will be sufficient that the loans and discounts of the present bank shall be reduced to fifty-two millions by the month of January, 1836; that is to say, it need not make any further sensible reduction of its loans for nearly two years to come. Thus, the mere imitation of the conduct of the old bank will be a relief to the community. A mere cessation to curtail, will put an end to the distress, and let the country go on, quietly and regularly, in its moneyed operations. If the bank will not do this—if it will go on to curtail—it is bound to give some new reason to the country. The old reason, of the removal of the deposits, will no longer answer. Mr. B. had no faith in that reason from the beginning, but he was now taking the bank upon her own evidence, and trying her upon her own reasons, and he held it to be impossible for her to go on without the production of a reason. The hostility of the government—rather an incomprehensible, and altogether a gratuitous reason, from the beginning—will no longer answer. The government in 1811 was as hostile to the old bank, as the government now is to this one; and rather more so. Both Houses of Congress were then hostile to it, and hostile unto death! For they let it die! die on the day appointed by law for its death, without pity, without remorse, without the reprieve of one day. The government can do no worse now. The Secretary of the Treasury has removed the deposits; and that account is settled by the reduction of an equal amount of loans and discounts. The rest depends upon the government; and the hostility of the government cannot go further than to kill the bank, and cannot kill it more dead than the old bank was killed in 1811. Mr. B. had a further comparison to draw between the conduct of the old bank, and the present one. The old bank permitted her discounts to remain at their maximum to the very end of her charter; she discounted sixty days' paper up to the last day of her existence; while this bank has commenced a furious curtailment two years and a half before the expiration of her charter. Again: the old bank had not an hour, as a corporation, to wind up her business after the end of her charter; this bank has the use of all her corporate faculties, for that purpose, for two years after the end of her charter. Again: the present bank pretends that she will have to collect the whole of her debts within the period limited for winding up her affairs; the old bank took upwards of twelve years after the expiration of her charter to collect

hers! She created a trust; she appointed trustees; all the debts and credits were put into their hands, the trustees proceeded like any other collectors, giving time to all debtors who would secure the debt, pay interest punctually, and discharge the principal by instalments. This is what the old bank did; and she did not close her affairs until the 16th of June, in the year 1823. The whole operation was conducted so gently, that the public knew nothing about it. The cotemporaries of the dissolution of the bank, knew nothing about its dissolution. And this is what the present bank may do, if it pleases. That it has not done so—that it is now grinding the community, and threatening to grind them still harder, is a proof of this dangerous nature of a great moneyed power; and should be a warning to the people who now behold its conduct—who feel its gripe, and hear its threat—never to suffer the existence of such another power in our free and happy land.

VII. Mr. B. deprecated the spirit which seemed to have broken out against State banks; it was a spirit which augured badly for the rights of the States. Those banks were created by the States; and the works of the States ought to be respected; the stock in those banks was held by American citizens, and ought not to be injuriously assailed to give value to stock held in the federal bank by foreigners and aliens. The very mode of carrying on the warfare against State banks, has itself been an injury, and a just cause of complaint. Some of the most inconsiderable have been picked out—their affairs presented in the most unfavorable light; and then held forth as a fair sample of the whole. How much more easy would it have been to have acted a more grateful, and a more equitable part! a part more just to the State governments which created those banks, and the American citizens who held stock in them! Instead of hunting out for remote and inconsiderable banks, and instituting a most disparaging scrutiny into their small affairs, and making this high Senate the conspicuous theatre for the exhibition of their insignificance, why not take the higher order of the State banks?—those whose names and characters are well known? whose stock upon the exchange of London and New-York, is superior to that of the United States Bank? whose individual deposits are greater than those of the rival branches of the Bank of the United States, seated in their neighborhood? whose bills of exchange are as eagerly sought for as those of the federal bank? which have reduced exchange below the rates of the federal bank? and which, in every particular that tries the credit, is superior to the one which is receiving so much homage and admiration? Mr. B. said there were plenty of such State banks as he had described; they were to be found in every principal city, from New Orleans to Boston. Some of them had been selected for deposit banks, others not; but there was no difficulty in making a selection of an ample number.

This spirit of hostility to the State banks, Mr. B. said, was of recent origin, and seemed to keep pace with the spirit of attack upon the political rights of the States. When the first federal bank was created, in the year 1791, it was not even made, by its charter, a place of deposit for the public moneys. Mr. Jefferson preferred the State banks at that time; and so declared himself in his cabinet opinion to President Washington. Mr. Gallatin deposited a part of the public moneys in the State banks during the whole of the long period that he was at the head of the treasury. At the dissolution of the first Bank of the United States, he turned over all the public moneys which he held in deposit to these banks, taking their obligation to pay out all the treasury warrants drawn upon them in gold and silver, if desired by the holder. When the present bank was chartered, the State banks stood upon an equal footing with the federal bank, and were placed upon an equality with it as banks of deposit, in the very charter which created the federal bank. Mr. B. was alluding to the 14th fundamental article of the constitution of the bank—the article which provided for the establishment of branches—and which presented an argument in justification of the removal of the deposits which the adversaries of that measure most pertinaciously decline to answer. The government wanted

banks of deposit, not of circulation; and by that article, the State banks are made just as much banks of deposit for the United States as the Bank of the United States is. They are put upon exact equality, so far as the federal government is concerned; for she stipulates but for one single branch of the United States Bank, and that to be placed at Washington city. As for all other branches, their establishment was made to depend—not on the will, or power, of the federal government—not on any supposed or real necessity on her part to have the use of such branches—but upon contingencies over which she had no control; contingencies depending, one upon the mere calculation of profit and loss by the bank itself, the other upon the subscriptions of stock within a State, and the application of its legislature. In these contingencies, namely, if the Bank of the United States thought it to her interest to establish branches in the States, she might do it; or, if 2,000 shares of stock was subscribed for in a State, and thereupon an application was made by the State legislature for the institution of a branch, then its establishment within the State became obligatory upon the bank. In neither contingency had the will, the power, or the necessities of the federal government, the least weight, concern, or consideration, in the establishment of the branch. If not established, and so far as the government is concerned, it might not be, then the State banks, selected by the United States Bank, and approved by the Secretary of the Treasury, were to be the banks of deposit for the federal moneys. This was an argument, Mr. B. said, in justification of the removal of the deposits, and in favor of the use of the State banks which gentlemen on the opposite side of the question—gentlemen who take so much pains to decry State banks—have been careful not to answer.

The evils of a small paper circulation, he considered among the greatest grievances that could afflict a community. The evils were innumerable, and fell almost exclusively upon those who were least able to bear them, or to guard against them. If a bank stops payment, the holders of the small notes, who are usually the working part of the community, are the last to find it out, and the first to suffer. If counterfeiting is perpetrated, it is chiefly the small notes which are selected for imitation, because they are most current among those who know the least about notes, and who are most easily made the dupes of imposition, and the victims of fraud. As the expeller of hard money, small notes were the bane and curse of a country. A nation is scarce, or abundant, in hard money, precisely in the degree in which it tolerates the lower denominations of bank notes. France tolerates no note less than $100; and has a gold and silver circulation of 350 millions of dollars. England tolerates no note of less than $25; and has a gold and silver circulation of 130 millions of dollars: in the United States, where $5 is the minimum size of the federal bank notes, the whole specie circulation, including what is in the banks, does not amount to thirty millions of dollars. To increase the quantity of hard money in the United States, and to supply the body of the people with an adequate specie currency to serve for their daily wants, and ordinary transactions, the banknote circulation below twenty dollars, ought to be suppressed. If Congress could pass a law to that effect, it ought to bed one; but it cannot pass such a law: it has no constitutional power to pass it. Congress can, however, do something else, which will, in time, effectually put down such a currency. It can discard it, and disparage it. It can reject it from all federal payments. It can reject the whole circulation of any bank that will continue to issue small notes. Their rejection from all federal payments, would check their currency, and confine the orbit of their circulation to the immediate neighborhood of the issuing bank. The bank itself would find but little profit from issuing them—public sentiment would come to the aid of federal policy. The people of the States, when countenanced and sustained by the federal government, would indulge their natural antipathy and honest detestation of a small paper currency. They would make war upon all small notes. The State legislatures would be under the control of the people; and the States that should first have the wisdom to limit their paper circulation to a minimum of twenty dollar bills, would immediately fill up with gold and silver. The common

currency would be entirely metallic; and there would be a broad and solid basis for a superstructure of large notes; while the States which continued to tolerate the small notes, would be afflicted with all the evils of a most pestilential part of the paper system,—small notes, part counterfeit, part uncurrent, half worn out; and all incapable of being used with any regard to a beneficial economy. Mr. B. went on to depict the evils of a small note currency, which he looked upon as the bane and curse of the laboring part of the community, and the reproach and opprobrium of any government that tolerated it. He said that the government which suffered its currency to fall into such a state that the farmer, the artisan, the market man, the day laborer, and the hired servant, could only be paid in small bank notes, was a government which abdicated one of its most sacred duties; and became an accomplice on the part of the strong in the oppression of the weak.

Mr. B. placed great reliance upon the restoration of the gold currency for putting down a small note circulation. No man would choose to carry a bundle of small bank notes in his pocket, even new and clean ones, much less old, ragged, and filthy ones, when he could get gold in their place. A limitation upon the receivability of these notes, in payment of federal dues, would complete their suppression. Mr. B. did not aspire to the felicity of seeing as fine a currency in the United States as there is in France, where there was no bank note under five hundred francs, and where there was a gold and silver circulation at the rate of eleven dollars a head for each man, woman, and child, in the kingdom, namely, three hundred and fifty millions of dollars for a population of thirty-two millions of souls; but he did aspire to the comparative happiness of seeing as good currency established for ourselves, by ourselves, as our old fellow-subjects—the people of old England—now possess from their king, lords, and commons. They—he spoke of England proper—had no bank note less than five pounds sterling, and they possessed a specie circulation (of which three-fourths was gold) at the rate of about nine dollars a head, men, women, children (even paupers) included; namely, about one hundred and thirty millions for a population of fourteen millions. He, Mr. B., must be allowed to aspire to the happiness of possessing, and in his sphere to labor to acquire, as good a circulation as these English have; and that would be an immeasurable improvement upon our present condition. We have local bank notes of one, two, three, four dollars; we have federal bank notes of five and ten dollars—the notes of those English who are using gold at home while we are using their paper here:—we have not a particle of gold, and not more silver than at the rate of about two dollars a head, men, women, children (even slaves) included; namely, about thirty millions of silver for a population of thirteen millions. Mr. B. believed there was not upon the face of the earth, a country whose actual currency was in a more deplorable condition than that of the United States was at present; the bitter fruit of that fatal paper system which was brought upon us, with the establishment of the first Bank of the United States in 1791, and which will be continued upon us until the citadel of that system—the Bastile of paper money, the present Bank of the United States,—shall cease to exist.

Mr. B. said, that he was not the organ of the President on this floor—he had no authority from the President to speak his sentiments to the Senate. Even if he knew them, it would be unparliamentary, and irregular, to state them. There was a way for the Senate to communicate with the President, which was too well known to every gentleman to require any indication from him. But he might be permitted to suggest—in the absence of all regular information—that if any Senator wished to understand, and to comment upon, the President's opinions on currency, he might, perhaps, come something nearer to the mark, by commenting on what he (Mr. B.) had been saying, than by having recourse to the town meeting reports of inimical bank committees.

106. Attempted Investigation Of The Bank Of The United States

The House of Representatives had appointed a select committee of its members to investigate the affairs of the Bank of the United States—seven in number, and consisting of Mr. Francis Thomas, of Maryland; Mr. Edward Everett, of Massachusetts; Mr. Henry A. Muhlenberg, of Pennsylvania; Mr. John Y. Mason, of Virginia; Mr. W. W. Ellsworth, of Connecticut; Mr. Abijah Mann, Jr. of New-York; Mr. Robert T. Lytle, of Ohio. The authority under which the committee acted, required them to ascertain: 1. The causes of the commercial embarrassment, and the public distress complained of in the numerous distress memorials presented to the two Houses during the session; and whether the bank had been any way instrumental, through its management or money, in producing the distress and embarrassment, of which so much complaint was made. 2. To inquire whether the charter of the bank had been violated; and what corruptions and abuses, if any, had existed in its management. 3. To inquire whether the bank had used its corporate power, or money, to control the press, to interpose in politics, or to influence elections. The authority conferred upon the committee was ample for the execution of these inquiries. It was authorized to send for persons and papers; to summon and examine witnesses on oath; to visit, if necessary, the principal bank, and its branches; to inspect the books, correspondence and accounts of the bank, and other papers connected with its management. The right of the House to make this investigation was two-fold: *first*, under the twenty-third article of the charter: *secondly*, as the founder of the corporation; to whom belongs, in law language, the right to "visit" the institution it has founded; which "visiting" is for examination—as a bishop "visits" his diocese—a superintendent "visits" the works and persons under his care; not to see them, but to examine into their management and condition. There was also, a *third* right of examination, resulting from the act of the corporation; it was again soliciting a re-charter, and was bound to show that the corporators had used their actual charter fairly and legally before it asked for another. And, *fourthly*, there was a further right of investigation, still resulting from its conduct. It denied all the accusations brought against it by the government directors, and brought before Congress by the Secretary of the Treasury; and joined issue upon those accusations in a memorial addressed to the two Houses of Congress, To refuse examination under these circumstances would be shrinking from the issue which itself had joined. The committee proceeded to Philadelphia, and soon found that the bank did not mean to submit to an examination. Captious and special pleading objections were made at every step, until attempts on one side and objections on the other ended in a total refusal to submit their books for inspection, or themselves for an examination. The directors had appointed a company of seven to meet the committee of the House—a procedure unwarranted by any right or usage, and offensive in its pretentious equality; but to which the committee consented, at first, from a desire to do nothing to balk the examination. That corporation committee was to sit with them, in the room in the bank assigned for the examination; and took care always to pre-occupy it before the House committee arrived; and to act as if at home, receiving guests. The committee then took a room in a hotel, and asked to have the bank books sent to them; which was refused. They then desired to have the books subjected to their inspection in the bank itself; in which request they were baffled, and defeated. The bank committee required written specification of their points of inquiry, either in examining a book, or asking a question—that it might judge its legality; which they confined to mere breaches of the charter. And when the directors were summoned to answer questions, they refused to be sworn, and excused themselves on the ground of being parties to

the proceeding. Some passages from the committee's report will show to what extent this higgling and contumacy was carried by this corporation—deriving its existence from Congress, and endeavoring to force a renewed charter from it while refusing to show how it had used the first one. Thus:

"On the 23d of April, their chairman addressed to the President of the bank, a communication, inclosing a copy of the resolution of the House of Representatives, and notifying him of the readiness of the committee to visit the bank on the ensuing day, at any hour agreeable to him. In reply, the President informed the committee that the papers thus received should be submitted to the board of directors, at a special meeting to be called for that purpose. It appears, in the journal of the proceedings of the committee, herewith presented to the House, that this was done, and that the directors appointed a committee of seven of their board, to receive the committee of the House of Representatives, and to offer for their inspection such books and papers of the bank, as may be necessary to exhibit the proceedings of the corporation, according to the requirement of the charter. In the letter of John Sergeant, Esq., as chairman of the committee of directors communicating the proceedings of the board, he says that he was directed to inform the chairman of this committee that the committee of the directors 'will immediately direct the necessary arrangements to be made for the accommodation of the committee of the House of Representatives,' and would attend at the bank to receive them the next day, at eleven o'clock. Your committee attended, and were received by the committee of directors.

"Up to this period, nothing had occurred to justify the belief that a disposition was felt, on the part of the managers of the bank, to embarrass the proceedings of the committee, or have them conducted differently from those of the two preceding committees of investigation. On assembling, however, the next morning, at the bank, they found the room which had been offered for their accommodation, preoccupied by the committee of the board, with the president of the bank, as an *ex officio* member, claiming the right to be present at the investigations and examinations of this committee. This proceeding the committee were not prepared to expect. When the appointment of the committee of seven was first made, it was supposed that that measure, however designed, was not well calculated to facilitate the examination.

"With a previous determination to be present when their books were to be inspected, they could have waited to avow it until these books were called for, and the attempt made to inspect them in their absence. These circumstances are now reviewed, because they then excited an apprehension, which the sequel formed into conviction, that this committee of directors had been appointed to supervise the acts and doings of your committee, and to limit and restrain their proceedings, not according to the directions contained in the resolution of the House, but the will and judgment of the board of directors. Your committee have chosen to ascribe this claim of the committee of directors to sit conjointly with them, to the desire to prevent them from making use of the books and papers, for some of the purposes pointed out by the resolution of the House. They are sensible that this claim to be present at all examinations, avowed prematurely, and subsequently persisted in with peculiar pertinacity, could be attributed to very different motives; but respect for themselves, and respect for the gentlemen who compose the committee of directors, utterly forbids the ascription to them of a feeling which would merit compassion and contempt much more than resentment.

"This novel position, voluntarily and deliberately taken by the committee of the directors, predicated on an idea of equality of rights with your committee, under your resolution, rendered it probable, and in some measure necessary, that your committee should express its opinions of the relative rights of the corporation and the House of Representatives. To avoid

all misunderstanding and future misrepresentations, it was desirable that each question should be decided separately. Contemplating an extended investigation, but unwilling that an apprehension should exist of improper disclosures being made of the transactions of the bank and its customers your committee, following the example of the committee of 1832, adopted a resolution declaring that their proceedings should be confidential, until otherwise ordered by the committee, and also a resolution that the committee would conduct its investigations 'without the presence of any person not required or invited to attend.' A copy of these resolutions was furnished to the committee of directors, in the hope that the exclusive control of a room at the bank, during its hours of business, would thereafter be conceded to your committee, while the claim of the committee of directors to be present when the books were submitted for inspection, should be postponed for decision, when the books were called for and produced by them.

"On the 28th ult. this committee assembled at the banking house, and again found the room they expected to find set apart for their use, preoccupied by the committee of directors, and others, officers of the bank. And instead of such assurances as they had a right to expect, they received copies of two resolutions adopted by the board of directors, in which they were given to understand that their continued occupation of the room must be considered a favor and not a matter of right; and in which the board indulge in unjust commentaries on the resolution of the House of Representatives; and intimate an apprehension that your committee design to make their examinations secret, partial, unjust, oppressive and contrary to common right."

On receiving this offensive communication, manifestly intended to bring on a quarrel, the committee adopted a resolution to sit in a room of their hotel, and advised the bank accordingly; and required the president and directors to submit the books to their inspection in the room so chosen, at a day and hour named. To this the directors answered that they could not comply; and the committee, desirous to do all they could to accomplish the investigation committed to them, then gave notice that they would attend at the bank on a named day and hour to inspect the books in the bank itself—either at the counter, or in a room. Arriving at the appointed time, and asking to see the books, they were positively refused, reasons in writing being assigned for the refusal. They then made a written request to see certain books specifically and for a specified purpose, namely, to ascertain the truth of the report of the government directors in using the money and power of the bank in politics, in elections, or in producing the distress. The manner in which this call was treated must be given in the words of the report itself; thus:

"Without giving a specific answer to these calls for books and papers, the committee of directors presented a written communication, which was said to be 'indicative of the mode of proceeding deemed right by the bank.'

"The committee of the board in that communication, express the opinion, that the inquiry can only be rightfully extended to alleged violations of the charter, and deny virtually the right of the House of Representatives to authorize the inquiries required in the resolution.

"They also required of the committee of investigation, 'when they asked for books and papers, to state specifically in writing, the purposes for which they are proposed to be inspected; and if it be to establish a violation of the charter, then to state specifically in writing, what are the alleged or supposed violations of charter, to which the evidence is alleged to be applicable.'

"To this extraordinary requirement, made on the supposition that your committee were charged with the duty of crimination, or prosecution for criminal offence, and implying a

right on the part of the directors to determine for what purposes the inspection should be made, and what books or papers should be submitted to inspection, your committee replied, that they were not charged with the duty of criminating the bank, its directors, or others; but simply to inquire, amongst other things, whether any prosecution in legal form should be instituted, and from the nature of their duties, and the instructions of the House of Representatives, they were not bound to state specifically in writing any charges against the bank, or any special purpose for which they required the production of the books and papers for inspection."

The committee then asked for copies of the accounts and entries which they wished to see, and were answered that it would require the labor of two clerks for ten months to make them out; and so declined to give the copies. The committee finding that they could make nothing out of books and papers, determined to change their examination of things into that of persons; and for that purpose had recourse to the subpœnas, furnished by the House; and had them served by the United States marshal on the president and directors. This subpœna, which contained a clause of *duces tecum*, with respect to the books, was so far obeyed as to bring the directors in person before the committee; and so far disobeyed as to bring them without the books, and so far exceeded as to bring them with a written refusal to be sworn—for reasons which they stated. But this part deserves to be told in the language of the report; which says:

"Believing they had now exhausted, in their efforts to execute the duty devolved upon them, all reasonable means depending solely upon the provisions of the bank charter, to obtain the inspection of the books of this corporation, your committee were at last reluctantly compelled to resort to the subpœnas which had been furnished to them under the seal of this House, and attested by its clerk. They, thereby, on the 9th inst. directed the marshal of the eastern district of Pennsylvania to summon Nicholas Biddle, president, and thirteen other persons, directors of the bank, to attend at their committee room, on the next day, at twelve o'clock, at noon, to testify concerning the matters of which your committee were authorized to inquire, and to bring with them certain books therein named for inspection. The marshal served the summons in due form of law, and at the time appointed, the persons therein named appeared before the committee and presented a written communication signed by each of them, as the answer of each to the requirements of the subpœna, which is in the appendix to this report. In this paper they declare 'that they do not produce the books required, because they are not in the custody of either of us, but as has been heretofore stated, of the board,' and add, 'considering that as corporators and directors, we are parties to the proceeding—we do not consider ourselves bound to testify, and therefore respectfully decline to do so.'"

This put an end to the attempted investigation. The committee returned to Washington—made report of their proceedings, and moved: "That the speaker of this House do issue his warrant to the sergeant-at-arms, to arrest Nicholas Biddle, president—Manuel Eyre, Lawrence Lewis, Ambrose White, Daniel W. Cox, John Holmes, Charles Chauncey, John Goddard, John R. Neff, William Platt, Matthew Newkirk, James C. Fisher, John S. Henry, and John Sergeant, directors—of the Bank of the United States, and bring them to the bar of this House to answer for the contempt of its lawful authority." This resolve was not acted upon by the House; and the directors had the satisfaction to enjoy a negative triumph in their contempt of the House, flagrant as that contempt was upon its own showing, and still more so upon its contrast with the conduct of the same bank (though under a different set of directors), in the year 1819. A committee of investigation was then appointed, armed with the same powers which were granted to this committee of the year 1834, and the directors of that time readily submitted to every species of examination which the committee chose to make. They visited the principal bank at Philadelphia, and several of its branches. They had free and

unrestrained access to the books and papers of the bank. They were furnished by the officers with all the copies and extracts they asked for. They summoned before them the directors and officers of the bank, examined them on oath, took their testimony in writing—and obtained full answers to all their questions, whether they implied illegalities violative of the charter, or abuses, or mismanagement, or mistakes and errors.

107. Mr. Taney's Report On The Finances—Exposure Of The Distress Alarms—End Of The Panic

About the time when the panic was at its height, and Congress most heavily assailed with distress memorials, the Secretary of the Treasury was called upon by a resolve of the Senate for a report upon the finances—with the full belief that the finances were going to ruin, and that the government would soon be left without adequate revenue, and driven to the mortifying resource of loans. The call on the Secretary was made early in May, and was answered the middle of June; and was an utter disappointment to those who called for it. Far from showing the financial decline which had been expected, it showed an increase in every branch of the revenue! and from that authentic test of the national condition, it was authentically shown that the Union was prosperous! and that the distress, of which so much was heard, was confined to the victims of the United States Bank, so far as it was real; and that all beyond that was fictitious and artificial—the result of the machinery for organizing panic, oppressing debtors, breaking up labor, and alarming the timid. When the report came into the Senate, the reading of it was commenced at the table of the Secretary, and had not proceeded far when Mr. Webster moved to cease the reading, and send it to the Committee on Finance—that committee in which a report of that kind could not expect to find either an early or favorable notice. We had expected a motion to get rid of it, in some quiet way, and had prepared for whatever might happen. Mr. Taney had sent for me the day before it came in; read it over with me; showed me all the tables on which it was founded; and prepared me to sustain and emblazon it: for it was our intention that such a report should go to the country, not in the quiet, subdued tone of a State paper, but with all the emphasis, and all the challenges to public attention, which the amplifications, the animation, and the fire and freedom which the speaking style admitted. The instant, then, that Mr. Webster made his motion to stop the reading, and refer the report to the Finance Committee, Mr. Benton rose, and demanded that the reading be continued: a demand which he had a right to make, as the rules gave it to every member. He had no occasion to hear it read, and probably heard nothing of it; but the form was necessary, as the report was to be the text of his speech. The instant it was done, he rose and delivered his speech, seizing the circumstance of the interrupted reading to furnish the brief exordium, and to give a fresh and impromptu air to what he was going to say. The following is the speech:

Mr. Benton rose, and said that this report was of a nature to deserve some attention, before it left the chamber of the Senate, and went to a committee, from which it might not return in time for consideration at this session. It had been called for under circumstances which attracted attention, and disclosed information which deserved to be known. It was called for early in May, in the crisis of the alarm operations, and with confident assertions that the answer to the call would prove the distress and the suffering of the country. It was confidently asserted that the Secretary of the Treasury had over-estimated the revenues of the year; that there would be a great falling off—a decline—a bankruptcy; that confidence was destroyed—enterprise checked—industry paralyzed—commerce suspended! that the direful act of one man, in one dire order, had changed the face of the country, from a scene of unparalleled prosperity to a scene of unparalleled desolation! that the canal was a solitude, the lake a desert waste of waters, the ocean without ships, the commercial towns deserted, silent, and sad; orders for goods countermanded; foreign purchases stopped! and that the

answer of the Secretary would prove all this, in showing the falsity of his own estimates, and the great decline in the revenue and importations of the country. Such were the assertions and predictions under which the call was made, and to which the public attention was attracted by every device of theatrical declamation from this floor. Well, the answer comes. The Secretary sends in his report, with every statement called for. It is a report to make the patriot's heart rejoice! full of high and gratifying facts; replete with rich information; and pregnant with evidences of national prosperity. How is it received—how received by those who called for it? With downcast looks, and wordless tongues! A motion is even made to stop the reading! to stop the reading of such a report! called for under such circumstances; while whole days are given up to reading the monotonous, tautologous, and endless repetitions of distress memorials, the echo of our own speeches, and the thousandth edition of the same work, without emendation or correction! All these can be read, and printed, too, and lauded with studied eulogium, and their contents sent out to the people, freighted upon every wind; but this official report of the Secretary of the Treasury, upon the state of their own revenues, and of their own commerce, called for by an order of the Senate, is to be treated like an unwelcome and worthless intruder; received without a word—not even read—slipped out upon a motion—disposed of as the Abbé Sieyes voted for the death of Louis the Sixteenth: *mort sans phrase!* death, without talk! But he, Mr. B., did not mean to suffer this report to be dispatched in this unceremonious and compendious style. It had been called for to be given to the people, and the people should hear of it. It was not what was expected, but it is what is true, and what will rejoice the heart of every patriot in America. A pit was dug for Mr. Taney; the diggers of the pit have fallen into it; the fault is not his; and the sooner they clamber out, the better for themselves. The people have a right to know the contents of this report, and know them they shall; and if there is any man in this America, whose heart is so constructed as to grieve over the prosperity of his country, let him prepare himself for sorrow; for the proof is forthcoming, that never, since America had a place among nations, was the prosperity of the country equal to what it is at this day!

Mr. B. then requested the Secretary of the Senate to send him the report, and comparative statements; which being done, Mr. B. opened the report, and went over the heads of it to show that the Secretary of the Treasury had not over-estimated the revenue of the year, as he had been charged, and as the report was expected to prove: that the revenue was, in fact, superior to the estimate; and that the importations would equal, if not exceed, the highest amount that they had ever attained.

To appreciate the statements which he should make, Mr. B. said it was necessary for the Senate to recollect that the list of dutiable articles was now greatly reduced. Many articles were now free of duty, which formerly paid heavy duties; many others were reduced in duty; and the fair effect of these abolitions and reductions would be a diminution of revenue even without a diminution of imports; yet the Secretary's estimate, made at the commencement of the session, was more than realized, and showed the gratifying spectacle of a full and overflowing treasury, instead of the empty one which had been predicted; and left to Congress the grateful occupation of further reducing taxes, instead of the odious task of borrowing money, as had been so loudly anticipated for six months past. The revenue accruing from imports in the first quarter of the present year, was 5,344,540 dollars; the payments actually made into the treasury from the custom-houses for the same quarter, were 4,435,386 dollars; and the payments from lands for the same time, were 1,398,206 dollars. The two first months of the second quarter were producing in a full ratio to the first quarter; and the actual amount of available funds in the treasury on the 9th day of this month, was eleven millions, two hundred and forty-nine thousand, four hundred and twelve dollars. The two last quarters of the year were always the most productive. It was the time of the largest

importations of foreign goods which pay most duty—the woollens—and the season, also, for the largest sale of public lands. It is well believed that the estimate will be more largely exceeded in those two quarters than in the two first; and that the excess for the whole year, over the estimate, will be full two millions of dollars. This, Mr. B. said, was one of the evidences of public prosperity which the report contained, and which utterly contradicted the idea of distress and commercial embarrassment which had been propagated, from this chamber, for the last six months.

Mr. B. proceeded to the next evidence of commercial prosperity; it was the increased importations of foreign goods. These imports, judging from the five first months, would be seven millions more than they were two years ago, when the Bank of the United States had seventy millions loaned out; and they were twenty millions more than in the time of Mr. Adams's administration. At the rate they had commenced, they would amount to one hundred and ten millions for the year. This will exceed whatever was known in our country. The imports, for the time that President Jackson has served, have regularly advanced from about $74,000,000 to $108,000,000. The following is the statement of these imports, from which Mr. B. read:

1829

$74,492,527

1830

70,876,920

1831

103,191,124

1832

101,029,266

1833

108,118,311

Mr. B. said that the imports of the last year were greater in proportion than in any previous year; a temporary decline might reasonably have been expected; such declines always take place after excessive importations. If it had occurred now, though naturally to have been expected, the fact would have been trumpeted forth as the infallible sign—the proof positive—of commercial distress, occasioned by the fatal removal of the deposits. But, as there was no decline, but on the contrary, an actual increase, he must claim the evidence for the other side of the account, and set it down as proof positive that commerce is not destroyed; and, consequently, that the removal of the deposits did not destroy commerce.

The next evidence of commercial prosperity which Mr. B. would exhibit to the Senate, was in the increased, and increasing number of ship arrivals from foreign ports. The number of arrivals for the month of May, in New-York, was two hundred and twenty-three, exceeding by thirty-six those of the month of April, and showing not only a great, but an increasing activity in the commerce of that great emporium—he would not say of the United States, or even of North America—but he would call it that great emporium of the two Americas, and of the New World; for the goods imported to that place, were thence distributed to every part of the two Americas, from the Canadian lakes to Cape Horn.

A third evidence of national prosperity was in the sales of the public lands. Mr. B. had, on a former occasion, adverted to these sales, so far as the first quarter was concerned; and had

shown, that instead of falling off, as had been predicted on this floor, the revenue from the sales of these lands had actually doubled, and more than doubled, what they were in the first quarter of 1833. The receipts for lands for that quarter, were $668,526; for the first quarter of the present year they were $1,398,206; being two to one, and $60,000 over! The receipts for the two first months of the second quarter, were also known, and would carry the revenue from lands, for the first five months of this year, to two millions of dollars; indicating five millions for the whole year; an enormous amount, from which the people of the new States ought to be, in some degree, relieved, by a reduction in the price of lands. Mr. B. begged in the most emphatic terms, to remind the Senate, that at the commencement of the session, the sales of the public lands were selected as one of the criterions by which the ruin and desolation of the country were to be judged. It was then predicted, and the prediction put forth with all the boldness of infallible prophecy, that the removal of the deposits would stop the sales of the public lands; that money would disappear, and the people have nothing to buy with; that the produce of the earth would rot upon the hands of the farmer. These were the predictions; and if the sales had really declined, what a proof would immediately be found in the fact to prove the truth of the prophecy, and the dire effects of changing the public moneys from one set of banking-houses to another! But there is no decline; but a doubling of the former product; and a fair conclusion thence deduced that the new States, in the interior, are as prosperous as the old ones, on the sea-coast.

Having proved the general prosperity of the country from these infallible data—flourishing revenue—flourishing commerce—increased arrivals of ships—and increased sales of public lands, Mr. B. said that he was far from denying that actual distress had existed. He had admitted the fact of that distress heretofore, not to the extent to which it was charged, but to a sufficient extent to excite sympathy for the sufferers; and he had distinctly charged the whole distress that did exist to the Bank of the United States, and the Senate of the United States—to the screw-and-pressure operations of the bank, and the alarm speeches in the Senate. He had made this charge; and made it under a full sense of the moral responsibility which he owed to the people, in affirming any thing so disadvantageous to others, from this elevated theatre. He had, therefore, given his proofs to accompany the charge; and he had now to say to the Senate, and through the Senate to the people, that he found new proofs for that charge in the detailed statements of the accruing revenue, which had been called for by the Senate, and furnished by the Secretary of the Treasury.

Mr. B. said he must be pardoned for repeating his request to the Senate, to recollect how often they had been told that trade was paralyzed; that orders for foreign goods were countermanded; that the importing cities were the pictures of desolation; their ships idle; their wharves deserted; their mariners wandering up and down. Now, said Mr. B., in looking over the detailed statement of the accruing revenue, it was found that there was no decline of commerce, except at places where the policy and power of the United States Bank was predominant! Where that power or policy was predominant, revenue declined; where it was not predominant, or the policy of the bank not exerted, the revenue increased; and increased fast enough to make up the deficiency at the other places. Mr. B. proceeded to verify this statement by a reference to specified places. Thus, at Philadelphia, where the bank holds its seat of empire, the revenue fell off about one third; it was $797,316 for the first quarter of 1833, and only $542,498 for the first quarter of 1834. At New-York, where the bank has not been able to get the upper hand, there was an increase of more than $120,000; the revenue there, for the first quarter of 1833, was $3,122,166; for the first of 1834, it was $3,249,786. At Boston, where the bank is again predominant, the revenue fell off about one third; at Salem, Mass., it fell off four fifths. At Baltimore, where the bank has been defeated, there was an increase in the revenue of more than $70,000. At Richmond, the revenue was

doubled, from $12,034 to $25,810. At Charleston, it was increased from $69,503 to $102,810. At Petersburg, it was slightly increased; and throughout all the region south of the Potomac, there was either an increase, or the slight falling off which might result from diminished duties without diminished importations. Mr. B. said he knew that bank power was predominant in some of the cities of the South; but he knew, also, that the bank policy of distress and oppression had not been practised there. That was not the region to be governed by the scourge. The high mettle of that region required a different policy: gentleness, conciliation, coaxing! If the South was to be gained over by the bank, it was to be done by favor, not by fear. The scourge, though so much the most congenial to the haughty spirit of the moneyed power, was only to be applied where it would be submitted to; and, therefore, the whole region south of the Potomac, was exempted from the lash.

Mr. B. here paused to fix the attention of the Senate upon these facts. Where the power of the bank enabled her to depress commerce and sink the revenue, and her policy permitted her to do it, commerce was depressed; and the revenue was sunk, and the prophecies of the distress orators were fulfilled; but where her power did not predominate, or where her policy required a different course, commerce increased, and the revenue increased; and the result of the whole is, that New-York and some other anti-bank cities have gained what Philadelphia and other bank cities have lost; and the federal treasury is just as well off, as if it had got its accustomed supply from every place.

This view of facts, Mr. B. said, must fasten upon the bank the odium of having produced all the real commercial distress which has been felt. But at one point, at New Orleans, there was further evidence to convict her of wanton and wicked oppression. It was not in the Secretary's reports, but it was in the weekly returns of the bank; and showed that, in the beginning of March, that institution had carried off from her branch in New Orleans, the sum of about $800,000 in specie, which it had been collecting all the winter, by a wanton curtailment, under the pretext of supplying the amount of the deposits taken from her at that place. These $800,000 dollars were collected from the New Orleans merchants in the very crisis of the arrival of Western produce. The merchants were pressed to pay debts, when they ought to have been accommodated with loans. The price of produce was thereby depressed; the whole West suffered from the depression; and now it is proved that the money was not wanted to supply the place of the deposits, but was sent to Philadelphia, where there was no use for it, the bank having more than she can use; and that the whole operation was a wanton and wicked measure to coerce the West to cry out for a return of the deposits, and a renewal of the charter, by attacking their commerce in the market of New Orleans. This fact, said Mr. B., would have been proved from the books of the bank, if they had been inspected. Failing in that, the proof was intelligibly found in the weekly returns.

Mr. B. took up another table to prove the prosperity of the country: it was in the increase of specie since the programme for the distress had been published. That programme dated from the first day of October last, and the clear increase since that time is the one half of the whole quantity then in the United States. The imports had been $11,128,291; the exports only $998,761.

Mr. B. remarked, upon this statement, that it presented a clear gain of more than ten millions of dollars. He was of opinion that two millions ought to be added for sums not entered at the custom-house, which would make twelve millions; and added to the six millions of 1833, would give eighteen millions of specie of clear gain to the country, in the last twenty months. This, he said was prosperity. It was wealth itself; and besides, it showed that the country was not in debt for its large importations, and that a larger proportion of foreign imports now consisted of specie than was ever known before. Mr. B. particularized the imports and

exports of gold; how the former had increased, and the latter diminished, during the last few months; and said that a great amount of gold, both foreign and domestic, was now waiting in the country to see if Congress would raise gold to its fair value. If so raised, this gold would remain, and enter into circulation; if not, it would immediately go off to foreign countries; for gold was not a thing to stay where it was undervalued. He also spoke of silver, and said that it had arrived without law, but could not remain without law. Unless Congress passed an act to make it current, and that at full value as money, and not at the mint value, as bullion, it would go off.

Mr. B. had a further view to give of the prosperity of the country, and further evidence to show that all the distress really suffered was factitious and unnatural. It was in the great increase of money in the United States, during the last year and a half. He spoke of money; not paper promises to pay money, but the thing itself—real gold and silver—and affirmed that there was a clear gain of from eighteen to twenty millions of specie, within the time that he had mentioned. He then took up the custom-house returns to verify this important statement, and to let the people see that the country was never so well off for money as at the very time that it was proclaimed to be in the lowest state of poverty and misery. He first showed the imports and exports of specie and bullion for the year ending the 30th of September, 1833. It was as follows:

Year ending September 30, 1833.

Imports.

Exports.

Gold bullion,

$48,267

$26,775

Silver do.

297,840

Gold coin,

563,585

495,890

Silver do.

6,160,676

1,722,196

$7,070,368

$2,244,861

Mr. B. having read over this statement, remarked upon it, that it presented a clear balance of near five millions of specie in favor of the United States on the first day of October last, without counting at least another million which was brought by passengers, and not put upon the custom-house books. It might be assumed, he said, that there was a clear accession of six millions of specie to the money of the United States, on the morning of that very day which had been pitched upon by all the distress orators in the country, to date the ruin and desolation of the country.

Mr. B. then showed a statement of the imports and exports of specie and bullion, from the first of October, 1833, to the 11th of June, instant.

Mr. B. recapitulated the evidences of national prosperity—increased imports—revenue from customs exceeding the estimate—increased revenue from public lands—increased amount of specie—above eleven millions of available funds now in the treasury—domestic and foreign commerce active—the price of produce and property fair and good—labor every where finding employment and reward—more money in the country than ever was in it at any one time before—the numerous advertisements for the purchase of slaves, in the papers of this city, for the Southern market, which indicated the high price of Southern products—and affirmed his conscientious belief, that the country was more prosperous at this time than at any period of its existence; and inveighed in terms of strong indignation against the arts and artifices, which for the last six months had disturbed and agitated the country, and done serious mischief to many individuals. He regretted the miscarriage of the attempt to examine the Bank of the United States, which he believed would have completed the proof against that institution for its share in getting up an unnatural and factitious scene of distress, in the midst of real prosperity. But he did not limit his invective to the bank, but came directly to the Senate, and charged a full share upon the theatrical distress speeches, delivered upon the floor of the Senate, in imitation of Volney's soliloquy over the ruins of Palmyra. He repeated some passages from the most affecting of these lamentations over the desolation of the country, such as the Senate had been accustomed to hear about the time of the New-York and Virginia elections. "The canal a solitude! The lake a desert waste of waters! That populous city lately resounding with the hum of busy multitudes, now silent and sad! A whole nation, in the midst of unparalleled prosperity, and Arcadian felicity, suddenly struck into poverty, and plunged into unutterable woe! and all this by the direful act of one wilful man!" Such, said Mr. B., were the lamentations over the ruins, not of the Tadmor in the desert, but of this America, whose true condition you have just seen exhibited in the faithful report of the Secretary of the Treasury. Not even the "baseless fabric of a vision" was ever more destitute of foundation, than those lamentable accounts of desolation. The lamentation has ceased; the panic has gone off; would to God he could follow out the noble line of the poet, and say, "leaving not a wreck behind." But he could not say that. There were wrecks! wrecks of merchants in every city in which the bank tried its cruel policy, and wrecks of banks in this district, where the panic speeches fell thickest and loudest upon the ears of an astonished and terrified community!

But, continued Mr. B., the game is up; the alarm is over; the people are tired of it; the agitators have ceased to work the engine of alarm. A month ago he had said it was "the last of pea-time" with these distress memorials; he would now use a bolder figure, and say, that the Secretary's report, just read, had expelled forever the ghost of alarm from the chamber of the Senate. All ghosts, said Mr. B., are afraid of the light. The crowing of the cock—the break of day—remits them all, the whole shadowy tribe, to their dark and dreary abodes. How then can this poor ghost of alarm, which has done such hard service for six months past, how can it stand the full light, the broad glare, the clear sunshine of the Secretary's report? "Alas, poor ghost!" The shade of the "noble Dane" never quit the stage under a more inexorable law than the one which now drives thee away! This report, replete with plain facts, and luminous truths, puts to flight the apparition of distress, breaks down the whole machinery of alarm, and proves that the American people are, at this day, the most prosperous people on which the beneficent sun of heaven did ever shine!

Mr. B. congratulated himself that the spectre of distress could never be made to cross the Mississippi. It made but slow progress any where in the Great Valley, but was balked at the King of Floods. A letter from St. Louis informed him that an attempt had just been made to

get up a distress meeting in the town of St. Louis; but without effect. The officers were obtained, and according to the approved rule of such meetings, they were converts from Jacksonism; but there the distress proceedings stopped, and took another turn. The farce could not be played in that town. The actors would not mount the stage.

Mr. B. spoke of the circulation of the Bank of the United States, and said that its notes might be withdrawn without being felt or known by the community. It contributed but four millions and a quarter to the circulation at this time. He verified this statement by showing that the bank had twelve millions and a quarter of specie in its vaults, and but sixteen millions and a half of notes in circulation. The difference was four millions and a quarter; and that was the precise amount which that gigantic institution now contributed to the circulation of the country! Only four millions and a quarter. If the gold bill passed, and raised gold sixteen to one, there would be more than that amount of gold in circulation in three months. The foreign coin bill, and the gold bill, would give the country many dollars in specie, without interest, for each paper dollar which the bank issues, and for which the country pays so dearly. The dissolution of the bank would turn out twelve millions and a quarter of specie, to circulate among the people; and the sooner that is done the better it will be for the country.

The Bank is now a nuisance, said Mr. B. With upwards of twelve millions in specie, and less than seventeen millions in circulation, and only fifty-two millions of loans, it pretends that it cannot lend a dollar, not even to business men, to be returned in sixty days; when, two years ago, with only six millions of specie and twenty-two millions of circulation, it ran up its loans to seventy millions. The president of the bank then swore, that all above six millions of specie was a surplus! How is it now, with near double as much specie, and five millions less of notes out, and twelve millions less of debt? The bank needs less specie than any other banking institution, because its notes are receivable, by law, in all federal payments; and from that circumstance alone would be current, at par, although the bank itself might be wholly unable to redeem them. Such a bank is a nuisance. It is the dog in the manger. It might lend money to business men, at short dates, to the last day of its existence; yet the signs are for a new pressure; a new game of distress for the fall elections in Pennsylvania, New-York, and Ohio. If that game should be attempted, Mr. B. said, it would have to be done without excuse, for the bank was full of money; without pretext, for the deposit farce is over; without the aid of panic speeches, for the Senate will not be in session.

Mr. B. said, that among the strange events which took place in this world, nothing could be more strange than to find, in our own country, and in the nineteenth century, any practical illustration of the ancient doctrine of the metempsychosis. Stranger still, if that doctrine should be so far improved, as to take effect in soulless bodies; for, according to the founders of the doctrine, the soul alone could transmigrate. Now, corporations had no souls; that was law, laid down by all the books: that all corporations, moneyed ones especially, and above all, the Bank of the United States, was most soulless. Yet the rumor was, that this bank intended to attempt the operation of effecting a transfer of her soul; and after submitting to death in her present form, to rise up in a new one. Mr. B. said he, for one, should be ready for the old sinner, come in the body of what beast it might. No form should deceive him, not even if it condescended, in its new shape, to issue from Wall-street instead of Chestnut!

A word more, and Mr. B. was done. It was a word to those gentlemen whose declarations, many ten thousand times issued from this floor, had deluded a hundred thousand people to send memorials here, certifying what those gentlemen so incontinently repeated, that the removal of the deposits had made the distress, and nothing but the restoration of the deposits, or the renewal of the charter, could remove the distress! Well! the deposits are not restored, and the charter is not renewed; and yet the distress is gone! What is the inference? Why that

gentlemen are convicted, and condemned, upon their own argument! They leave this chamber to go home, self-convicted upon the very test which they themselves have established; and after having declared, for six months, upon this floor, that the removal of the deposits made the distress, and nothing but their restoration, or the renewal of the bank charter, could relieve it, and that they would sit here until the dog-days, and the winter solstice, to effect this restoration or renewal: they now go home in good time for harvest, without effecting the restoration or the renewal; and find every where, as they go the evidences of the highest prosperity which ever blessed the land. Yes! repeated and exclaimed Mr. B. with great emphasis, the deposits are not restored—the charter is not renewed—the distress is gone—and the distress speeches have ceased! No more lamentation over the desolation of the land now; and a gentleman who should undertake to entertain the Senate again in that vein, in the face of the present national prosperity—in the face of the present report from the Secretary of the Treasury—would be stared at, as the Trojans were accustomed to stare at the frantic exhibitions of Priam's distracted daughter, while vaticinating the downfall of Troy in the midst of the heroic exploits of Hector.

At the conclusion of this speech Mr. Webster spoke a few words, signifying that foreigners might have made the importations which kept up the revenue; and Mr. Chambers, of Maryland, spoke more fully, to show that there was not time yet for the distress to work its effect nationally. Mr. Webster then varied his motion, and, instead of sending the Secretary's report to the Finance Committee, moved to lay it upon the table: which was done: and being printed, and passed into the newspapers, with the speech to emblazon it, had a great effect in bringing the panic to a close.

108. Revival Of The Gold Currency

A measure of relief was now at hand, before which the machinery of distress was to balk, and cease its long and cruel labors: it was the passage of the bill for equalizing the value of gold and silver, and legalizing the tender of foreign coins of both metals. The bills were brought forward in the House by Mr. Campbell P. White of New-York, and passed after an animated contest, in which the chief question was as to the true relative value of the two metals, varied by some into a preference for national bank paper. Fifteen and five-eighths to one was the ratio of nearly all who seemed best calculated, from their pursuits, to understand the subject. The thick array of speakers was on that side; and the eighteen banks of the city of New-York, with Mr. Gallatin at their head, favored that proportion. The difficulty of adjusting this value, so that neither metal should expel the other, had been the stumbling block for a great many years; and now this difficulty seemed to be as formidable as ever. Refined calculations were gone into: scientific light was sought: history was rummaged back to the times of the Roman empire: and there seemed to be no way of getting to a concord of opinion either from the lights of science, the voice of history, or the result of calculations. The author of this View had (in his speeches on the subject), taken up the question in a practical point of view, regardless of history, and calculations, and the opinions of bank officers; and looking to the actual, and equal, circulation of the two metals in different countries, he saw that this equality and actuality of circulation had existed for above three hundred years in the Spanish dominions of Mexico and South America, where the proportion was 16 to one. Taking his stand upon this single fact, as the practical test which solved the question, all the real friends of the gold currency soon rallied to it. Mr. White gave up the bill which he had first introduced, and adopted the Spanish ratio. Mr. Clowney of South Carolina, Mr. Gillet and Mr. Cambreleng of New-York, Mr. Ewing of Indiana, Mr. McKim of Maryland, and other speakers, gave it a warm support. Mr. John Quincy Adams would vote for it, though he thought the gold was over-valued; but if found to be so, the difference could be corrected hereafter. The principal speakers against it and in favor of a lower rate, were Messrs. Gorham of Massachusetts; Selden of New-York; Binney of Pennsylvania; and Wilde of Georgia. And, eventually the bill was passed by a large majority—145 to 36. In the Senate it had an easy passage. Mr. Calhoun and Webster supported it: Mr. Clay opposed it: and on the final vote there were but seven negatives: Messrs. Chambers of Maryland; Clay; Knight of Rhode Island; Alexander Porter of Louisiana; Silsbee of Massachusetts; Southard of New Jersey; Sprague of Maine.

The good effects of the bill were immediately seen. Gold began to flow into the country through all the channels of commerce: old chests gave up their hordes: the mint was busy: and in a few months, and as if by magic, a currency banished from the country for thirty years, overspread the land, and gave joy and confidence to all the pursuits of industry. But this joy was not universal. A large interest connected with the Bank of the United States, and its subsidiary and subaltern institutions, and the whole paper system, vehemently opposed it; and spared neither pains nor expense to check its circulation, and to bring odium upon its supporters. People were alarmed with counterfeits. Gilt counters were exhibited in the markets, to alarm the ignorant. The coin itself was burlesqued, in mock imitations of brass or copper, with grotesque figures, and ludicrous inscriptions—the “whole hog” and the “better currency,” being the favorite devices. Many newspapers expended their daily wit in its stale depreciation. The most exalted of the paper money party, would recoil a step when it was offered to them, and beg for paper. The name of “Gold humbug” was fastened upon the person supposed to have been chiefly instrumental in bringing the derided coin into

existence; and he, not to be abashed, made its eulogy a standing theme—vaunting its excellence, boasting its coming abundance, to spread over the land, flow up the Mississippi, shine through the interstices of the long silken purse, and to be locked up safely in the farmer's trusty oaken chest. For a year there was a real war of the paper against gold. But there was something that was an overmatch for the arts, or power, of the paper system in this particular, and which needed no persuasions to guide it when it had its choice: it was the instinctive feeling of the masses! which told them that money which would jingle in the pocket was the right money for them—that hard money was the right money for hard hands—that gold was the true currency for every man that had any thing true to give for it, either in labor or property: and upon these instinctive feelings gold became the avidious demand of the vast operative and producing classes.

109. Rejection Of Mr. Taney, Nominated For Secretary Of The Treasury

A presentiment of what was to happen induced the President to delay, until near the end of the session, the nomination to the Senate of Mr. Taney for Secretary of the Treasury. He had offended the Bank of the United States too much to expect his confirmation in the present temper of the Senate. He had a right to hold back the nomination to the last day of the session, as the recess appointment was valid to its end; and he retained it to the last week, not being willing to lose the able and faithful services of that gentleman during the actual session of Congress. At last, on the 23d of June, the nomination was sent in, and immediately rejected by the usual majority in all cases in which the bank was concerned. Mr. Taney, the same day resigned his place; and Mr. McClintock Young, first clerk of the treasury, remained by law acting Secretary. Mr. Benjamin Franklin Butler, of New-York, nominated for the place of attorney-general, was confirmed—he having done nothing since he came into the cabinet to subject him to the fate of his predecessor, though fully concurring with the President in all his measures in relation to the bank.

110. Senatorial Investigation Of The Bank Of The United States

This corporation had lost so much ground in the public estimation, by repulsing the investigation attempted by the House of Representatives, that it became necessary to retrieve the loss by some report in its favor. The friends of the institution determined, therefore, to have an investigation made by the Senate—by the Finance Committee of that body. In conformity to this determination Mr. Southard, on the last day of the session moved that that committee should have leave to sit during the recess of the Senate to inquire whether the Bank of the United States had violated its charter—whether it was a safe depository of the public moneys—and what had been its conduct since 1832 in regard to extension and curtailment of loans, and its general management since that time. The committee to whom this investigation was committed, consisted of Messrs. Webster, Tyler, Ewing, Mangum, and Wilkins. Of this committee all, except the last named, were the opponents of the administration, friends of the bank, its zealous advocates in all the questions between it and the government, speaking ardently in its favor, and voting with it on all questions during the session. Mr. Wilkins very properly refused to serve on the committee; and Mr. King of Alabama, being proposed in his place, also, and with equal propriety, refused to serve. This act of the Senate in thus undertaking to examine the bank after a repulse of the committee of the House of Representatives and still standing out in contempt of that House, and by a committee so composed, and so restricted, completed the measure of mortification to all the friends of the American Senate. It was deemed a cruel wound given to itself by the Senate. It was a wrong thing, done in a wrong way, and could have no result but to lessen the dignity and respectability of the Senate. The members of the committee were the advocates of the bank, and its public defenders on all the points to be examined. This was a violation of parliamentary law, as well as of the first principles of decency and propriety—the whole of which require criminatory investigations to be made, by those who make the accusations. It was to be done in vacation; for which purpose the committee was to sit in the recess—a proceeding without precedent, without warrant from any word in the constitution—and susceptible of the most abuseful and factious use. The only semblance of precedent for it was the committee of the House in 1824, on the memorial of Mr. Ninian Edwards against Mr. Crawford in that year; but that was no warrant for this proceeding. It was a mere authority to an existing committee which had gone through its examination, and made its report to the House, to continue its session after the House adjourned to take the deposition of the principal witness, detained by sickness, but on his way to the examination. This deposition the committee were to take, publish, and be dissolved; and so it was done accordingly. And even this slight continuation of a committee was obtained from the House with difficulty, and under the most urgent circumstances. Mr. Crawford was a candidate for the presidency; the election was to come on before Congress met again; Mr. Edwards had made criminal charges against him; all the testimony had been taken, except that of Mr. Edwards himself; and he had notified the committee that he was on his way to appear before them in obedience to their summons. And it was under these circumstances that the existing committee was authorized to remain in session for his arrival—to receive his testimony—publish it—and dissolve. No perambulation through the country—no indefinite session—no putting members upon Congress *per diems* and mileage from one session to another. Wrongful and abuseful in its creation, this peripatetic committee of the Senate was equally so in its composition and object. It was composed of the advocates of the bank, and its object evidently was to retrieve

for that institution a part of the ground which it had lost; and was so viewed by the community. The clear-sighted masses saw nothing in it but a contrivance to varnish the bank, and the odious appellation of “whitewashing committee” was fastened upon it.

111. Downfall Of The Bank Of The United States

When the author of the Æneid had shown the opening grandeur of Rome, he deemed himself justified in departing from the chronological order of events to look ahead, and give a glimpse of the dead Marcellus, hope and heir of the Augustan empire; in the like manner the writer of this View, after having shown the greatness of the United States Bank—exemplified in her capacity to have Jackson condemned—the government directors and a secretary of the treasury rejected—a committee of the House of Representatives repulsed—the country convulsed and agonized—and to obtain from the Senate of the United States a committee to proceed to the city of Philadelphia to "wash out its foul linen;"—after seeing all this and beholding the greatness of the moneyed power at the culminating point of its domination, I feel justified in looking ahead a few years to see it in its altered phase—in its ruined and fallen estate. And this shall be done in the simplest form of exhibition; namely: by copying some announcements from the Philadelphia papers of the day. Thus: 1. "Resolved (by the stockholders), that it is expedient for the Bank of the United States to make a general assignment of the real and personal estate, goods and chattels, rights and credits, whatsoever, and wheresoever, of the said corporation, to five persons, for the payment or securing of the debts of the same—agreeably to the provisions of the acts of Assembly of this commonwealth (Pennsylvania)." 2. "It is known that measures have been taken to rescue the property of this shattered institution from impending peril, and to recover as much as possible of those enormous bounties which it was conceded had been paid by its late managers to trading politicians and mercenary publishers for corrupt services, rendered to it during its charter-seeking and electioneering campaigns." 3. "The amount of the suit instituted by the Bank of the United States against Mr. N. Biddle is $1,018,000, paid out during his administration, for which no vouchers can be found." 4. "The United States Bank is a perfect wreck, and is seemingly the prey of the officers and their friends, which are making away with its choicest assets by selling them to each other, and taking pay in the depreciated paper of the South." 5. "Besides its own stock of 35,000,000, which is sunk, the bank carries down with it a great many other institutions and companies, involving a loss of about 21,000,000 more—making a loss of 56,000,000—besides injuries to individuals." 6. "There is no price for the United States Bank stock. Some shares are sold, but as lottery tickets would be. The mass of the stockholders stand, and look on, as passengers on a ship that is going down, and from which there is no escape." 7. "By virtue of a writ of *venditioni exponas*, directed to the sheriff of the city and county of Philadelphia, will be exposed to public sale to the highest bidder, on Friday, the 4th day of November next, the marble house and the grounds known as the Bank of the United States, &c." 8. "By virtue of a writ of *levari facias*, to me directed, will be exposed to public sale the estate known as 'Andalusia,' ninety-nine and a half acres, one of the most highly improved places in Philadelphia; the mansion-house, and out-houses and offices, all on the most splendid scale; the green-houses, hot-houses, and conservatories, extensive and useful; taken as the property of Nicholas Biddle." 9. "To the honorable Court of General Sessions. The grand jury for the county of Philadelphia, respectfully submit to the court, on their oaths and affirmations, that certain officers connected with the United States Bank, have been guilty of a gross violation of the law—colluding together to defraud those stockholders who had trusted their property to be preserved by them. And that there is good ground to warrant a prosecution of such persons for criminal offences, which the grand jury do now present to the court, and ask that the attorney-general be directed to send up for the action of the grand jury, bills of indictment against Nicholas Biddle, Samuel Jaudon, John Andrews, and others, to the grand jury unknown, for a conspiracy to defraud the stockholders

in the Bank of the United States of the sums of, &c." 10. "Bills of indictment have been found against Nicholas Biddle, Samuel Jaudon and John Andrews, according to the presentment of the grand jury; and bench warrants issued, which have been executed upon them." 11. "Examination of Nicholas Biddle, and others, before Recorder Vaux. Yesterday afternoon the crowd and excitement in and about the court-room where the examination was to take place was even greater than the day before. The court-room doors were kept closed up to within a few minutes of four o'clock, the crowd outside blocking up every avenue leading to the room. When the doors were thrown open it was immediately filled to overflowing. At four the Recorder took his seat, and announcing that he was ready to proceed, the defendants were called, and severally answered to their names, &c." 12. "On Tuesday, the 18th, the examination of Nicholas Biddle and others, was continued, and concluded; and the Recorder ordered, that Nicholas Biddle, Thomas Dunlap, John Andrews, Samuel Jaudon, and Joseph Cowperthwaite, each enter into a separate recognizance, with two or more sufficient sureties, in the sum of $10,000, for their appearance at the present session of the court of general sessions for the city and county of Philadelphia, to answer the crime of which they thus stand charged." 13. "Nicholas Biddle and those indicted with him have been carried upon writs of *habeas corpus* before the Judges Barton, Conrad, and Doran, and discharged from the custody of the sheriff." 14. "The criminal proceedings against these former officers of the Bank of the United States have been brought to a close. To get rid of the charges against them without trial of the facts against them, before a jury, they had themselves surrendered by their bail, and sued out writs of *habeas corpus* for the release of their persons. The opinions of the judges, the proceedings having been concluded, were delivered yesterday. The opinions of Judges Barton and Conrad was for their discharge; that of Judge Doran was unfavorable. They were accordingly discharged. The indignation of the community is intense against this escape from the indictments without jury trials."

112. Death Of John Randolph, Of Roanoake

He died at Philadelphia in the summer of 1833—the scene of his early and brilliant apparition on the stage of public life, having commenced his parliamentary career in that city, under the first Mr. Adams, when Congress sat there, and when he was barely of an age to be admitted into the body. For more than thirty years he was the political meteor of Congress, blazing with undiminished splendor during the whole time, and often appearing as the "planetary plague" which shed, not war and pestilence on nations, but agony and fear on members. His sarcasm was keen, refined, withering—with a great tendency to indulge in it; but, as he believed, as a lawful parliamentary weapon to effect some desirable purpose. Pretension, meanness, vice, demagogism, were the frequent subjects of the exercise of his talent; and, when confined to them, he was the benefactor of the House. Wit and genius all allowed him; sagacity was a quality of his mind visible to all observers—and which gave him an intuitive insight into the effect of measures. During the first six years of Mr. Jefferson's administration, he was the "Murat" of his party, brilliant in the charge, and always ready for it; and valued in the council, as well as in the field. He was long the chairman of the Committee of Ways and Means—a place always of labor and responsibility, and of more then than now, when the elements of revenue were less abundant; and no man could have been placed in that situation during Mr. Jefferson's time whose known sagacity was not a pledge for the safety of his lead in the most sudden and critical circumstances. He was one of those whom that eminent statesman habitually consulted during the period of their friendship, and to whom he carefully communicated his plans before they were given to the public. On his arrival at Washington at the opening of each session of Congress during this period, he regularly found waiting for him at his established lodgings—then Crawford's, Georgetown—the card of Mr. Jefferson, with an invitation for dinner the next day; a dinner at which the leading measures of the ensuing session were the principal topic. Mr. Jefferson did not treat in that way a member in whose sagacity he had not confidence.

It is not just to judge such a man by ordinary rules, nor by detached and separate incidents in his life. To comprehend him, he must be judged as a whole—physically and mentally—and under many aspects, and for his entire life. He was never well—a chronic victim of ill health from the cradle to the grave. A letter from his most intimate and valued friend, Mr. Macon, written to me after his death, expressed the belief that he had never enjoyed during his life one day of perfect health—such as well people enjoy. Such life-long suffering must have its effect on the temper and on the mind; and it had on his—bringing the temper often to the querulous mood, and the state of his mind sometimes to the question of insanity; a question which became judicial after his death, when the validity of his will came to be contested. I had my opinion on the point, and gave it responsibly, in a deposition duly taken, to be read on the trial of the will; and in which a belief in his insanity, at several specified periods, was fully expressed—with the reasons for the opinion. I had good opportunities of forming an opinion, living in the same house with him several years, having his confidence, and seeing him at all hours of the day and night. It also on several occasions became my duty to study the question, with a view to govern my own conduct under critical circumstances. Twice he applied to me to carry challenges for him. It would have been inhuman to have gone out with a man not in his right mind, and critical to one's self, as any accident on the ground might seriously compromise the second. My opinion was fixed, of occasional temporary aberrations of mind; and during such periods he would do and say strange things—but always in his own way—not only method, but genius in his fantasies: nothing to bespeak a bad heart, but only exaltation and excitement. The most brilliant talk that I ever heard from him came forth on

such occasions—a flow for hours (at one time seven hours), of copious wit and classic allusion—a perfect scattering of the diamonds of the mind. I heard a friend remark on one of these occasions, “he has wasted intellectual jewelry enough here this evening to equip many speakers for great orations.” I once sounded him on the delicate point of his own opinion of himself:—of course when he was in a perfectly natural state, and when he had said something to permit an approach to such a subject. It was during his last visit to Washington, two winters before he died. It was in my room, in the gloom of the evening light, as the day was going out and the lamps not lit—no one present but ourselves—he reclining on a sofa, silent and thoughtful, speaking but seldom, and I only in reply, I heard him repeat, as if to himself, those lines from Johnson, (which in fact I had often heard from him before), on “Senility and Imbecility,” which show us life under its most melancholy form.

“In life’s last scenes what prodigies surprise,
Fears of the brave, and follies of the wise!
From Marlborough’s eyes the streams of dotage flow,
And Swift expires, a driveller and a show.”

When he had thus repeated these lines, which he did with deep feeling and in slow and measured cadence, I deemed it excusable to make a remark of a kind which I had never ventured on before; and said: Mr. Randolph I have several times heard you repeat these lines, as if they could have an application to yourself, while no person can have less reason to fear the fate of Swift. I said this to sound him, and to see what he thought of himself. His answer was: “I have lived in dread of insanity.” That answer was the opening of a sealed book—revealed to me the source of much mental agony that I had seen him undergo. I did deem him in danger of the fate of Swift, and from the same cause as judged by his latest and greatest biographer, Sir Walter Scott.

His parliamentary life was resplendent in talent—elevated in moral tone—always moving on the lofty line of honor and patriotism, and scorning every thing mean and selfish. He was the indignant enemy of personal and plunder legislation, and the very scourge of intrigue and corruption. He reverenced an honest man in the humblest garb, and scorned the dishonest, though plated with gold. An opinion was propagated that he was fickle in his friendships. Certainly there were some capricious changes; but far more instances of steadfast adherence. His friendship with Mr. Macon was historic. Their names went together in life—live together in death—and are honored together, most by those who knew them best. With Mr. Tazewell, his friendship was still longer than that with Mr. Macon, commencing in boyhood, and only ending with life. So of many others; and pre-eminently so of his neighbors and constituents—the people of his congressional district—affectionate as well as faithful to him; electing him as they did, from boyhood to the grave. No one felt more for friends, or was more solicitous and anxious at the side of the sick and dying bed. Love of wine was attributed to him; and what was mental excitement, was referred to deep potations. It was a great error. I never saw him affected by wine—not even to the slightest departure from the habitual and scrupulous decorum of his manners. His temper was naturally gay and social, and so indulged when suffering of mind and body permitted. He was the charm of the dinner-table, where his cheerful and sparkling wit delighted every ear, lit up every countenance, and detained every guest. He was charitable; but chose to conceal the hand that ministered relief. I have often seen him send little children out to give to the poor.

He was one of the large slaveholders of Virginia, but disliked the institution, and, when let alone, opposed its extension. Thus, in 1803, when as chairman of the committee which reported upon the Indiana memorial for a temporary dispensation from the anti-slavery part

of the ordinance of 1787, he puts the question upon a statesman's ground; and reports against it, in a brief and comprehensive argument:

"That the rapid population of the State of Ohio sufficiently evinces, in the opinion of your committee, that the labor of the slave is not necessary to promote the growth and settlement of colonies in that region. That this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to that quarter of the United States: and the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the northwestern country, and to give strength and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants of Indiana will, at no very distant day, find ample remuneration for a temporary privation of labor and emigration."

He was against slavery; and by his will, both manumitted and provided for the hundreds which he held. But he was against foreign interference with his rights, his feelings, or his duties; and never failed to resent and rebuke such interference. Thus, he was one of the most zealous of the opposers of the proposed Missouri restriction; and even voted against the divisional line of "thirty-six thirty." In the House, when the term "slaveholder" would be reproachfully used, he would assume it, and refer to a member, not in the parliamentary phrase of colleague, but in the complimentary title of "my fellow-slaveholder." And, in London, when the consignees of his tobacco, and the slave factors of his father, urged him to liberate his slaves, he quieted their intrusive philanthropy, on the spot, by saying, "Yes: you buy and set free to the amount of the money you have received from my father and his estate for these slaves, and I will set free an equal number."

In his youth and later age, he fought duels: in his middle life, he was against them; and, for a while, would neither give nor receive a challenge. He was under religious convictions to the contrary, but finally yielded (as he believed) to an argument of his own, that a duel was private war, and rested upon the same basis as public war; and that both were allowable, when there was no other redress for insults and injuries. That was his argument; but I thought his relapse came more from feeling than reason; and especially from the death of Decatur, to whom he was greatly attached, and whose duel with Barron long and greatly excited him. He had religious impressions, and a vein of piety which showed itself more in private than in external observances. He was habitual in his reverential regard for the divinity of our religion; and one of his beautiful expressions was, that, "If woman had lost us paradise, she had gained us heaven." The Bible and Shakespeare were, in his latter years, his constant companions—travelling with him on the road—remaining with him in the chamber. The last time I saw him (in that last visit to Washington, after his return from the Russian mission, and when he was in full view of death) I heard him read the chapter in the Revelations (of the opening of the seals), with such power and beauty of voice and delivery, and such depth of pathos, that I felt as if I had never heard the chapter read before. When he had got to the end of the opening of the sixth seal, he stopped the reading, laid the book (open at the place) on his breast, as he lay on his bed, and began a discourse upon the beauty and sublimity of the Scriptural writings, compared to which he considered all human compositions vain and empty. Going over the images presented by the opening of the seals, he averred that their divinity was in their sublimity—that no human power could take the same images, and inspire the same awe and terror, and sink ourselves into such nothingness in the presence of the "wrath of the Lamb"—that he wanted no proof of their divine origin but the sublime feelings which they inspired.

113. Death Of Mr. Wirt

He died at the age of sixty-two, after having reached a place in the first line at the Virginia bar, where there were such lawyers as Wickham, Tazewell, Watkins Leigh; and a place in the front rank of the bar of the Supreme Court, where there were such jurists as Webster and Pinkney; and after having attained the high honor of professional preferment in the appointment of Attorney General of the United States under the administration of Mr. Monroe. His life contains instructive lessons. Born to no advantages of wealth or position, he raised himself to what he became by his own exertions. In danger of falling into a fatal habit in early life, he retrieved himself (touched by the noble generosity of her who afterwards became his admired and beloved wife), from the brink of the abyss, and became the model of every domestic virtue; with genius to shine without labor, he yet considered genius nothing without labor, and gave through life a laborious application to the study of the law as a science, and to each particular case in which he was ever employed. The elegant pursuits of literature occupied the moments taken from professional studies and labors, and gave to the reading public several admired productions, of which the long-desired and beautiful "Life of Patrick Henry," was the most considerable: a grateful commemoration of Virginia's greatest orator, which has been justly repaid to one of her first class orators, by Mr. Kennedy of Maryland, in his classic "Life of William Wirt." How grateful to see citizens, thus engaged in laborious professions, snatching moments from their daily labors to do justice to the illustrious dead—to enlighten posterity by their history, and encourage it by their example. Worthy of his political and literary eminence, and its most shining and crowning ornament, was the state of his domestic relations—exemplary in every thing that gives joy and decorum to the private family, and rewarded with every blessing which could result from such relations. But, why use this feeble pen, when the voice of Webster is at hand? Mr. Wirt died during the term of the Supreme Court, his revered friend, the Chief Justice Marshall, still living to preside, and to give, in touching language, the order to spread the proceedings of the bar (in relation to his death) upon the records of the court. At the bar meeting, which adopted these proceedings, Mr. Webster thus paid the tribute of justice and affection to one with whom professional rivalry had been the source and cement of personal friendship:

"It is announced to us that one of the oldest, one of the ablest, one of the most distinguished members of this bar, has departed this mortal life. William Wirt is no more! He has this day closed a professional career, among the longest and the most brilliant, which the distinguished members of the profession in the United States have at any time accomplished. Unsullied in every thing which regards professional honor and integrity, patient of labor, and rich in those stores of learning, which are the reward of patient labor and patient labor only; and if equalled, yet certainly allowed not to be excelled, in fervent, animated and persuasive eloquence, he has left an example which those who seek to raise themselves to great heights of professional eminence, will, hereafter emulously study. Fortunate, indeed, will be the few, who shall imitate it successfully!

"As a public man, it is not our peculiar duty to speak of Mr. Wirt here. His character in that respect belongs to his country, and to the history of his country. And, sir, if we were to speak of him in his private life, and in his social relations, all we could possibly say of his urbanity, his kindness, the faithfulness of his friendships, and the warmth of his affections, would hardly seem sufficiently strong and glowing to do him justice, in the feeling and judgment of those who, separated, now forever from his embraces can only enshrine his memory in their bleeding hearts. Nor may we, sir, more than allude to that other relation, which belonged to

him, and belongs to us all; that high and paramount relation, which connects man with his Maker! It may be permitted us, however, to have the pleasure of recording his name, as one who felt a deep sense of religious duty, and who placed all his hopes of the future, in the truth and in the doctrines of Christianity.

“But our particular ties to him were the ties of our profession. He was our brother, and he was our friend. With talents powerful enough to excite the strength of the strongest, with a kindness both of heart and of manner capable of warming and winning the coldest of his brethren, he has now completed the term of his professional life, and of his earthly existence, in the enjoyment of the high respect and cordial affections of us all. Let us, then, sir, hasten to pay to his memory the well-deserved tribute of our regard. Let us lose no time in testifying our sense of our loss, and in expressing our grief, that one great light of our profession is extinguished forever.”

114. Death Of The Last Of The Signers Of The Declaration Of Independence

On the morning of July 4th, 1826—just fifty years after the event—but three of the fifty-six members of the continental Congress of 1776 who had signed the Declaration of Independence, remained alive; on the evening of that day there remained but one—Charles Carroll, of Carrollton, Maryland; then a full score beyond the Psalmist's limit of manly life, and destined to a further lease of six good years. It has been remarked of the "signers of the Declaration" that a felicitous existence seems to have been reserved for them; blessed with long life and good health, honored with the public esteem, raised to the highest dignities of the States and of the federal government, happy in their posterity, and happy in the view of the great and prosperous country which their labors had brought into existence. Among these, so felicitous and so illustrious, he was one of the most happy, and among the most distinguished. He enjoyed the honors of his pure and patriot life in all their forms; age, and health, and mind, for sixteen years beyond that fourscore which brings labor and sorrow and weakness to man; ample fortune; public honors in filling the highest offices of his State, and a seat in the Senate of the United States; private enjoyment in an honorable and brilliant posterity. Born to fortune, and to the care of wise and good parents, he had all the advantages of education which the colleges of France and the "Inns of Court" of London could give. With every thing to lose in unsuccessful rebellion, he risked all from the first opening of the contest with the mother country: and when he walked up to the secretary's table to sign the paper, which might become a death-warrant to its authors, the remark was made, "there go some millions." And his signing was a privilege, claimed and granted. He was not present at the declaration. He was not even a member of Congress on the memorable Fourth of July. He was in Annapolis on that day, a member of the Maryland Assembly, and zealously engaged in urging a revocation of the instructions which limited the Maryland delegates in the continental Congress to obtaining a redress of grievances without breaking the connection with the mother country. He succeeded—was appointed a delegate—flew to his post—and added his name to the patriot list.

All history tells of the throwing overboard of the tea in Boston harbor: it has not been equally attentive to the burning of the tea in Annapolis harbor. It was the summer of 1774 that the brigantine "Peggy Stewart" approached Annapolis with a cargo of the forbidden leaves on board. The people were in commotion at the news. It was an insult, and a defiance. Swift destruction was in preparation for the vessel: instant chastisement was in search of the owners. Terror seized them. They sent to Charles Carroll as the only man that could moderate the fury of the people, and save their persons and property from a sudden destruction. He told them there was but one way to save their persons, and that was to burn their vessel and cargo, instantly and in the sight of the people. It was done: and thus the flames consumed at Annapolis, what the waves had buried at Boston: and in both cases the spirit and the sacrifice was the same—opposition to taxation without representation, and destruction to its symbol.

115. Commencement Of The Session 1834-’35: President’s Message

Towards the close of the previous session, Mr. Stevenson had resigned the place of speaker of the House of Representatives in consequence of his nomination to be minister plenipotentiary and envoy extraordinary to the court of St. James—a nomination then rejected by the Senate, but subsequently confirmed. Mr. John Bell of Tennessee, was elected speaker in his place, his principal competitor being Mr. James K. Polk of the same State: and, with this difference in its organization, the House met at the usual time—the first Monday of December. The Cabinet then stood: John Forsyth, Secretary of State, in place of Louis McLane, resigned; Levi Woodbury, Secretary of the Treasury; Lewis Cass, Secretary at War; Mahlon Dickerson, Secretary of the Navy; William T. Barry, Post Master General; Benjamin Franklin Butler, Attorney General. The condition of our affairs with France, was the prominent feature of the message, and presented the relations of the United States with that power under a serious aspect. The indemnity stipulated in the treaty of 1831 had not been paid—no one of the instalments;—and the President laid the subject before Congress for its consideration, and action, if deemed necessary.

“I regret to say that the pledges made through the minister of France have not been redeemed. The new Chambers met on the 31st July last, and although the subject of fulfilling treaties was alluded to in the speech from the throne, no attempt was made by the King or his Cabinet to procure an appropriation to carry it into execution. The reasons given for this omission, although they might be considered sufficient in an ordinary case, are not consistent with the expectations founded upon the assurances given here, for there is no constitutional obstacle to entering into legislative business at the first meeting of the Chambers. This point, however, might have been overlooked, had not the Chambers, instead of being called to meet at so early a day that the result of their deliberations might be communicated to me before the meeting of Congress, been prorogued to the 29th of the present month—a period so late that their decision can scarcely be made known to the present Congress prior to its dissolution. To avoid this delay, our minister in Paris, in virtue of the assurance given by the French minister in the United States, strongly urged the convocation of the Chambers at an earlier day, but without success. It is proper to remark, however, that this refusal has been accompanied with the most positive assurances, on the part of the Executive government of France, of their intention to press the appropriation at the ensuing session of the Chambers.

“If it shall be the pleasure of Congress to await the further action of the French Chambers, no further consideration of the subject will, at this session, probably be required at your hands. But if, from the original delay in asking for an appropriation; from the refusal of the Chambers to grant it when asked; from the omission to bring the subject before the Chambers at their last session; from the fact that, including that session, there have been five different occasions when the appropriation might have been made; and from the delay in convoking the Chambers until some weeks after the meeting of Congress, when it was well known that a communication of the whole subject to Congress at the last session was prevented by assurances that it should be disposed of before its present meeting, you should feel yourselves constrained to doubt whether it be the intention of the French government in all its branches to carry the treaty into effect, and think that such measures as the occasion may be deemed to call for should be now adopted, the important question arises, what those measures shall be.”

The question then, of further delay, waiting on the action of France, or of action on our own part, was thus referred to Congress; but under the constitutional injunction, to recommend to that body the measures he should deem necessary, and in compliance with his own sense of duty, and according to the frankness of his temper, he fully and categorically gave his own opinion of what ought to be done; thus:

"It is my conviction that the United States ought to insist on a prompt execution of the treaty; and, in case it be refused, or longer delayed, take redress into their own hands. After the delay, on the part of France, of a quarter of a century, in acknowledging these claims by treaty, it is not to be tolerated that another quarter of a century is to be wasted in negotiating about the payment. The laws of nations provide a remedy for such occasions. It is a well-settled principle of the international code, that where one nation owes another a liquidated debt, which it refuses or neglects to pay, the aggrieved party may seize on the property belonging to the other, its citizens or subjects, sufficient to pay the debt, without giving just cause of war. This remedy has been repeatedly resorted to, and recently by France herself towards Portugal, under circumstances less unquestionable."

"Since France, in violation of the pledges given through her minister here, has delayed her final action so long that her decision will not probably be known in time to be communicated to this Congress, I recommend that a law be passed authorizing reprisals upon French property, in case provision shall not be made for the payment of the debt at the approaching session of the French Chambers. Such a measure ought not to be considered by France as a menace. Her pride and power are too well known to expect any thing from her fears, and preclude the necessity of the declaration that nothing partaking of the character of intimidation is intended by us. She ought to look upon it as the evidence only of an inflexible determination on the part of the United States to insist on their rights. That Government, by doing only what it has itself acknowledged to be just, will be able to spare the United States the necessity of taking redress into their own hands, and save the property of French citizens from that seizure and sequestration which American citizens so long endured without retaliation or redress. If she should continue to refuse that act of acknowledged justice, and, in violation of the law of nations, make reprisals on our part the occasion of hostilities against the United States, she would but add violence to injustice, and could not fail to expose herself to the just censure of civilized nations, and to the retributive judgments of Heaven."

In making this recommendation, and in looking to its possible result as producing war between the two countries, the President showed himself fully sensible to all the considerations which should make such an event deplorable between powers of ancient friendship, and their harmony and friendship desirable for the sake of the progress and maintenance of liberal political systems in Europe. And on this point he said:

"Collision with France is the more to be regretted, on account of the position she occupies in Europe in relation to liberal institutions. But in maintaining our national rights and honor, all governments are alike to us. If, by a collision with France, in a case where she is clearly in the wrong, the march of liberal principles shall be impeded, the responsibility for that result, as well as every other, will rest on her own head."

This State of our relations with France gave rise to some animated proceedings in our Congress, which will be noticed in their proper place. The condition of the finances was shown to be good—not only adequate for all the purposes of the government and the complete extinguishment of the remainder of the public debt, but still leaving a balance in the treasury equal to one fourth of the annual income at the end of the year. Thus:

“According to the estimate of the Treasury Department, the revenue accruing from all sources, during the present year, will amount to twenty millions six hundred and twenty-four thousand seven hundred and seventeen dollars, which, with the balance remaining in the Treasury on the first of January last, of eleven millions seven hundred and two thousand nine hundred and five dollars, produces an aggregate of thirty-two millions three hundred and twenty-seven thousand six hundred and twenty-three dollars. The total expenditure during the year for all objects, including the public debt, is estimated at twenty-five millions five hundred and ninety-one thousand three hundred and ninety dollars, which will leave a balance in the Treasury on the first of January, 1835, of six millions seven hundred and thirty-six thousand two hundred and thirty-two dollars. In this balance, however, will be included about one million one hundred and fifty thousand dollars of what was heretofore reported by the department as not effective.”

This unavailable item of above a million of dollars consisted of local bank notes, received in payment of public lands during the years of general distress and bank suspensions from 1819 to 1822; and the banks which issued them having failed they became worthless; and were finally dropt from any enumeration of the contents of the treasury. The extinction of the public debt, constituting a marked event in our financial history, and an era in the state of the treasury, was looked to by the President as the epoch most proper for the settlement of our doubtful points of future policy, and the inauguration of a system of rigorous economy: to which effect the message said:

“Free from public debt, at peace with all the world, and with no complicated interests to consult in our intercourse with foreign powers, the present may be hailed as the epoch in our history the most favorable for the settlement of those principles in our domestic policy, which shall be best calculated to give stability to our republic, and secure the blessings of freedom to our citizens. While we are felicitating ourselves, therefore, upon the extinguishment of the national debt, and the prosperous state of our finances, let us not be tempted to depart from those sound maxims of public policy, which enjoin a just adaptation of the revenue to the expenditures that are consistent with a rigid economy, and an entire abstinence from all topics of legislation that are not clearly within the constitutional powers of the Government, and suggested by the wants of the country. Properly regarded, under such a policy, every diminution of the public burdens arising from taxation, gives to individual enterprise increased power, and furnishes to all the members of our happy confederacy, new motives for patriotic affection and support. But, above all, its most important effect will be found in its influence upon the character of the Government, by confining its action to those objects which will be sure to secure to it the attachment and support of our fellow-citizens.”

The President had a new cause of complaint to communicate against the Bank of the United States, which was the seizure of the dividends due the United States on the public stock in the institution. The occasion was, the claim for damages which the bank set up on a protested bill of exchange, sold to it on the faith of the French treaty; and which was protested for non-payment. The case is thus told by the President:

“To the needless distresses brought on the country during the last session of Congress, has since been added the open seizure of the dividends on the public stock, to the amount of $170,041, under pretence of paying damages, cost, and interest, upon the protested French bill. This sum constituted a portion of the estimated revenues for the year 1834, upon which the appropriations made by Congress were based. It would as soon have been expected that our collectors would seize on the customs, or the receivers of our land offices on the moneys arising from the sale of public lands, under pretences of claims against the United States, as that the bank would have retained the dividends. Indeed, if the principle be established that

any one who chooses to set up a claim against the United States may, without authority of law, seize on the public property or money wherever he can find it, to pay such claim, there will remain no assurance that our revenue will reach the treasury, or that it will be applied after the appropriation to the purposes designated in the law. The paymasters of our army, and the pursers of our navy, may, under like pretences, apply to their own use moneys appropriated to set in motion the public force, and in time of war leave the country without defence. This measure, resorted to by the Bank, is disorganizing and revolutionary, and, if generally resorted to by private citizens in like cases, would fill the land with anarchy and violence."

The money thus seized by the bank was retained until recovered from it by due course of law. The corporation was sued, judgment recovered against it, and the money made upon a writ of execution; so that the illegality of its conduct in making this seizure was judicially established. The President also communicated new proofs of the wantonness of the pressure and distress made by the bank during the preceding session—the fact coming to light that it had shipped about three millions and a half of the specie to Europe which it had squeezed out of the hands of the people during the panic;—and also that, immediately after the adjournment of Congress, the action of the bank was reversed—the curtailment changed into extension; and a discount line of seventeen millions rapidly ran out.

"Immediately after the close of the last session, the bank, through its president, announced its ability and readiness to abandon the system of unparalleled curtailment, and the interruption of domestic exchanges, which it had practised upon from the 1st of August, 1833, to the 30th of June, 1834, and to extend its accommodations to the community. The grounds assumed in this annunciation amounted to an acknowledgment that the curtailment, in the extent to which it had been carried, was not necessary to the safety of the bank, and had been persisted in merely to induce Congress to grant the prayer of the bank in its memorial relative to the removal of the deposits, and to give it a new charter. They were substantially a confession that all the real distresses which individuals and the country had endured for the preceding six or eight months, had been needlessly produced by it, with the view of effecting, through the sufferings of the people, the legislative action of Congress. It is a subject of congratulation that Congress and the country had the virtue and firmness to bear the infliction; that the energies of our people soon found relief from this wanton tyranny, in vast importations of the precious metals from almost every part of the world; and that, at the close of this tremendous effort to control our government, the bank found itself powerless, and no longer able to loan out its surplus means. The community had learned to manage its affairs without its assistance, and trade had already found new auxiliaries; so that, on the 1st of October last, the extraordinary spectacle was presented of a national bank, more than one half of whose capital was either lying unproductive in its vaults, or in the hands of foreign bankers."

Certainly this was a confession of the whole criminality of the bank in making the distress; but even this confession did not prevent the Senate's Finance Committee from making an honorable report in its favor. But there is something in the laws of moral right above the powers of man, or the designs and plans of banks and politicians. The greatest calamity of the bank—the loss of thirty-five millions of stock to its subscribers—chiefly dates from this period and this conduct. Up to this time its waste and losses, though great, might still have been remediable; but now the incurable course was taken. Half its capital lying idle! Good borrowers were scarce; good indorsers still more so; and a general acceptance of stocks in lieu of the usual security was the fatal resort. First, its own stock, then a great variety of stocks were taken; and when the bank went into liquidation, its own stock was gone! and the others in every imaginable degree of depreciation, from under par to nothing. The government had directors in the bank at that time, Messrs. Charles McAllister, Edward D.

Ingraham, and —— Ellmaker; and the President was under no mistake in any thing he said. The message recurs to the fixed policy of the President in selling the public stock in the bank, and says:

"I feel it my duty to recommend to you that a law be passed authorizing the sale of the public stock; that the provision of the charter requiring the receipt of notes of the bank in payment of public dues, shall, in accordance with the power reserved to Congress in the 14th section of the charter, be suspended until the bank pays to the treasury the dividends withheld; and that all laws connecting the government or its officers with the bank, directly or indirectly, be repealed; and that the institution be left hereafter to its own resources and means."

The wisdom of this persevering recommendation was, fortunately, appreciated in time to save the United States from the fate of other stockholders. The attention of Congress was again called to the regulation of the deposits in State banks. As yet there was no law upon the subject. The bill for that purpose passed in the House of Representatives at the previous session, had been laid upon the table in the Senate; and thus was kept open a head of complaint against the President for the illegal custody of the public moneys. It was not illegal. It was the custody, more or less resorted to, under every administration of the federal government, and never called illegal except under President Jackson; but it was a trust of a kind to require regulation by law; and he, therefore, earnestly recommended it. The message said:

"The attention of Congress is earnestly invited to the regulation of the deposits in the State banks, by law. Although the power now exercised by the Executive department in this behalf is only such as was uniformly exerted through every administration from the origin of the government up to the establishment of the present bank, yet it is one which is susceptible of regulation by law, and, therefore, ought so to be regulated. The power of Congress to direct in what places the Treasurer shall keep the moneys in the Treasury, and to impose restrictions upon the Executive authority, in relation to their custody and removal, is unlimited, and its exercise will rather be courted than discouraged by those public officers and agents on whom rests the responsibility for their safety. It is desirable that as little power as possible should be left to the President or Secretary of the Treasury over those institutions, which, being thus freed from Executive influence, and without a common head to direct their operations, would have neither the temptation nor the ability to interfere in the political conflicts of the country. Not deriving their charters from the national authorities, they would never have those inducements to meddle in general elections, which have led the Bank of the United States to agitate and convulse the country for upwards of two years."

The increase of the gold currency was a subject of congratulation, and the purification of paper by the suppression of small notes a matter of earnest recommendation with the President—the latter addressed to the people of the States, and every way worthy of their adoption. He said:

"The progress of our gold coinage is creditable to the officers of the mint, and promises in a short period to furnish the country with a sound and portable currency, which will much diminish the inconvenience to travellers of the want of a general paper currency, should the State banks be incapable of furnishing it. Those institutions have already shown themselves competent to purchase and furnish domestic exchange for the convenience of trade, at reasonable rates; and not a doubt is entertained that, in a short period, all the wants of the country, in bank accommodations and exchange, will be supplied as promptly and as cheaply as they have heretofore been by the Bank of the United States. If the several States shall be induced gradually to reform their banking systems, and prohibit the issue of all small notes,

we shall, in a few years, have a currency as sound, and as little liable to fluctuations, as any other commercial country."

The message contained the standing recommendation for reform in the presidential election. The direct vote of the people, the President considered the only safeguard for the purity of that election, on which depended so much of the safe working of the government. The message said:

"I trust that I may be also pardoned for renewing the recommendation I have so often submitted to your attention in regard to the mode of electing the President and Vice-President of the United States. All the reflection I have been able to bestow upon the subject, increases my conviction that the best interests of the country will be promoted by the adoption of some plan which will secure, in all contingencies, that important right of sovereignty to the direct control of the people. Could this be attained, and the terms of those officers be limited to a single period of either four or six years, I think our liberties would possess an additional safeguard."

116. Report Of The Bank Committee

Early in the session the Finance Committee of the Senate, which had been directed to make an examination into the affairs of the Bank of the United States, made their report—an elaborate paper, the reading of which occupied two hours and a half,—for this report was honored with a reading at the Secretary's table, while but few of the reports made by heads of departments, and relating to the affairs of the whole Union, received that honor. It was not only read through, but by its author—Mr. Tyler, the second named of the committee; the first named, or official chairman, Mr. Webster, not having acted on the committee. The report was a most elaborate vindication of the conduct of the bank at all points; but it did not stop at the defence of the institution, but went forward to the crimination of others. It dragged in the names of General Jackson, Mr. Van Buren, and Mr. Benton, laying hold of the circumstance of their having done ordinary acts of duty to their friends and constituents in promoting their application for branch banks, to raise false implications against them as having been in favor of the institution. If such had been the fact, it did not come within the scope of the committee's appointment, nor of the resolution under which they acted, to have reported upon such circumstance: but the implications were untrue; and Mr. Benton being the only one present that had the right of speech, assailed the report the instant it was read—declaring that such things were not to pass uncontradicted for an instant—that the Senate was not to adjourn, or the galleries to disperse without hearing the contradiction. And being thus suddenly called up by a sense of duty to himself and his friends, he would do justice upon the report at once, exposing its numerous fallacies from the moment they appeared in the chamber. He commenced with the imputations upon himself, General Jackson and Mr. Van Buren, and scornfully repulsed the base and gratuitous assumptions which had been made. He said:

"His own name was made to figure in that report—in very good company to be sure, that of President Jackson, Vice-President Van Buren and Mr. senator Grundy. It seems that we have all been detected in something that deserves exposure—in the offence of aiding our respective constituents, or fellow-citizens in obtaining branch banks to be located in our respective States; and upon this detection, the assertion is made that these branches were not extended to these States for political effect, when the charter was nearly run out, but in good faith, and upon our application, to aid the business of the country. Mr. B. said, it was true that he had forwarded a petition from the merchants of St. Louis, about 1826 or '27, soliciting a branch at that place: and he had accompanied it by a letter, as he had been requested to do, sustaining and supporting their request; and bearing the testimony to their characters as men of business and property which the occasion and the truth required. He did this for merchants who were his political enemies, and he did it readily and cordially, as a representative ought to act for his constituents, whether they are for him, or against him, in the elections. So far so good; but the allegation of the report is, that the branch at St. Louis was established upon this petition and this letter, and therefore was not established with political views, but purely and simply for business purposes. Now, said Mr. B., I have a question to put to the senator from Virginia (Mr. Tyler), who has made the report for the committee: It is this: whether the president or directors of the bank had informed him that General Cadwallader had been sent as an agent to St. Louis, to examine the place, and to report upon its ability to sustain a branch?

"Mr. Tyler rose, and said, that he had heard nothing at the bank upon the subject of Gen. Cadwallader having been sent to St. Louis, or any report upon the place being made."

"Then, said Mr. Benton, resuming his speech, the committee has been treated unworthily,—scurvily,—basely,—by the bank! It has been made the instrument to report an untruth to the Senate, and to the American people; and neither the Senate, nor that part of the American people who chance to be in this chamber, shall be permitted to leave their places until that falsehood is exposed.

"Sir, said Mr B., addressing the Vice-President, the president, and directors of the Bank of the United States, upon receiving the merchants' petition, and my letter, *did not send a branch to St. Louis*! They sent an agent there, in the person of General Cadwallader, to examine the place, and to report upon its mercantile capabilities and wants; and upon that report, the decision was made, and made against the request of the merchants, and that upon the ground that the business of the place would not justify the establishment of a branch. The petition from the merchants came to Mr. B. while he was here, in his seat; it was forwarded from this place to Philadelphia; the agent made his visit to St. Louis before he (Mr. B.) returned; and when he got home, in the spring, or summer, the merchants informed him of what had occurred; and that they had received a letter from the directory of the bank, informing them that a branch could not be granted; and there the whole affair, so far as the petition and the letter were concerned, died away. But, said Mr. B., it happened just in that time, that I made my first demonstration—struck my first blow—against the bank; and the next news that I had from the merchants was, that another letter had been received from the bank, without any new petition having been sent, and without any new report upon the business of the place, informing them that the branch was to come! And come it did, and immediately went to work to gain men and presses, to govern the politics of the State, to exclude him (Mr. B.) from re-election to the Senate; and to oppose every candidate, from governor to constable, who was not for the bank. The branch had even furnished a list to the mother bank, through some of its officers, of the names and residences of the active citizens in every part of the State; and to these, and to their great astonishment at the familiarity and condescension of the high directory in Philadelphia, myriads of bank documents were sent, with a minute description of name and place, postage free. At the presidential election of 1832, the State was deluged with these favors. At his own re-elections to the Senate, the two last, the branch bank was in the field against him every where, and in every form; its directors traversing the State, going to the houses of the members of the General Assembly after they were elected, in almost every county, over a State of sixty thousand square miles; and then attending the legislature as lobby members, to oppose him. Of these things Mr. B. had never spoken in public before, nor should he have done it now, had it not been for the falsehood attempted to be palmed upon the Senate through the instrumentality of its committee. But having been driven into it, he would mention another circumstance, which also, he had never named in public before, but which would throw light upon the establishment of the branch in St. Louis, and the kind of business which it had to perform. An immense edition of a review of his speech on the veto message, was circulated through his State on the eve of his last election. It bore the impress of the bank foundry in Philadelphia, and was intended to let the people of Missouri see that he (Mr. B.) was a very unfit person to represent them: and afterwards it was seen from the report of the government directors to the President of the United States, that seventy-five thousand copies of that review were paid for by the Bank of the United States!"

The committee had gone out of their way—departed from the business with which they were charged by the Senate's resolution—to bring up a stale imputation upon Gen. Jackson, for becoming inimical to Mr. Biddle, because he could not make him subservient to his purposes. The imputation was unfounded and gratuitous, and disproved by the journals of the Senate, which bore Gen. Jackson's nomination of Mr. Biddle for government director—and at the head of those directors, thereby indicating him for president of the bank—three several times,

in as many successive years, after the time alleged for this hostility and vindictiveness. This unjustifiable imputation became the immediate, the next point of Mr. Benton's animadversion; and was thus disposed of:

"Mr. B. said there was another thing which must be noticed now, because the proof to confound it was written in our own journals. He alluded to the 'hostility' of the President of the United States to the bank, which made so large a figure in that report. The 'vindictiveness' of the President,—the 'hostility' of the President, was often pressed into the service of that report—which he must be permitted to qualify as an elaborate defence of the bank. Whether used originally, or by quotation, it was the same thing. The quotation from Mr. Duane was made to help out the argument of the committee—to sustain their position—and thereby became their own. The 'vindictiveness' of the President towards the bank, is brought forward with imposing gravity by the committee; and no one is at a loss to understand what is meant! The charge has been made too often not to suggest the whole story as often as it is hinted. The President became hostile to Mr. Biddle, according to this fine story, because he could not manage him! because he could not make him use the institution for political purposes! and hence his revenge, his vindictiveness, his hatred of Mr. Biddle, and his change of sentiment towards the institution. This is the charge which has run through the bank presses for three years, and is alleged to take date from 1829, when an application was made to change the president of the Portsmouth branch. But how stands the truth, recorded upon our own journals? It stands thus: that for three consecutive years after the harboring of this deadly malice against Mr. Biddle, for not managing the institution to suit the President's political wishes—for three years, one after another, with this 'vindictive' hate in his bosom, and this diabolical determination to ruin the institution, he nominates this same Mr. Biddle to the Senate, as one of the government directors, and at the head of those directors! Mr. Biddle and some of his friends with him came in, upon every nomination for three successive years, after vengeance had been sworn against him! For three years afterwards he is not only named a director, but indicated for the presidency of the bank, by being put at the head of those who came recommended by the nomination of the President, and the sanction of the Senate! Thus was he nominated for the years 1830, 1831, and 1832; and it was only after the report of Mr. Clayton's committee of 1832 that the President ceased to nominate Mr. Biddle for government director! Such was the frank, confiding and friendly conduct of the President; while Mr. Biddle, conscious that he did not deserve a nomination at his hands, had himself also elected during each of these years, at the head of the stockholders' ticket. He knew what he was meditating and hatching against the President, though the President did not! What then becomes of the charge faintly shadowed forth by the committee, and publicly and directly made by the bank and its friends? False! False as hell! and no senator can say it without finding the proof of the falsehood recorded in our own journal!"

Mr. Benton next defended Mr. Taney from an unjustifiable and gratuitous assault made upon him by the committee—the more unwarrantable because that gentleman was in retirement—no more in public life—having resigned his place of Secretary of the Treasury the day he was rejected by the Senate. Mr. Taney, in his report upon the removal of the deposits, had repeated, what the government directors and a committee of the House of Representatives had first reported, of the illegal conduct of the bank committee of exchange, in making loans. The fact was true, and as since shown, to a far higher degree than then detected; and the Senate's committee were unjustifiable in defending it. But not satisfied with this defence of a criminal institution against a just accusation, they took the opportunity of casting censure upon Mr. Taney, and gaining a victory over him by making a false issue. Mr. Benton immediately corrected this injustice. He said:

"That he was not now going into a general answer to the report, but he must do justice to an absent gentleman—one of the purest men upon earth, both in public and private life, and who, after the manner he had been treated in this chamber, ought to be secure, in his retirement, from senatorial attack and injustice. The committee have joined a conspicuous issue with Mr. Taney; and they have carried a glorious bank victory over him, by turning off the trial upon a false point. Mr. Taney arraigned the legality of the conduct of the exchange committee, which, overleaping the business of such a committee, which is to buy and sell *real bills of exchange*, had become invested with the power of the whole board; transacting that business which, by the charter, could only be done by the board of directors, and by a board of not less than seven, and which they could not delegate. Yet this committee, of three, selected by the President himself, was shown by the report of the government directors to transact the most important business; such as making immense loans, upon long credits, and upon questionable security; sometimes covering its operations under this simulated garb, and falsified pretext, *of buying a bill of exchange*; sometimes using no disguise at all. It was shown, by the same report, to have the exclusive charge of conducting the curtailment last winter; a business of the most important character to the country, having no manner of affinity to the proper functions of an exchange committee; and which they conducted in the most partial and iniquitous manner; and without even reporting to the board. All this the government directors communicated. All this was commented upon on this floor; yet Mr. Taney is selected! He is the one pitched upon; as if nobody but him had arraigned the illegal acts of this committee; and then he is made to arraign the existence of the committee, and not its misconduct! Is this right? Is it fair? Is it just thus to pursue that gentleman, and to pursue him unjustly? Can the vengeance of the bank never be appeased while he lives and moves on earth?"

After having vindicated the President, the Vice-President, Mr. Grundy, Mr. Taney, and himself, from the unfounded imputations of the committee, so gratuitously presented, so unwarranted in fact, and so foreign to the purpose for which they were appointed, Mr. Benton laid hold of some facts which had come to light for the purpose of showing the misconduct of the bank, and to invalidate the committee's report. The first was the transportation of specie to London while pressing it out of the community here. He said:

"He had performed a duty, which ought not to be delayed an hour, in defending himself, the President, and Mr. Taney, from the sad injustice of that report; the report itself, with all its elaborate pleadings for the bank,—its errors of omission and commission,—would come up for argument after it was printed; and when, with God's blessing, and the help of better hands, he would hope to show that it was the duty of the Senate to recommit it, with instructions to examine witnesses upon oath, and to bring out that secret history of the institution, which seems to have been a sealed book to the committee. For the present, he would bring to light two facts, detected in the intricate mazes of the monthly statements, which would fix at once, both the character of the bank and the character of the report; the bank, for its audacity, wickedness and falsehood; the report, for its blindness, fatuity, and partiality.

"The bank, as all America knows (said Mr. B.), filled the whole country with the endless cry which had been echoed and re-echoed from this chamber, that the removal of the deposits had laid her under the necessity of curtailing her debts; had compelled her to call in her loans, to fill the vacuum in her coffers produced by this removal; and thus to enable herself to stand the pressure which the 'hostility' of the government was bringing upon her. This was the assertion for six long months; and now let facts confront this assertion, and reveal the truth to an outraged and insulted community.

“The first fact” (said Mr. B.), is the transfer of the moneys to London, to lie there idle, while squeezed out of the people here during the panic and pressure.

“The cry of distress was raised in December, at the meeting of Congress; and during that month the sum of $129,764 was transferred by the bank to its agents, the Barings. This cry waxed stronger till July, and until that time the monthly transfers were:

December,

$129,764

February,

355,253

March,

261,543

May,

34,749

June,

2,142,054

July,

501,950

$3,425,313

Making the sum of near three millions and a half transferred to London, to lie idle in the hands of an agent, while that very money was squeezed out of a few cities here; and the whole country, and the halls of Congress, were filled with the deafening din of the cry, that the bank was forced to curtail, to supply the loss in her own coffers from the removal of the deposits! And, worse yet! The bank had, in the hands of the same agents, a large sum when the transfers of these panic collections began; making in the whole, the sum of $4,261,201, on the first day of July last, which was lying idle in her agents’ hands in London, drawing little or no interest there, while squeezed out of the hands of those who were paying bank interest here, near seven per cent.; and had afterwards to go into brokers’ hands to borrow at one or two per cent. a month. Even now, at the last returns on the first day of this month, about two millions and a half of this money ($2,678,006) was still lying idle in the hands of the Barings! waiting till foreign exchange can be put up again to eight or ten per cent. The enormity of this conduct, Mr. B. said, was aggravated by the notorious fact, that the transfers of this money were made by sinking the price of exchange as low as five per cent. below par, when shippers and planters had bills to sell; and raising it eight per cent. above par when merchants and importers had to buy; thus double taxing the commerce of the country—double taxing the producer and consumer—and making a fluctuation of thirteen per cent. in foreign exchange, in the brief space of six months. And all this to make money scarce at home while charging that scarcity upon the President! Thus combining calumny and stock-jobbing with the diabolical attempt to ruin the country, or to rule it.”

The next glaring fact which showed the enormous culpability of the bank in making the pressure and distress, was the abduction of about a million and a quarter of hard dollars from New Orleans, while distressing the business community there by refusal of discounts and the curtailment of loans, under pretence of making up what she lost there by the removal of the deposits. The fact of the abduction was detected in the monthly reports still made to the

Secretary of the Treasury, and was full proof of the wantonness and wickedness of the pressure, as the amount thus squeezed out of the community was immediately transferred to Philadelphia or New-York; to be thence shipped to London. Mr. Benton thus exposed this iniquity:

“The next fact, Mr. B. said, was the abduction of an immense amount of specie from New Orleans, at the moment the Western produce was arriving there; and thus disabling the merchants from buying that produce, and thereby sinking its price nearly one half; and all under the false pretext of supplying the loss in its coffers, occasioned by the removal of the deposits.

“The falsehood and wickedness of this conduct will appear from the fact, that, at the time of the removal of the deposits, in October, the public deposits, in the New Orleans branch, were far less than the amount afterwards curtailed, and sent off; and that these deposits were not entirely drawn out, for many months after the curtailment and abduction of the money. Thus, the public deposits, in October, were:

“In the name of the Treasurer

of the United States,

$294,228 62

“In the name of public officers,

173,764 64

$467,993 26

“In all, less than half a million of dollars.

“In March, there was still on hand:

“In the name of the Treasurer,

$40,266 28

“In the name of public officers,

63,671 80

$103,938 08

“In all, upwards of one hundred thousand dollars; and making the actual withdrawal of deposits, at that branch, but $360,000, and that paid out gradually, in the discharge of government demands.

“Now, what was the actual curtailment, during the same period? It is shown from the monthly statements, that these curtailments, on local loans, were $788,904; being upwards of double the amount of deposits, miscalled *removed*; for they were not removed; but only paid out in the regular progress of government disbursement, and actually remaining in the mass of circulation, and much of it in the bank itself. But the specie removed during the same time! that was the fact, the damning fact, upon which he relied. This abduction was:

“In the month of November,

$334,647

}

“In the month of March,

808,084

}*at the least*

$1,142,731

“Making near a million and a quarter of dollars, at the least. Mr. B. repeated, at the least; for a monthly statement does not show the accumulation of the month which might also be sent off; and the statement could only be relied on for so much as appeared a month before the abduction was made. Probably the sum was upwards of a million and a quarter of hard dollars, thus taken away from New Orleans last winter, by stopping accommodations, calling in loans, breaking up domestic exchange, creating panic and pressure, and sinking the price of all produce; that the mother bank might transfer funds to London, gamble in foreign exchange, spread desolation and terror through the land; and then charge the whole upon the President of the United States; and end with the grand consummation of bringing a new political party into power, and perpetuating its own charter.”

Mr. Benton commented on the barefacedness of running out an immense line of discounts, so soon done after the rise of the last session of Congress, and so suddenly, that the friends of the bank, in remote places, not having had time to be informed of the “reversal of the bank screws,” were still in full chorus, justifying the curtailment; and concluded with denouncing the report as *ex parte*, and remarking upon the success of the committee in finding what they were not sent to look for, and not finding what they ought to have found. He said:

“These are some of the astounding iniquities which have escaped the eyes of the committee, while they have been so successful in their antiquarian researches into Andrew Jackson’s and Felix Grundy’s letters, ten or twenty years ago, and into Martin Van Buren’s and Thomas H. Benton’s, six or eight years ago; letters which every public man is called upon to give to his neighbors, or constituents; which no public man ought to refuse, or, in all probability ever did refuse; and which are so ostentatiously paraded in the report, and so emphatically read in this chamber, with pause and gesture; and with such a sympathetic look for the expected smile from the friends of the bank; letters which, so far as he was concerned, had been used to make the committee the organ of a falsehood. And now, Mr. B. would be glad to know, who put the committee on the scent of those old musty letters; for there was nothing in the resolution, under which they acted, to conduct their footsteps to the silent covert of that small game.”

Mr. Tyler made a brief reply, in defence of the report of the committee, in which he said:

“The senator from Missouri had denominated the report ‘an elaborate defence of the bank.’ He had said that it justified the bank in its course of curtailment, during the last winter and the early part of the summer. Sir, if the honorable senator had paid more attention to the reading, or had waited to have it in print, he would not have hazarded such a declaration. He would have perceived that that whole question was submitted to the decision of the Senate. The committee had presented both sides of the question—the view most favorable, and that most unfavorable, to the institution. It exhibited the measures of the Executive and those of the bank consequent upon them, on the one side, and the available resources of the bank on the other. The fact that its circulation of $19,000,000 was protected by specie to the amount of $10,000,000, and claims on the State banks exceeding $2,000,000, which were equal to specie—that its purchase of domestic exchange had so declined, from May to October, as to place at its disposal more than $5,000,000; something more than a doubt is expressed whether, under ordinary circumstances, the bank would have been justified in curtailing its discounts. So, too, in regard to a perseverance in its measures of precaution as long as it did, a summary of facts is given to enable the Senate to decide upon the propriety of the course pursued by the bank. The effort of the committee has been to present these subjects fairly to

the Senate and the country. They have sought ‘nothing to extenuate,’ nor have they ‘set down ought in malice.’ The statements are presented to the senator, for his calm and deliberate consideration—to each senator, to be weighed as becomes his high station. And what is the course of the honorable senator? The moment he (Mr. T.) could return to his seat from the Clerk’s table, the gentleman pounces upon the report, and makes assertions which a careful perusal of it would cause him to know it does not contain. On one subject, the controversy relative to the bill of exchange, and the damages consequent on its protest, the committee had expressed the opinion, that the government was in error, and he, as a member of that committee, would declare his own conviction that that opinion was sound and maintainable before any fair and impartial tribunal in the world. Certain persons started back with alarm, at the mere mention of a court of justice. The trial by jury had become hateful in their eyes. The great principles of *magna charta* are to be overlooked, and the declarations contained in the bill of rights are become too old-fashioned to be valuable. Popular prejudices are to be addressed, and instead of an appeal to the calm judgment of mankind, every lurking prejudice is to be awakened, because a corporation, or a set of individuals, have believed themselves wronged by the accounting officers of the treasury, and have had the temerity and impudence to take a course calculated to bring their rights before the forum of the courts. Let those who see cause to pursue this course rejoice as they may please, and exult in the success which attends it. For one, I renounce it as unworthy American statesmen. The committee had addressed a sober and temperate but firm argument, upon this subject, to the Senate; and, standing in the presence of that august body, and before the whole American people, he rested upon that argument for the truth of the opinion advanced. An opinion, for the honesty of which, on his own part, he would avouch, after the most solemn manner, under the unutterable obligations he was under to his Creator.

“The senator had also spoken in strong language as to that part of the report which related to the committee of exchange. He had said that a false issue had been presented—that the late Secretary of the Treasury (Mr. Taney) had never contended that the bank had no right to appoint a committee of exchange—that such a committee was appointed by all banks. In this last declaration the gentleman is correct. All banks have a committee to purchase exchange. But Mr. T. would admonish the gentleman to beware. He would find himself condemning him whom he wished to defend. Mr. Taney’s very language is quoted in the report. He places the violation of the charter distinctly on the ground that the business of the bank is intrusted to three members on the exchange committee, when the charter requires that not less than seven shall constitute a board to do business. His very words are given in the report, so that he cannot be misunderstood; and the commentary of the committee consists in a mere narrative of facts. Little more is done than to give facts, and the honorable senator takes the alarm; and, in his effort to rescue the late Secretary from their influence, plunges him still deeper into difficulty.

“The senator had loudly talked of the committee having been made an instrument of, by the bank. For himself, he renounced the ascription. He would tell the honorable senator that he could not be made an instrument of by the bank, or by a still greater and more formidable power, the administration. He stood upon that floor to accomplish the purposes for which he was sent there. In the consciousness of his own honesty, he stood firm and erect. He would worship alone at the shrine of truth and of honor. It was a precious thing, in the eyes of some men, to bask in the sunshine of power. He rested only upon the support, which had never failed him, of the high and lofty feelings of his constituents. He would not be an instrument even in their hands, if it were possible for them to require it of him, to gratify an unrighteous motive.”

117. French Spoliations Before 1800

These claims had acquired an imposing aspect by this time. They were called “prior” to the year 1800; but how much prior was not shown, and they might reach back to the establishment of our independence. Their payment by the United States rested upon assumptions which constituted the basis of the demand, and on which the bill was framed. It assumed, *first*—That illegal seizures, detentions, captures, condemnations, and confiscations were made of the vessels and property of citizens of the United States before the period mentioned. *Secondly*—That these acts were committed by such orders and under such circumstances, as gave the sufferers a right to indemnity from the French government. *Thirdly*—That these claims had been annulled by the United States for public considerations. *Fourthly*—That this annulment gave these sufferers a just claim upon the United States for the amount of their losses. Upon these four assumptions the bill rested—some of them disputable in point of fact, and others in point of law. Of these latter was the assumption of the liability of the United States to become paymasters themselves in cases where failing, by war or negotiation, to obtain redress they make a treaty settlement, surrendering or abandoning claims. This is an assumption contrary to reason and law. Every nation is bound to give protection to the persons and property of their citizens; but the government is the judge of the measure and degree of that protection; and is not bound to treat for ever, or to fight for ever, to obtain such redress. After having done its best for the indemnity of some individuals, it is bound to consider what is due to the whole community—and to act accordingly; and the unredressed citizens have to put up with their losses if abandoned at the general settlement which, sooner or later, must terminate all national controversies. All this was well stated by Mr. Bibb, of Kentucky, in a speech on these French claims upon the bill of the present year. He said:

“He was well aware that the interests of individuals ought to be supported by their governments to a certain degree, but he did not think that governments were bound to push such interest to the extremity of war—he did not admit that the rights of the whole were to be jeoparded by the claims of individuals—the safety of the community was paramount to the claims of private citizens. He would proceed to see if the interests of our citizens had been neglected by this government. These claims have been urged from year to year, with all the earnestness and zeal due from the nation. But they went on from bad to worse, till negotiations were in vain. We then assumed a hostile position. During the year ‘98, more than twenty laws were passed by Congress upon this very subject—some for raising troops—some for providing arms and munitions of war—some for fitting out a naval force, and so on. Was this neglecting the claims of our citizens? We went as far as the interests of the nation would permit. We prosecuted these claims to the very verge of plunging into that dreadful war then desolating Europe. The government then issued its proclamation of neutrality and non-intercourse. Mr. B. next proceeded to show that France had no just claims upon us, arising from the guaranty. This guaranty against France was not considered binding, even by France herself, any further than was consistent with our relations with other nations; that it was so declared by her minister; and, moreover, that she acknowledged the justice of our neutrality. These treaties had been violated by France, and the United States could not surely be bound by treaties which she had herself violated; and consequently, we were under no obligation on account of the guaranty. Mr. B. went on to show that, by the terms of the treaty of 1800, the debts due to our citizens had not been relinquished:—that as the guaranty did not exist, and as the claims had not been abandoned, Mr. B. concluded that these claims ought not to be paid by this government. He was opposed to going back thirty-four years to sit in judgment on the

constituted authorities of that time. There should be a stability in the government, and he was not disposed to question the judgment of the man (Washington) who has justly been called the first in war and the first in peace. We are sitting here to rejudge the decisions of the government thirty-four years since."

This is well stated, and the conclusion just and logical, that we ought not to go back thirty-four years to call in question the judgment of Washington's administration. He was looking to the latest date of the claims when he said thirty-four years, which surely was enough; but Washington's decision in his proclamation of neutrality was seven years before that time; and the claims themselves have the year 1800 for their period of limitation—not of commencement, which was many years before. This doctrine of governmental liability when abandoning the claims of citizens for which indemnity could not be obtained, is unknown in other countries, and was unknown in ours in the earlier ages of the government. There was a case of this abandonment in our early history which rested upon no "assumption" of fact, but on the fact itself; and in which no attempt was made to enforce the novel doctrine. It was the case of the slaves carried off by the British troops at the close of the Revolutionary War, and for which indemnity was stipulated in the treaty of peace. Great Britain refused that indemnity; and after vain efforts to obtain it by the Congress of the confederation, and afterwards under Washington's administration, this claim of indemnity, no longer resting upon a claim of the sufferers, but upon a treaty stipulation—upon an article in a treaty for their benefit—was abandoned to obtain a general advantage for the whole community in the commercial treaty with Great Britain. As these claims for French spoliations are still continued (1850), I give some of the speeches for and against them fifteen years ago, believing that they present the strength of the argument on both sides. The opening speech of Mr. Webster presented the case:

"He should content himself with stating very briefly an outline of the grounds on which these claims are supposed to rest, and then leave the subject to the consideration of the Senate. He, however, should be happy, in the course of the debate, to make such explanations as might be called for. It would be seen that the bill proposed to make satisfaction, to an amount not exceeding five millions of dollars, to such citizens of the United States, or their legal representatives, as had valid claims for indemnity on the French government, rising out of illegal captures, detentions, and condemnations, made or committed on their property prior to the 30th day of September, 1800. This bill supposed two or three leading propositions to be true.

"It supposed, in the first place, that illegal seizures, detentions, captures, condemnations, and confiscations, were made, of the vessels and property of the citizens of the United States, before the 30th September, 1800.

"It supposed, in the second place, that these acts of wrong were committed by such orders and under such circumstances, as that the sufferers had a just right and claim for indemnity from the hands of the government of France.

"Going on these two propositions, the bill assumed one other, and that was, that all such claims on France as came within a prescribed period, or down to a prescribed period, had been annulled by the United States, and that this gave them a right to claim indemnity from this government. It supposed a liability in justice, in fairness and equity, on the part of this government, to make the indemnity. These were the grounds on which the bill was framed. That there were many such confiscations no one doubted, and many such acts of wrong as were mentioned in the first section of the bill. That they were committed by Frenchmen, and under such circumstances as gave those who suffered wrong an unquestionable right to claim indemnity from the French government, nobody, he supposed, at this day, would question.

There were two questions which might be made the subject of discussion, and two only occurred to him at that moment. The one was, ‘On what ground was the government of the United States answerable to any extent for the injury done to these claimants?’ The other, ‘To what extent was the government in justice bound?’ And *first*—of the first. ‘Why was it that the government of the United States had become responsible in law or equity to its citizens, for the claims—for any indemnity for the wrongs committed on their commerce by the subjects of France before 1800?’

“To this question there was an answer, which, whether satisfactory or not, had at least the merit of being a very short one. It was, that, by a treaty between France and the United States, bearing date the 30th of September, 1800, in a political capacity, the government of the United States discharged and released the government of France from this indemnity. It went upon the ground, which was sustained by all the correspondence which had preceded the treaty of 1800, that the disputes arising between the two countries should be settled by a negotiation. And claims and pretensions having been asserted on either side, commissioners on the part of the United States were sent out to assert and maintain the claims of indemnity which they demanded; while commissioners appointed on the part of France asserted a claim to the full extent of the stipulations made in ‘78, which they said the United States had promised to fulfil, and in order to carry into effect the treaty of alliance of the same date, viz.: February, 1778.

“The negotiation ultimately terminated, and a treaty was finally ratified upon the terms and conditions of an offset of the respective claims against each other, and for ever; so that the United States government, by the surrender and discharge of these claims of its citizens, had made this surrender to the French government to obtain for itself a discharge from the onerous liabilities imposed upon them by the treaty of 1778, and in order to escape from fulfilling other stipulations proclaimed in the treaty of commerce of that year, and which, if not fulfilled, might have brought about a war with France. This was the ground on which these claims rested.

“Heretofore, when the subject had been before Congress, gentlemen had taken this view of the case; and he believed there was a report presented to the Senate at the time, which set forth that the claims of our citizens, being left open, the United States had done these claimants no injury, and that it did not exempt the government of France from liability.”

Mr. Wright, of New-York, spoke fully against the bill, and upon a close view of all the facts of the case and all the law of the case as growing out of treaties or found in the law of nations. His speech was not only a masterly argument, but an historical monument, going back to the first treaty with France in 1778, and coming down through our legislation and diplomacy on French questions to the time of its delivery. A separate chapter is due to this great speech; and it will be given entire in the next one.

118. French Spoliations: Speech Of Mr. Wright, Of New-York

“Mr. Wright understood the friends of this bill to put its merits upon the single and distinct ground that the government of the United States had released France from the payment of the claims for a consideration, passing directly to the benefit of our government, and fully equal in value to the claims themselves. Mr. W. said he should argue the several questions presented, upon the supposition that this was the extent to which the friends of the bill had gone, or were disposed to go, in claiming a liability on the part of the United States to pay the claimants; and, thus understood, he was ready to proceed to an examination of the strength of this position.

“His first duty, then, was to examine the relations existing between France and the United States prior to the commencement of the disturbances out of which these claims have arisen; and the discharge of this duty would compel a dry and uninteresting reference to the several treaties which, at that period, governed those relations.

“The seventeenth article of the treaty of amity and commerce of the 6th February, 1778, was the first of these references, and that article was in the following words:

“‘*Art. 17.* It shall be lawful for the ships of war of either party, and privateers, freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the admiralty or any other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers or other officers of those places search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show; on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather, or the danger of the sea, all proper means shall be vigorously used, that they go out and retire from thence as soon as possible.’

“This article, Mr. W. said, would be found to be one of the most material of all the stipulations between the two nations, in an examination of the diplomatic correspondence during the whole period of the disturbances, from the breaking out of the war between France and England, in 1793, until the treaty of the 30th September, 1800. The privileges claimed by France, and the exclusions she insisted on as applicable to the other belligerent Powers, were fruitful sources of complaint on both sides, and constituted many material points of disagreement between the two nations through this entire interval. What these claims were on the part of France, and how far they were admitted by the United States, and how far controverted, will, Mr. W. said, be more properly considered in another part of the argument. As connected, however, with this branch of the relations, he thought it necessary to refer to the twenty-second article of the same treaty, which was in the following words:

“‘*Art. 22.* It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States, who have commissions from any other prince or State in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties, to sell what they have taken, or in any other manner whatsoever to exchange their ships, merchandises, or any other lading; neither shall they be

allowed even to purchase victuals, except such as shall be necessary for their going to the next port of that prince or State from which they have commissions.'

"Mr. W. said he now passed to a different branch of the relations between the two countries, as established by this treaty of amity and commerce, which was the reciprocal right of either to carry on a free trade with the enemies of the other, restricted only by the stipulations of the same treaty in relation to articles to be considered contraband of war. This reciprocal right is defined in the twenty-third article of the treaty, which is in the words following:

"'*Art. 23.* It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the Most Christian King, or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemies.'

"The restrictions as to articles to be held between the two nations as contraband of war, Mr. W. said, were to be found in the twenty-fourth article of this same treaty of amity and commerce, and were as follows:

"'*Art.* 24. This liberty of navigation and commerce shall extend to all kinds of merchandises, excepting those only which are distinguished by the name of contraband, and under this name of contraband, or prohibited goods, shall be comprehended arms, great guns, bombs, with fuses and other things belonging to them, cannon ball, gunpowder, match, pikes, swords, lances, spears, halberds, mortars, petards, grenades, saltpetre, muskets, musket ball, helmets, breastplates, coats of mail, and the like kinds of arms proper for arming soldiers, musket rests, belts, horses with their furniture, and all other warlike instruments whatever. These merchandises which follow shall not be reckoned among contraband or prohibited goods; that is to say, all sorts of cloths, and all other manufactures woven of any wool, flax, silk, cotton, or any other material whatever; all kinds of wearing apparel, together with the species whereof they are used to be made; gold and silver, as well coined as uncoined: tin, iron, latten, copper, brass, coals; as also wheat and barley, and any other kind of corn and pulse: tobacco, and likewise all manner of spices; salted and smoked flesh, salted fish, cheese, and butter, beer, oils, wines, sugars, and all sorts of salts; and, in general, all provisions which serve for the nourishment of mankind, and the sustenance of life; furthermore, all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloths, anchors, and any part of anchors, also ships' masts, planks, boards, and beams, of what trees soever; and all other things proper either for building or repairing ships, and all other goods whatever which have not been worked into the form of any instrument or thing prepared for war by land or by sea, shall not be reputed contraband, much less such as have been already wrought and made up for any

other use; all which shall be wholly reckoned among free goods; as likewise all other merchandises and things which are not comprehended and particularly mentioned in the foregoing enumeration of contraband goods, so that they may be transported and carried in the freest manner by the subjects of both confederates, even to the places belonging to an enemy, such towns or places being only excepted as are at that time besieged, blocked up, or invested.'

"Mr. W. said this closed his references to this treaty, with the remark, which he wished carefully borne in mind, that the accepted public law was greatly departed from in this last article. Provisions, in their broadest sense, materials for ships, rigging for ships, and indeed almost all the articles of trade mentioned in the long exception in the article of the treaty, were articles contraband of war by the law of nations. This article, therefore, placed our commerce with France upon a footing widely different, in case of a war between France and any third power, from the rules which would regulate that commerce with the other belligerent, with whom we might not have a similar commercial treaty. Such was its effect as compared with our relations with England, with which power we had no commercial treaty whatever, but depended upon the law of nations as our commercial rule and standard of intercourse.

"Mr. W. said he now passed to the treaty of alliance between France and the United States, of the same date with the treaty of amity and commerce before referred to, and his first reference was to the 11th article of this latter treaty. It was in the following words:

"'*Art.* 11. The two parties guarantee mutually from the present time, and for ever, against all other powers, to wit: The United States to His Most Christian Majesty the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace: And His Most Christian Majesty guarantees on his part to the United States, their liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests that their confederation may obtain during the war, from any of the dominions now or heretofore possessed by Great Britain in North America, conformable to the fifth and sixth articles above written, the whole as their possessions shall be fixed and assured to the said States at the moment of the cessation of their present war with England.'

"This article, Mr. W. said, was the most important reference he had made, or could make, so far as the claims provided for by this bill were concerned, because he understood the friends of the bill to derive the principal consideration to the United States, which created their liability to pay the claims, from the guaranty on the part of the United States contained in it. The Senate would see that the article was a mutual and reciprocal guaranty, 1st. On the part of the United States to France, of her possessions in America; and 2d. On the part of France to the United States, of their 'liberty, sovereignity, and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions,' &c.; and that the respective guarantees were 'for ever.' It would by-and-by appear in what manner this guaranty on the part of our government was claimed to be the foundation for this pecuniary responsibility for millions, but at present he must complete his references to the treaties which formed the law between the two nations, and the rule of their relations to and with each other. He had but one more article to read, and that was important only as it went to define the one last cited. This was the 12th article of the treaty of alliance, and was as follows:

"'*Art.* 12. In order to fix more precisely the sense and application of the preceding article, the contracting parties declare that, in case of a rupture between France and England, the reciprocal guaranty declared in the said article shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of

the said guaranty shall not commence until the moment of the cessation of the present war between the United States and England shall have ascertained their possessions.'

"These, said Mr. W., are the treaty stipulations between France and the United States, existing at the time of the commencement of the disturbances between the two countries, which gave rise to the claims now the subject of consideration, and which seem to bear most materially upon the points in issue. There were other provisions in the treaties between the two governments more or less applicable to the present discussion, but, in the course he had marked out for himself, a reference to them was not indispensable, and he was not disposed to occupy the time or weary the patience of the Senate with more of these dry documentary quotations than he found absolutely essential to a full and clear understanding of the points he proposed to examine.

"Mr. W. said he was now ready to present the origin of the claims which formed the subject of the bill. The war between France and England broke out, according to his recollection, late in the year 1792, or early in the year 1793, and the United States resolved upon preserving the same neutral position between those belligerents, which they had assumed at the commencement of the war between France and certain other European powers. This neutrality on the part of the United States seemed to be acceptable to the then French Republic, and her minister in the United States and her diplomatic agents at home were free and distinct in their expressions to this effect.

"Still that Republic made broad claims under the 17th article of the treaty of amity and commerce before quoted, and her minister here assumed the right to purchase ships, arm them as privateers in our ports, commission officers for them, enlist our own citizens to man them and, thus prepared, to send them from our ports to cruise against English vessels upon our coast. Many prizes were made, which were brought into our ports, submitted to the admiralty jurisdiction conferred by the French Republic upon her consuls in the United States, condemned, and the captured vessels and cargoes exposed for sale in our markets. These practices were immediately and earnestly complained of by the British government as violations of the neutrality which our government had declared, and which we assumed to maintain in regard to all the belligerents, as favors granted to one of the belligerents, not demandable of right under our treaties with France, and as wholly inconsistent, according to the rules of international law, with our continuance as a neutral power. Our government so far yielded to these complaints as to prohibit the French from fitting out, arming, equipping, or commissioning privateers in our ports, and from enlisting our citizens to bear arms under the French flag.

"This decision of the rights of France, under the treaty of amity and commerce, produced warm remonstrances from her minister in the United States, but was finally ostensibly acquiesced in by the Republic, although constant complaints of evasions and violations of the rule continued to harass our government, and to occupy the attention of the respective diplomatists.

"The exclusive privilege of our ports for her armed vessels, privateers, and their prizes, granted to France by the treaty of amity and commerce, as has before been seen, excited the jealousy of England, and she was not slow in sending a portion of her vast navy to line our coast and block up our ports and harbors. The insolence of power induced some of her armed vessels to enter our ports, and to remain, in violation of our treaty with France, though not by the consent of our government, or when we had the power to enforce the treaty by their ejection. These incidents, however, did not fail to form the subject of new charges from the French ministers, of bad faith on our part, of partiality to England to the prejudice of our old and faithful ally, of permitted violations of the treaties, and of an inefficiency and want of

zeal in the performance of our duties as neutrals. To give point to these complaints, some few instances occurred in which British vessels brought their prizes into our ports, whether in all cases under those casualties of stress of weather, or the dangers of the sea, which rendered the act in conformity with the treaties and the law of nations or not, is not perhaps very certain or very material, inasmuch as the spirit of complaint seems to have taken possession of the French negotiators, and these acts gave colorable ground to their remonstrances.

"Contemporaneously with these grounds of misunderstanding and these collisions of interest between the belligerents, and between the interests of either of them and the preservation of our neutrality, the French began to discover the disadvantages to them, and the great advantages to the British, of the different rules which governed the commerce between the two nations and the United States. The rule between us and France was the commercial treaty of which the articles above quoted form a part, and the rule between us and Great Britain, was that laid down by the law of nations. Mr. W. said he would detain the Senate to point out but two of the differences between these rules of commerce and intercourse, because upon these two principally depended the difficulties which followed. The first was, that, by the treaty between us and France, 'free ships shall also give a freedom to the goods; and every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemy of either, contraband goods being always excepted;' while the law of nations, which was the rule between us and England, made the goods of an enemy a lawful prize, though found in the vessel of a friend. Hence it followed that French property on board of an American vessel was subject to capture by British cruisers without indignity to our flag, or a violation to international law, while British property on board of an American vessel could not be captured by a French vessel without an insult to the flag of the United States, and a direct violation of the twenty-third article of the treaty of amity and commerce between us and France, before referred to.

"Mr. W. said the second instance of disadvantage to France which he proposed to mention, was the great difference between the articles made contraband of war by the twenty-fourth article of the treaty of amity and commerce, before read to the Senate, and by the law of nations. By the treaty, provisions of all kinds, ship timber, ship tackle (guns only excepted), and a large list of other articles of trade and commerce, were declared not to be contraband of war, while the same articles are expressly made contraband by the law of nations. Hence an American vessel, clearing for a French port with a cargo of provisions or ship stores, was lawful prize to a British cruiser, as, by the law of nations, carrying articles contraband of war to an enemy, while the same vessel, clearing for a British port, with the same cargo, could not be captured by a French vessel, because the treaty declared that the articles composing the cargo should not be contraband as between the United States and France. Mr. W. said the Senate would see, at a single glance, how eminently these two advantages on the part of Great Britain were calculated to turn our commerce to her ports, where, if the treaty between us and France was observed, our vessels could go in perfect safety, while, laden with provisions, our only considerable export, and destined for a French port, they were liable to capture, as carrying to an enemy contraband articles. Upon their return, too, they were equally out of danger from French cruisers, as, by the treaty, free ships made free the goods on board; while, if they cleared from a port in France with a French cargo, they were lawful prize to the British, upon the principle of the law of nations, that the goods of an enemy are lawful prize, even when found in the vessel of a friend.

"Both nations were in constant and urgent want of provisions from the United States; and this double advantage to England of having her ports open and free to our vessels, and of possessing the right to capture those bound to French ports, exasperated the French Republic

beyond endurance. Her ministers remonstrated with our government, controverted our construction of British rights, again renewed the accusations of partiality, and finally threw off the obligations of the treaty; and, by a solemn decree of their authorities at home, established the rule which governed the practice of the British cruisers. France, assuming to believe that the United States permitted the neutrality of her flag to be violated by the British, without resistance, declared that she would treat the flag of all neutral vessels as that flag should permit itself to be treated by the other belligerents. This opened our commerce to the almost indiscriminate plunder and depredation of all the powers at war, and but for the want of the provisions of the United States, which was too strongly felt both in England and France not to govern, in a great degree, the policy of the two nations, it would seem probable, from the documentary history of the period, that it must have been swept from the ocean. Impelled by this want, however, the British adopted the rule, at an early day, that the provisions captured, although in a strict legal sense forfeited, as being by the law of nations contraband, should not be confiscated, but carried into English ports, and paid for, at the market price of the same provisions, at the port of their destination. The same want compelled the French, when they came to the conclusion to lay aside the obligations of the treaty, and to govern themselves, not by solemn compacts with friendly powers, but by the standards of wrong adopted by their enemies, to adopt also the same rule, and instead of confiscating the cargo as contraband of war, if provisions, to decree a compensation graduated by the market value at the port of destination.

“Such, said Mr. W., is a succinct view of the disturbances between France and the United States, and between France and Great Britain, out of which grew what are now called the French claims for spoliations upon our commerce, prior to the 30th of September, 1800. Other subjects of difference might have had a remote influence; but, Mr. W. said, he believed it would be admitted by all, that those he had named were the principal, and might be assumed as having given rise to the commercial irregularities in which the claims commenced. This state of things, without material change, continued until the year 1798, when our government adopted a course of measures intended to suspend our intercourse with France, until she should be brought to respect our rights. These measures were persevered in by the United States, up to September, 1800, and were terminated by the treaty between the two nations of the 30th of that month. Here, too, terminated claims which now occupy the attention of the Senate.

“As it was the object of the claimants to show a liability, on the part of our government, to pay their claims, and the bill under discussion assumed that liability, and provided, in part at least, for the payment, Mr. W. said it became his duty to inquire what the government had done to obtain indemnity for these claimants from France, and to see whether negligence on its part had furnished equitable or legal ground for the institution of this large claim upon the national treasury. The period of time covered by the claims, as he understood the subject, was from the breaking out of the war between France and England, in 1793, to the signing of the treaty between France and the United States, in September, 1800; and he would consider the efforts the government had made to obtain indemnity:

“1st. From 1793 to 1798.

“2d. From 1798 to the treaty of the 30th September, 1800.

“During the first period, Mr. W. said, these efforts were confined to negotiation, and he felt safe in the assertion that, during no equal period in the history of our government, could there be found such untiring and unremitted exertions to obtain justice for citizens who had been injured in their properties by the unlawful acts of a foreign power. Any one who would read the mass of diplomatic correspondence between this government and France, from 1793 to

1798, and who would mark the frequent and extraordinary missions, bearing constantly in mind that the recovery of these claims was the only ground upon our part for the whole negotiation, would find it difficult to say where negligence towards the rights and interests of its citizens is imputable to the government of the United States, during this period. He was not aware that such an imputation had been or would be made; but sure he was that it could not be made with justice, or sustained by the facts upon the record. No liability, therefore, equitable or legal, had been incurred, up to the year 1798.

"And if, said Mr. W., negligence is not imputable, prior to 1798, and no liability had then been incurred, how is it for the second period, from 1798 to 1800? The efforts of the former period were negotiation—constant, earnest, extraordinary negotiation. What were they for the latter period? His answer was, war; actual, open war; and he believed the statute book of the United States would justify him in the position. He was well aware that this point would be strenuously controverted, because the friends of the bill would admit that, if a state of war between the two countries did exist, it put an end to claims existing prior to the war, and not provided for in the treaty of peace, as well as to all pretence for claims to indemnity for injuries to our commerce, committed by our enemy in time of war. Mr. W. said he had found the evidences so numerous, to establish his position that a state of actual war did exist, that he had been quite at a loss from what portion of the testimony of record to make his selections, so as to establish the fact beyond reasonable dispute, and at the same time not to weary the Senate by tedious references to laws and documents. He had finally concluded to confine himself exclusively to the statute book, as the highest possible evidence, as in his judgment entirely conclusive, and as being susceptible of an arrangement and condensation which would convey to the Senate the whole material evidence, in a satisfactory manner, and in less compass than the proofs to be drawn from any other source. He had, therefore, made a very brief abstract of a few statutes, which he would read in his place:

"By an act of the 28th May, 1798, Congress authorized the capture of all armed vessels of France which had committed depredations upon our commerce, or which should be found hovering upon our coast for the purpose of committing such depredations.

"By an act of the 13th June, 1798, only sixteen days after the passage of the former act, Congress prohibited all vessels of the United States from visiting any of the ports of France or her dependencies, under the penalty of forfeiture of vessel and cargo; required every vessel clearing for a foreign port to give bonds (the owner, or factor and master) in the amount of the vessel and cargo, and good sureties in half that amount, conditioned that the vessel to which the clearance was to be granted, would not, voluntarily, visit any port of France or her dependencies; and prohibited all vessels of France, armed or unarmed, or owned, fitted, hired, or employed, by any person resident within the territory of the French Republic, or its dependencies, or sailing or coming therefrom, from entering or remaining in any port of the United States, unless permitted by the President, by special passport, to be granted by him in each case.

"By an act of the 25th June, 1798, only twelve days after the passage of the last-mentioned act, Congress authorized the merchant vessels of the United States to arm, and to defend themselves against any search, restraint, or seizure, by vessels sailing under French colors, to repel force by force to capture any French vessel attempting a search, restraint, or seizure, and to recapture any American merchant vessel which had been captured by the French.

"Here, Mr. W. said, he felt constrained to make a remark upon the character of these several acts of Congress, and to call the attention of the Senate to their peculiar adaptation to the measures which speedily followed in future acts of the national legislature. The first, authorizing the capture of French armed vessels, was peculiarly calculated to put in martial

preparation all the navy which the United States then possessed, and to spread it upon our coast. The second, establishing a perfect non-intercourse with France, was sure to call home our merchant vessels from that country and her dependencies, to confine within our own ports those vessels intended for commerce with France, and thus to withdraw from the reach of the French cruisers a large portion of the ships and property of our citizens. The third, authorizing our merchantmen to arm, was the greatest inducement the government could give to its citizens to arm our whole commercial marine, and was sure to put in warlike preparation as great a portion of our merchant vessels as a desire of self-defence, patriotism, or cupidity, would arm. Could measures more eminently calculated to prepare the country for a state of war have been devised or adopted? Was this the intention of those measures, on the part of the government, and was that intention carried out into action? Mr. W. said he would let the subsequent acts of the Congress of the United States answer; and for that purpose, he would proceed to read from his abstract of those acts:

"By an act of the 28th June, 1798, three days after the passage of the act last referred to, Congress authorized the forfeiture and condemnation of all French vessels captured in pursuance of the acts before mentioned, and provided for the distribution of the prize money, and for the confinement and support, at the expense of the United States, of prisoners taken in the captured vessels.

"By an act of the 7th July, 1798, nine days after the passage of the last-recited act, Congress declared 'that the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States.'

"By an act of the 9th July, 1798, two days after the passage of the act declaring void the treaties, Congress authorized the capture, by the public armed vessels of the United States, of all armed French vessels, whether within the jurisdictional limits of the United States or upon the high seas, their condemnation as prizes, their sale, and the distribution of the prize money; empowered the President to grant commissions to private armed vessels to make the same captures, and with the same rights and powers, as public armed vessels; and provided for the safe keeping and support of the prisoners taken, at the expense of the United States.

"By an act of the 9th February, 1799, Congress continued the non-intercourse between the United States and France for one year, from the 3d of March, 1799.

"By an act of the 28th February, 1799, Congress provided for an exchange of prisoners with France, or authorized the President, at his discretion, to send to the dominions of France, without an exchange, such prisoners as might remain in the power of the United States.

"By an act of the 3d March, 1799, Congress directed the President, in case any citizens of the United States, taken on board vessels belonging to any of the powers at war with France, by French vessels, should be put to death, corporally punished, or unreasonably imprisoned, to retaliate promptly and fully upon any French prisoners in the power of the United States.

"By an act of the 27th February, 1800, Congress again continued the non-intercourse between us and France, for one year, from the 3d of March, 1800.

"Mr. W. said he had now closed the references he proposed to make to the laws of Congress, to prove that war—actual war—existed between the United States and France, from July, 1798, until that war was terminated by the treaty of the 30th of September, 1800. He had, he hoped, before shown that the measures of Congress, up to the passage of the act of Congress of the 25th of June, 1798, and including that act, were appropriate measures preparatory to a state of war; and he had now shown a total suspension of the peaceable relations between the

two governments, by the declaration of Congress that the treaties should no longer be considered binding and obligatory upon our government or its citizens. What, then, but war could be inferred from an indiscriminate direction to our public armed vessels, put in a state of preparation, by preparatory acts, to capture all armed French vessels upon the high seas, and from granting commissions to our whole commercial marine, also armed by the operation of previous acts of Congress, authorizing them to make the same captures, with regulations applicable to both, for the condemnation of the prizes, the distribution of the prize money, and the detention, support, and exchange of the prisoners taken in the captured vessels? Will any man, said Mr. W., call this a state of peace?

"[Here Mr. Webster, chairman of the select committee which reported the bill, answered, 'Certainly.']

"Mr. W. proceeded. He said he was not deeply read in the treatises upon national law, and he should never dispute with that learned gentleman upon the technical definitions of peace and war, as given in the books; but his appeal was to the plain sense of every senator and every citizen of the country. Would either call that state of things which he had described, and which he had shown to exist from the highest of all evidence, the laws of Congress alone, peace? It was a state of open and undisguised hostility, of force opposed to force, of war upon the ocean, as far as our government were in command of the means to carry on a maritime war. If it was peace, he should like to be informed, by the friends of the bill, what would be war. This was violence and bloodshed, the power of the one nation against the power of the other, reciprocally exhibited by physical force.

"Couple with this the withdrawal by France of her minister from this government, and her refusal to receive the American commission, consisting of Messrs. Marshall, Pinckney, and Gerry, and the consequent suspension of negotiations between the two governments, during the period referred to; and Mr. W. said, if the facts and the national records did not show a state of war, he was at a loss to know what state of things between nations should be called war.

"If, however, the Senate should think him wrong in this conclusion, and that the claims were not utterly barred by war, he trusted the facts disclosed in this part of his argument would be considered sufficient at least to protect the faith of the government in the discharge of its whole duty to its citizens; and that after it had carried on these two years of war, or, if not war, of actual force and actual fighting, in which the blood of its citizens had been shed, and their lives sacrificed to an unknown extent, for the single and sole purpose of enforcing these claims of individuals, the imputation of negligence, and hence of liability to pay the claims, would not be urged as growing out of this portion of the conduct of the government.

"Mr. W. said he now came to consider the treaty of the 30th September, 1800, and the reasons which appeared plainly to his mind to have induced the American negotiators to place that negotiation upon the basis, not of an existing war, but of a continued peace. That such was assumed to be the basis of the negotiation, he believed to be true, and this fact, and this fact only, so far as he had heard the arguments of the friends of the bill, was depended upon to prove that there had been no war. He had attempted to show that war in fact had existed, and been carried on for two years; and if he could now show that the inducement, on the part of the American ministers, to place the negotiation which was to put an end to the existing hostilities upon a peace basis, arose from no considerations of a national or political character, and from no ideas of consistency with the existing state of facts, but solely from a desire still to save, as far as might be in their power, the interests of these claimants, he should submit with great confidence that it did not lay in the mouths of the same claimants to turn round and claim this implied admission of an absence of war, thus made by the agents of

the government out of kindness to them, and an excess of regard for their interests, as the basis of a liability to pay the damages which they had sustained, and which this diplomatic untruth, like all the previous steps of the government, failed to recover for them. What, then, Mr. President, said Mr. W., was the subject on our part, of the constant and laborious negotiations carried on between the two governments from 1793 to 1798? The claims. What, on our part, was the object of the disturbances from 1798 to 1800—of the non-intercourse—of the sending into service our navy, and arming our merchant vessels—of our raising troops and providing armies on the land—of the expenditure of the millions taken from the treasury and added to our public debt, to equip and sustain these fleets and armies? The claims. Why were our citizens sent to capture the French, to spill their blood, and lay down their lives upon the high seas? To recover the claims. These were the whole matter. We had no other demand upon France, and, upon our part, no other cause of difference with her.

"What public, or national, or political object had we in the negotiation of 1800, which led to the treaty of the 30th September of that year? None, but to put an end to the existing hostilities, and to restore relations of peace and friendship. These could have been as well secured by negotiating upon a war as a peace basis. Indeed, as there were in our former treaties stipulations which we did not want to revive, a negotiation upon the basis of existing war was preferable, so far as the interests of the government were concerned, because that would put all questions, growing out of former treaties between the parties, for ever at rest. Still our negotiators consented to put the negotiation upon the basis of continued peace, and why? Because the adoption of a basis of existing war would have barred effectually and for ever all classes of the claims. This, Mr. W. said, was the only possible assignable reason for the course pursued by the American negotiators; it was the only reason growing out of the existing facts, or out of the interests, public or private, involved in the difficulties between the two nations. He therefore felt himself fully warranted in the conclusion, that the American ministers preferred and adopted a peace basis for the negotiation which resulted in the treaty of the 30th of September, 1800, solely from a wish, as far as they might be able, to save the interests of our citizens holding claims against France.

"Did they, Mr. President, said Mr. W., succeed by this artifice in benefiting the citizens who had sustained injuries? He would let the treaty speak for itself. The following are extracts from the 4th and 5th articles:

"'*Art.* 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications (contraband goods destined to an enemy's port excepted), shall be mutually restored on the following proof of ownership.'

"[Here follows the form of proof, when the article proceeds:]

"'This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.'

"'*Art.* 5. The debts contracted for by one of the two nations with individuals of the other, or by individuals of the one with individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations.'

"Here, Mr. W. said, was evidence from the treaty itself, that, by assuming a peace basis for the negotiation, the property of our merchants captured and not condemned was saved to them, and that certain classes of claimants against the French government were provided for,

and their rights expressly reserved. So much, therefore, was gained by our negotiators by a departure from the facts, and negotiating to put an end to existing hostilities upon the basis of a continued peace. Was it, then, generous or just to permit these merchants, because our ministers did not succeed in saving all they claimed, to set up this implied admission of continued peace as the foundation of a liability against their own government to pay what was not recovered from France? He could not so consider it, and he felt sure the country never would consent to so responsible an implication from an act of excessive kindness. Mr. W. said he must not be understood as admitting that all was not, by the effect of this treaty, recovered from France, which she ever recognized to be due, or ever intended to pay. On the contrary, his best impression was, from what he had been able to learn of the claims, that the treaty of Louisiana provided for the payment of all the claims which France ever admitted, ever intended to pay, or which there was the most remote hope of recovering in any way whatever. He should, in a subsequent part of his remarks, have occasion to examine that treaty, the claims which were paid under it, and to compare the claims paid with those urged before the treaty of September, 1800.

"Mr. W. said he now came to the consideration of the liability of the United States to these claimants, in case it shall be determined by the Senate that a war between France and the United States had not existed to bar all ground of claim either against France or the United States. He understood the claimants to put this liability upon the assertion that the government of the United States had released their claims against France by the treaty of the 30th of September, 1800, and that the release was made for a full and valuable consideration passing to the United States, which in law and equity made it their duty to pay the claims. The consideration passing to the United States is alleged to be their release from the onerous obligations imposed upon them by the treaties of amity and commerce and alliance of 1778, and the consular convention of 1778, and especially and principally by the seventeenth article of the treaty of amity and commerce, in relation to armed vessels, privateers, and prizes, and by the eleventh article of the treaty of alliance containing the mutual guarantees.

"The release, Mr. W. said, was claimed to have been made in the striking out, by the Senate of the United States, of the second article of the treaty of 30th September, 1800, as that article was originally inserted and agreed upon by the respective negotiators of the two powers, as it stood at the time the treaty was signed. To cause this point to be clearly understood, it would be necessary for him to trouble the Senate with a history of the ratification of this treaty. The second article, as inserted by the negotiators, and as standing at the time of the signing of the treaty, was in the following words:

"'*Art.* 2. The ministers plenipotentiary of the two powers not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further upon these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:'

"The residue of the treaty, Mr. W. said, was a substantial copy of the former treaties of amity and commerce, and alliance between the two nations, with such modifications as were desirable to both, and as experience under the former treaties had shown to be for the mutual interests of both.

"This second article was submitted to the Senate by the President as a part of the treaty, as by the constitution of the United States the President was bound to do, to the end that the treaty might be properly ratified on the part of the United States, the French government having previously adopted and ratified it as it was signed by the respective negotiators, the second

article being then in the form given above. The Senate refused to advise and consent to this article, and expunged it from the treaty, inserting in its place the following:

"'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications.'

"In this shape, and with this modification the treaty was duly ratified by the President of the United States, and returned to the French government for its dissent or concurrence. Bonaparte, then First Consul, concurred in the modification made by the Senate, in the following language, and upon the condition therein expressed:

"'The government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, purporting that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.'

"This ratification by the French Republic, thus qualified, was returned to the United States, and the treaty, with the respective conditional ratifications, was again submitted by the President of the United States to the Senate. That body 'resolved that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation;' whereupon he completed the ratification in the usual forms and by the usual publication.

"This, Mr. W. said, was the documentary history of this treaty and of its ratification, and here was the release of their claims relied upon by the claimants under the bill before the Senate. They contend that this second article of the treaty, as originally inserted by the negotiators, reserved their claims for future negotiation, and also reserved the subjects of disagreement under the treaties of amity and commerce, and of alliance, of 1778, and the consular convention of 1788; that the seventeenth article of the treaty of amity and commerce, and the eleventh article of the treaty of alliance, were particularly onerous upon the United States; that, to discharge the government from the onerous obligations imposed upon it in these two articles of the respective treaties, the Senate was induced to expunge the second article of the treaty of the 30th September above referred to, and, by consequence, to expunge the reservation of their claims as subjects of future negotiation between the two nations; that, in thus obtaining a discharge from the onerous obligations of these treaties, and especially of the two articles above designated, the United States was benefited to an amount beyond the whole value of the claims discharged, and that this benefit was the inducement to the expunging of the second article of the treaty, with a full knowledge that the act did discharge the claims, and create a legal and equitable obligation on the part of the government to pay them.

"These, Mr. W. said, he understood to be the assumptions of the claimants, and this their course of reasoning to arrive at the conclusion that the United States were liable to them for the amount of their claims. He must here raise a preliminary question, which he had satisfied himself would show which assumptions of the claimants to be wholly without foundation, so far as the idea of benefit to the United States was supposed to be derived from expunging this second article of the treaty of 1800. What, he must be permitted to ask, would have been the liability of the United States under the 'onerous obligations' referred to, in case the Senate had ratified the treaty, retaining this second article? The binding force of the treaties of amity and commerce, and of alliance, and of the consular convention, was released, and the treaties

and convention were themselves suspended by the very article in question; and the subjects of disagreement growing out of them were merely made matters of future negotiation ‘at a convenient time.’ What was the value or the burden of such an obligation upon the United States? for this was the only obligation from which our government was released by striking out the article. The value, Mr. W. said, was the value of the privilege, being at perfect liberty, in the premises, of assenting to or dissenting from a bad bargain, in a matter of negotiation between ourselves and a foreign power. This was the consideration passing to the United States, and, so far as he was able to view the subject, this was all the consideration the government had received, if it be granted (which he must by no means be understood to admit), that the striking out of the article was a release of the claims, and that such release was intended as a consideration for the benefits to accrue to the government from the act.

“Mr. W. said he felt bound to dwell, for a moment, upon this point. What was the value of an obligation to negotiate ‘at a convenient time?’ Was it any thing to be valued? The ‘convenient time’ might never arrive, or if it did arrive, and negotiations were opened, were not the government as much at liberty as in any other case of negotiation, to refuse propositions which were deemed disadvantageous to itself? The treaties were suspended, and could not be revived without the consent of the United States; and, of consequence, the ‘onerous obligations’ comprised in certain articles of these treaties were also suspended until the same consent should revive them. Could he, then, be mistaken in the conclusion that, if the treaty of 1800 had been ratified with the second article forming a part of it, as originally agreed by the negotiators, the United States would have been as effectually released from the onerous obligations of the former treaties, until those obligations should again be put in force by their consent, as they were released when that article was stricken out, and the treaty ratified without it? In short, could he be mistaken in the position that all the inducement, of a national character, to expunge that article from the treaty, was to get rid of an obligation to negotiate ‘at a convenient time?’ And could it be possible that such an inducement would have led the Senate of the United States, understanding this consequence, to impose upon the government a liability to the amount of $5,000,000? He could not adopt so absurd a supposition; and he felt himself compelled to say that this view of the action of the government in the ratification of the treaty of 1800, in his mind, put an end to the pretence that the striking out of this article relieved the United States from obligations so onerous as to form a valuable consideration for the payments provided for in this bill. He could not view the obligation released—a mere obligation to negotiate—as onerous at all, or as forming any consideration whatever for a pecuniary liability, much less for a liability for millions.

“Mr. W. said he now proposed to consider whether the effect of expunging the second article of the treaty of 1800 was to release any claim of value—any claim which France had ever acknowledged, or ever intended to pay. He had before shown, by extracts from the fourth and fifth articles of the treaty of 1800, that certain classes of claims were saved by that treaty, as it was ratified. The claims so reserved and provided for were paid in pursuance of provisions contained in the treaty between France and the United States, of the 30th of April, 1803; and to determine what claims were thus paid, a reference to some of the articles of that treaty was necessary. The purchase of Louisiana was made by the United States for the sum of 80,000,000 of francs, 60,000,000 of which were to be paid into the French treasury, and the remaining 20,000,000 were to be applied to the payment of these claims. Three separate treaties were made between the parties, bearing all the same date, the first providing for the cession of the territory, the second for the payment of the 60,000,000 of francs to the French treasury, and the third for the adjustment and payment of the claims.

“Mr. W. said the references proposed were to the last-named treaty, and were the following:

"'*Art.* 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemiaire, ninth year of the French Republic (30th September, 1800), shall be paid according to the following regulations, with interest at six per cent., to commence from the period when the accounts and vouchers were presented to the French government.'

"'*Art.* 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision.'

"'*Art.* 4. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of the 8th Vendemiaire, ninth year (30th September, 1800).'

"'*Art.* 5. The preceding articles shall apply only, 1st, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the government of the French Republic, and only in case of the insufficiency of the captors; 2d, the debts mentioned in the said fifth article of the convention, contracted before the 8th Vendemiaire, and 9 (30th September, 1800), the payment of which has been heretofore claimed of the actual government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed; it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made.

"From these provisions of the treaty, Mr. W. said, it would appear that the claims to be paid were of three descriptions, to wit:

"1. Claims for supplies.

"2. Claims for embargoes.

"3. Claims for captures made at sea, of a description defined in the last clause of the 4th and the first clause of the 5th article.

"How far these claims embraced all which France ever acknowledged, or ever intended to pay, Mr. W. said he was unable to say, as the time allowed him to examine the case had not permitted him to look sufficiently into the documents to make up his mind with precision upon this point. He had found, in a report made to the Senate on the 14th of January, 1831, in favor of this bill, by the honorable Mr. Livingston, then a Senator from the State of Louisiana, the following Classification of the French claims, as insisted on at a period before the making of the treaty of 1800, to wit:

"'1. From the capture and detention of about fifty vessels.

"'2. The detention, for a year, of eighty other vessels, under the Bordeaux embargo.

"'3. The non-payment of supplies to the West India islands, and to continental France.

"'4. For depredations committed on our commerce in the West Indies.

"Mr. W. said the comparison of the two classifications of claims would show, at a single view, that Nos. 2 and 3 in Mr. Livingston's list were provided for by the treaty of 1803, from which he had read. Whether any, and if any, what portions of Nos. 1 and 4 in Mr. Livingston's list were embraced in No 3 of the provisions of the treaty, as he had numbered them he was unable to say; but this much he could say, that he had found nothing to satisfy his mind that parts of both those classes of claims were not so included, and therefore provided for and paid under the treaty; nor had he been able to find any thing to show that this treaty of 1803 did not provide for and pay all the claims which France ever acknowledged or ever intended to pay. He was, therefore, unprepared to admit, and did not admit, that any thing of value to any class of individual claimants was released by expunging the second original article from the treaty of the 30th September, 1800. On the contrary, he was strongly impressed with the belief that the adjustment of claims provided for in the treaty of 1803 had gone to the whole extent to which the French government had, at any period of the negotiations, intended to go.

"Mr. W. said this impression was greatly strengthened by the circumstance that the claims under the Bordeaux embargo were expressly provided for in this treaty, while he could see nothing in the treaty of 1800 which seemed to him to authorize the supposition that this class of claims was more clearly embraced within the reservations in that treaty than any class which had been admitted by the French government.

"Another fact, Mr. W. said, was material to this subject, and should be borne carefully in mind by every senator. It was, that not a cent was paid by France, even upon the claims reserved and admitted by the treaty of 1800, until the sale of Louisiana to the United States, for a sum greater by thirty millions of francs than that for which the French minister was instructed to sell it. Yes, Mr. President, said Mr. W., the only payment yet made upon any portion of these claims has been virtually made by the United States; for it has been made out of the consideration money paid for Louisiana, after paying into the French treasury ten millions of francs beyond the price France herself placed upon the territory. It is a singular fact that the French negotiator was instructed to make the sale for fifty millions, if he could get no more; and when he found that, by yielding twenty millions to pay the claims, he could get eighty millions for the territory, and thus put ten millions more into the treasury of his nation than she had instructed him to ask for the whole, he yielded to the claims and closed the treaty. It was safe to say that, but for this speculation in the sale of Louisiana, not one dollar would have been paid upon the claims to this day. All our subsequent negotiations with France of a similar character, and our present relations with that country, growing out of private claims, justify this position. What, then, would have been the value of claims, if such fairly existed, which were not acknowledged and provided for by the treaty of 1800, but were left for future negotiation 'at a convenient time?' Would they have been worth the five millions of dollars you propose to appropriate by this bill? Would they have been worth further negotiation? He thought they would not.

"Mr. W. said he would avail himself of this occasion, when speaking of the treaty of Louisiana and of its connection with these claims, to explain a mistake into which he had fallen, and which he found from conversation with several gentlemen, who had been for some years members of Congress, had been common to them and to himself. The mistake to which he alluded was, the supposition that the claimants under this bill put their case upon the assumption that their claims had constituted part of the consideration for which Louisiana had been ceded to the United States; and that the consideration they contended the government

had received, and upon which its liability rested, was the cession of that territory for a less sum, in money, than was considered to be its value, on account of the release of the French government from those private claims. He had rested under this misapprehension until the opening of the present debate, and until he commenced an examination of the case. He then found that it was an entire misapprehension; that the United States had paid, in money, for Louisiana, thirty millions of francs beyond the price which France had set upon it; that the claimants under this bill did not rest their claims at all upon this basis, and that the friends of the bill in the Senate did not pretend to derive the liability of the government from this source. Mr. W. said he was induced to make this explanation in justice to himself, and because there might be some person within the hearing of his voice who might still be under the same misapprehension.

"He had now, Mr. W. said, attempted to establish the following propositions, viz.:

"1. That a state of actual war, by which he meant a state of actual hostilities and of force, and an interruption of all diplomatic or friendly intercourse between the United States and France, had existed from the time of the passage of the acts of the 7th and 9th of July, 1798, before referred to, until the sending of the negotiators, Ellsworth, Davie, and Murray, in 1800, to make a treaty which put an end to the hostilities existing, upon the best terms that could be obtained; and that the treaty of the 30th of September, 1800, concluded by these negotiators, was, in fact, and so far as private claims were concerned, to be considered as a treaty of peace, and to conclude all such claims, not reserved by it, as finally ratified by the two powers.

"2. That the treaty of amity and commerce, and the treaty of alliance of 1778, as well as the consular convention of 1788, were suspended by the 2d article of the treaty of 1800, and from that time became mere matters for negotiation between the parties at a convenient time; that, therefore, the desire to get rid of these treaties, and of any 'onerous obligations' contained in them, was only the desire to get rid of an obligation to negotiate 'at a convenient time;' and that such a consideration could not have induced the Senate of the United States to expunge that article from the treaty, if thereby that body had supposed it was imposing upon the country a liability to pay to its citizens the sum of five millions of dollars—a sum much larger than France had asked, in money, for a full discharge from the 'onerous obligations' relied upon.

"3. That the treaty of 1800 reserved and provided for certain portions of the claims; that payment, according to such reservations, was made under the treaty of 1803; and that it is at least doubtful whether the payment thus made did not cover all the claims ever admitted, or ever intended to be paid by France; for which reason the expunging of the second article of the treaty of 1800, by the Senate of the United States, in all probability, released nothing which ever had, or which was ever likely to have value.

"Mr. W. said, if he had been successful in establishing either of these positions, there was an end of the claims, and, by consequence, a defeat of the bill.

"The advocates of the bill conceded that two positions must be established, on their part, to sustain it, to wit:

"1. That the claims were valid claims against France, and had never been paid. And

"2. That they were released by the government of the United States for a full and valuable consideration passing to its benefit by means of the release.

"If, then, a state of war had existed, it would not be contended that any claims of this character, not reserved or provided for in the treaty of peace, were valid claims after the

ratification of such a treaty. His first proposition, therefore, if sustained, would defeat the bill, by establishing the fact that the claims, if not reserved in the treaty of 1800, were not valid claims.

"The second proposition, if sustained, would establish the fact that, inasmuch as the valuable consideration passing to the United States was alleged to grow out of the 'onerous obligations' in the treaty of amity and commerce, the treaty of alliance, and the consular convention; and inasmuch as these treaties, and all obligations, past, present, or future, 'onerous' or otherwise, growing out of them, were suspended and made inoperative by the second article of the treaty of the 30th of September, 1800, until further negotiation, by the common consent of both powers, should revive them, the Senate of the United States could not have expected, when they expunged this article from the treaty, that, by thus discharging the government from an obligation to negotiate 'at a convenient time,' they were incurring against it a liability of millions; in other words, the discharge of the government from an obligation to negotiate upon any subject 'at a convenient time,' could not have been considered by the Senate of the United States as a good and valuable consideration for the payment of private claims to the amount of five millions of dollars.

"The third proposition, if sustained, would prove that all the claims ever acknowledged, or ever intended to be paid by France, were paid under the treaty of 1803, and that, therefore, as claims never admitted or recognized by France would scarcely be urged as valid claims against her, no valid claims remained; and, consequently, the expunging of the second article of the treaty of the 30th of September, 1800, released nothing which was valid, and nothing remained to be paid by the United States as a liability incurred by that modification of that treaty. Here Mr. W. said he would rest his reasoning as to these three propositions.

"But if the Senate should determine that he had been wrong in them all, and had failed to sustain either, he had still another proposition, which he considered conclusive and unanswerable, as to any valuable consideration for the release of these claims having passed to the United States in consequence of their discharge from the 'onerous obligations' said to have been contained in the former treaties. These 'onerous obligations,' and the only ones of which he had heard any thing in the course of the debate, or of which he had found any thing in the documents, arose under the 17th article of the treaty of amity and commerce, and the 11th article of the treaty of alliance; and, in relation to both, he laid down this broad proposition, which would be fully sustained by the treaties themselves, and by every act and every expression on the part of the American negotiators, and the government of the United States, viz.:

"'The obligations, liabilities, and responsibilities, imposed upon the government of the United States and upon France by the 17th article of the treaty of amity and commerce of 1778, and by the 11th article of the treaty of alliance of 1778, where mutual, reciprocal, and equal: each formed the consideration, and the only consideration, for the other; and, therefore, any release which discharged both powers from those liabilities, responsibilities, and obligations, must have been mutual, reciprocal, and equal; and the release of either must have formed a full and valuable consideration for the release of the other.'

"Mr. W. said he would not trouble the Senate by again reading the articles from the respective treaties. They would be recollected, and no one would controvert the fact that, when the treaties were made, these articles were intended to contain mutual, reciprocal, and equal obligations. By the first we gave to France the liberty of our ports for her armed vessels, privateers, and prizes, and prohibited all other powers from the enjoyment of the same privilege; and France gave to us the liberty of her ports for our armed vessels, privateers, and prizes, and guarded the privilege by the same prohibition to other powers; and

by the second we guaranteed to France, for ever, her possessions in America, and France guaranteed to us, for ever, ‘our liberty, sovereignty, and independence, absolute and unlimited, as well in matters of government as commerce.’ Such were the obligations in their original inception. Will it be contended that they were not mutual, reciprocal, and equal, and that, in each instance, the one did not form the consideration for the other? Surely no one will take this ground.

“If, then, said Mr. W., the obligations imposed upon each government by these articles of the respective treaties were mutual, reciprocal, and equal, when undertaken, they must have remained equal until abrogated by war, or changed by treaty stipulation. No treaty, subsequent to those which contain the obligations, had affected them in any manner whatever. If, as he had attempted to show, war had existed from July, 1778, to 1800, that would not have rendered the obligations unequal, but would have abrogated them altogether. If, as the friends of the bill contend, there had been no war, and the treaties were in full force up to the signing of the convention of the 30th of September, 1800, what was the effect of that treaty, as originally signed by the negotiators, upon these mutual, reciprocal, and equal obligations? The second original article of that treaty will answer. It did not attempt to disturb their mutuality, reciprocity, or equality, but suspended them as they were, past, present, or future, and made all the subject of future negotiation ‘at a convenient time.’

“But, Mr. W. said, the Senate of the United States expunged this article of the treaty of 1800, and refused to advise and consent to ratify it as a part of the treaty; and hence it was contended the United States had discharged themselves from the ‘onerous obligations’ of these articles in the respective treaties, and had, by that act, incurred, to the claimants under this bill, the heavy liability which it recognizes. If the expunging of that article discharged the United States from obligations thus onerous, did it not discharge France from the fellow obligations? Was not the discharge, made in that manner, as mutual, reciprocal, and equal, as the obligations in their inception, and in all their subsequent stages up to that act? How, then, could it be contended that the discharge of the one was not a full and adequate consideration for the discharge of the other? Nothing upon the face of the treaties authorized the introduction of this inequality at this step in the official proceedings. Nothing in the record of the proceedings of the Senate, when acting upon the article, indicates that they intended to pay five millions of dollars to render this mutual release equal between the two powers. The obligations and responsibilities were reserved as subjects of future negotiation, upon terms of equality, and the striking out of that reservation was but a mutual and reciprocal and equal release from the obligation further to negotiate. This much for the reciprocity of these obligations as derived from the action of the sovereign powers themselves.

“What was to be learned from the action of their respective negotiators? He did not doubt but that attempts had been made on the part of France to exhibit an inequality in the obligations under the treaty, and to set up that inequality against the claims of our citizens; but had our negotiators ever admitted the inequality to exist, or ever attempted to compromise the rights of the claimants under this bill for such a consideration? He could not find that they had. He did not hear it contended that they had: and, from the evidence of their acts, remaining upon record, as a part of the diplomatic correspondence of the period, he could not suppose they had ever entertained the idea. He had said that the American negotiators had always treated these obligations as mutual, reciprocal, and equal; and he now proposed to read to the Senate a part of a letter from Messrs. Ellsworth, Davie, and Murray, addressed to the French negotiators, and containing the project of a treaty, to justify his assertion. The letter was dated 20th August, 1800, and it would be recollected that its authors were the negotiators, on the part of the United States, of the treaty of the 30th of September, 1800. The extract is as follows:

"'1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two powers had intervened, except so far as they are derogated from by the present treaty.

"'2. It shall be optional with either party to pay to the other, within seven years, three millions of francs, in money or securities which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation, And during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

"'3. The mutual guaranty in the treaty of alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver at her own ports military stores to the amount of one million of francs; and, on the part of the United States, when the French possessions in America, in any future war, shall be attacked, to furnish and deliver at their own ports a like amount in provisions. It shall, moreover, be optional for either party to exonerate itself wholly of its obligation, by paying to the other, within seven years, a gross sum of five millions of francs, in money or such securities as may be issued for indemnities.'

"Mr. W. asked if he needed further proofs that not only the American government, but the American negotiators, treated these obligations under the treaty as, in all respects, mutual, reciprocal, and equal; and if the fallacy of the argument that the United States had obtained to itself a valuable consideration for the release of these private claims in the release of itself from these obligations, was not utterly and entirely disproved by these facts? Was not the release of the obligations on the one side the release of them on the other? And was not the one release the necessary consideration for the other? How, then, could it be said, with any justice, that we sought our release at the expense of the claimants? There was no reasonable ground for such an allegation, either from the acts of our government or of our negotiators. When the latter fixed a value upon our obligations as to the privateers and prizes, and as to the guaranty, in the same article they fixed the same price, to a franc, upon the reciprocal obligations of France; and when the former discharged our liability, by expunging the second article of the treaty of 1800, the same act discharged the corresponding liability of the French government.

"Here, then, Mr. W. said, must end all pretence of a valuable consideration for these claims passing to the United States from this source. The onerous obligations were mutual, reciprocal, and equal, and the respective releases were mutual, reciprocal, and equal, and simultaneous, and nothing could be fairly drawn from the act which operated these mutual releases to benefit these claimants.

"Mr. W. said he was, then, necessarily brought back to the proposition with which he started in the commencement of his argument, that, if the United States were liable to pay these claimants, that liability must rest upon the broad ground of a failure by the government, after ordinary, and, in this instance, extraordinary efforts to collect the money. The idea of a release of the claims for a valuable consideration passing to the government had been exploded, and, if a liability was to be claimed on account of a failure to collect the money, upon what ground did it rest? What had the government done to protect the rights of these claimants? It had negotiated from 1793 to 1798, with a vigilance and zeal and talent almost unprecedented in the history of diplomacy. It had sent to France minister after minister, and, upon several occasions, extraordinary missions composed of several individuals. Between 1798 and 1800, it had equipped fleets and armies, expended millions in warlike preparation, and finally sent forth its citizens to battle and death, to force the payment of the claims. Were we now to be told, that our failure in these efforts had created a liability against us to pay the

money? That the same citizens who had been taxed to pay the expenses of these long negotiations, and of this war for the claims, were to be further taxed to pay such of the claims as we had failed to collect? He could never consent to such a deduction from such premises.

"But, Mr. President, said Mr. W., there is another view of this subject, placed upon this basis, which renders this bill of trifling importance in the comparison. If the failure to collect these claims has created the liability to pay them, that liability goes to the extent of the claims proved, and the interest upon them, not to a partial, and perhaps trifling, dividend. Who, then, would undertake to say what amount of claims might not be proved during the state of things he had described, from the breaking out of the war between France and England, in 1793, to the execution of the treaty, in 1800? For a great portion of the period, the municipal regulations of France required the captured cargoes to be not confiscated, but paid for at the market value at the port to which the vessel was destined. Still the capture would be proved, the value of the cargo ascertained, before the commission which the bill proposes to establish; and who would adduce the proof that the same cargo was paid for by the French government?

"This principle, however, Mr. W. said, went much further than the whole subject of the old French claims. It extended to all claims for spoliations upon our commerce, since the existence of the government, which we had failed to collect. Who could say where the liability would end? In how many cases had claims of this character been settled by treaty, what had been collected in each case, and what amount remained unpaid, after the release of the foreign government? He had made an unsuccessful effort to answer these inquiries, so far as the files of the state department would furnish the information, as he had found that it could only be collected by an examination of each individual claim; and this would impose a labor upon the department of an unreasonable character, and would occupy more time than remained to furnish the information for his use upon the present occasion. He had, however, been favored by the Secretary of State with the amounts allowed by the commissioners, the amounts paid, and the rate of pay upon the principal, in two recent cases, the Florida treaty, and the treaty with Denmark. In the former instance, the payment was ninety-one and two thirds per centum upon the principal, while in the latter it was but thirty-one and one eighth per centum. Assume that these two cases are the maximum and minimum of all the cases where releases have been given for partial payments; and he begged the Senate to reflect upon the amounts unpaid which might be called from the national treasury, if the principle were once admitted that a failure to collect creates a liability to pay.

"That in his assumption that a liability of this sort must go to the whole amount of the claims, he only took the ground contended for by the friends of this bill, he would trouble the Senate with another extract from the report of Mr. Livingston, from which he had before read. In speaking of the amount which should be appropriated, Mr. Livingston says:

"'The only remaining inquiry is the amount; and on this point the committee have had some difficulty. Two modes of measuring the compensation suggested themselves:

"'1. The actual loss sustained by the petitioners.

"'2. The value of the advantages received, as the consideration, by the United States.

"'The first is the one demanded by strict justice; and is the only one that satisfies the word used by the constitution, which requires just compensation, which cannot be said to have been made when any thing less than the full value is given. But there were difficulties which appeared insurmountable, to the adoption of this rule at the present day, arising from the multiplicity of the claims, the nature of the depredations which occasioned them, the loss of documents, either by the lapse of time, or the wilful destruction of them by the depredators.

The committee, therefore, could not undertake to provide a specific relief for each of the petitioners. But they have recommended the institution of a board, to enter into the investigation, and apportion a sum which the committee have recommended to be appropriated, *pro rata*, among the several claimants.'

"'The committee could not believe that the amount of compensation to the sufferers should be calculated by the advantages secured to the United States, because it was not, according to their ideas, the true measure. If the property of an individual be taken for public use, and the government miscalculate, and find that the object to which they have applied it has been injurious rather than beneficial, the value of the property is still due to the owner, who ought not to suffer for the false speculations which have been made. A turnpike or canal may be very unproductive; but the owner of the land which has been taken for its construction is not the less entitled to its value. On the other hand, he can have no manner of right to more than the value of his property, be the object to which it has been applied ever so beneficial.'

"Here, Mr. W. said, were two proposed grounds of estimating the extent of the liability of the government to the claimants; and that which graduated it by the value received by the government was distinctly rejected, while that making the amount of the claims the measure of liability, was as distinctly asserted to be the true and just standard. He hoped he had shown, to the satisfaction of the Senate, that the former rule of value received by the government would allow the claimants nothing at all, while he was compelled to say that, upon the broad principle that a failure to collect creates a liability to pay, he could not controvert the correctness of the conclusion that the liability must be commensurate with the claim. He could controvert, he thought, successfully, the principle, but he could not the measure of damages when the principle was conceded. He would here conclude his remarks upon the points he had noticed, by the earnest declaration that he believed the passage of this bill would open more widely the doors of the public treasury than any legislation of which he had any knowledge, or to which Congress had ever yielded its assent.

"Mr. W. said he had a few observations to offer relative to the mode of legislation proposed, and to the details of the bill, and he would trouble the Senate no further.

"His first objection, under this head, was to the mode of legislation. If the government be liable to pay these claims, the claimants are citizens of the country, and Congress is as accessible to them as to other claimants who have demands against the treasury. Why were they not permitted, individually, to apply to Congress to establish their respective claims, as other claimants were bound to do, and to receive such relief, in each case, as Congress, in its wisdom, should see fit to grant? Why were these claims, more than others, grouped together, and attempted to be made a matter of national importance? Why was a commission to be established to ascertain their validity, a duty in ordinary cases discharged by Congress itself? Were the Senate sure that much of the importance given to those claims had not proceeded from this association, and from the formidable amount thus presented at one view? Would any gentleman be able to convince himself that, acting upon a single claim in this immense mass, he should have given it his favorable consideration? For his part, he considered the mode of legislation unusual and objectionable. His principal objections to the details were, that the second section of the bill prescribed the rules which should govern the commission in deciding upon the claims, among which 'the former treaties between the United States and France' were enumerated; and that the bill contained no declaration that the payments made under it were in full of the claims, or that the respective claimants should execute a release, as a condition of receiving their dividends.

"The first objection was predicated upon the fact that the bill covered the whole period from the making of the treaties of 1778, to that of the 30th September, 1800, and made the former

treaties the rule of adjudication, when Congress on the 7th July, 1798, by a deliberate legislative act, declared those treaties void, and no longer binding upon the United States or their citizens. It is a fact abundantly proved by the documents, that a large portion of the claims now to be paid, arose within the period last alluded to; and that treaties declared to be void should be made the law in determining what were and what were not illegal captures, during the time that they were held to have no force, and when our citizens were authorized by law to go upon the high seas, regardless of their provisions, Mr. W. said, would seem to him to be an absurdity which the Senate would not legalize. He was fully aware that the first section of the bill purported to provide for 'valid claims to indemnity upon the French government, arising out of illegal captures, detentions, forcible seizures, illegal condemnations, and confiscations;' but it could not be overlooked that illegal captures, condemnations, and confiscations, must relate entirely to the law which was to govern the adjudication; and if that law was a void treaty which the claimants were not bound to observe, and did not observe, was it not more than possible that a capture, condemnation, or confiscation, might, by compulsion, be adjudged illegal under the rule fixed by the bill, while that same capture, condemnation, or confiscation, was strictly legal under the laws which governed the commerce of the claimant when the capture was made? He must say that it appeared clear to his mind that the rule of adjudication upon the validity of claims of this description, should, in all cases, be the same rule which governed the commerce out of which the claims have arisen.

"His second objection, Mr. W. said, was made more as a wish that a record of the intentions of the present Congress should be preserved upon the face of the bill, than from any idea that the provision suggested would afford the least protection to the public treasury. Every day's legislation showed the futility of the insertion in an act of Congress of a declaration that the appropriation made should be in full of a claim; and in this, as in other like cases, should this bill pass, he did not expect that it would be, in practice, any thing more than an instalment upon the claims which would be sustained before the commission. The files of the state department would contain the record evidence of the balance, with the admission of the government, in the passage of this bill, that an equal liability remained to pay that balance, whatever it might be. Even a release from the respective claimants he should consider as likely to have no other effect than to change their future applications from a demand of legal right, which they now assume to have, to one of equity and favor; and he was yet to see that the latter would not be as successful as the former. He must give his vote against the bill, whether modified in that particular or not, and he should do so under the most full and clear conviction, that it was a proposition fraught with greater dangers to the public treasury, than any law which had ever yet received the assent of Congress."

119. French Spoliations—Mr. Webster's Speech

"The question, sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the government and the petitioners: and, as the government is to be judge in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

"There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French government, effectually released the claims as against France, and for ever cut off the petitioners from all hopes of redress from that quarter. The claims, as claims against our own government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effects of its own proceedings, on private rights and private interests, with that candor and justice which belong to its high character.

"It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty by which the claimants say their claims on France for these captures and confiscations were released was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living [Mr. Giles], was chairman.

"In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion, of that State, was chairman, made a report, declaring that the committee was of opinion that the government of the United States was bound to indemnify the claimants. But at this time our affairs with the European powers at war had become exceedingly embarrassed; our government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

"Another objection, sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and it is now holden by these purchasers. It has even been said, I think, on the floor of the Senate, that nine tenths, or ninety hundredths, of all the claims are owned by speculators.

"Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty; and he could not support the treaty because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so;

and this prejudice, thus operating on a great national interest—an interest in regard to which we are in danger of being seriously embroiled with a foreign state—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

"In regard to both classes, and to all classes of claims of American citizens on foreign governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath; and be proved by the papers, vouchers, and other evidence. Now, sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

"The truth is, sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where such owner is dead; underwriters who have paid losses on account of captures and confiscations; and creditors of insolvents and bankrupts who were interested in the claims—these are the descriptions of persons who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the claims which are the subject of this discussion, and provided for in this bill. In some instances claims have been assigned from one to another, in the settlement of family affairs. They have been transferred, in other instances, to secure or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth than that they have been the general subjects of purchase and sale, and that they are now holden mainly by purchasers from the original owners. They have been compared to the unfunded debt. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value but the amount is uncertain. Whether there be any claim, is in each case a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to insurance companies, or other underwriters, is at war with the first principles of justice.

"A short, but accurate, general view of the history and character of these claims is presented in the report of the Secretary of State, on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, sir, to read the paragraphs:

"'The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished, on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"'The second article of the convention of 1800 was in the following words: "The ministers plenipotentiary of the two parties, not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects, at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

"'When that convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: "It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;" and it was accordingly so ratified by the President of the United States, on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause as part of it: "The government of the United States, having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two states renounce the respective pretensions which are the object of the said article."

"'The French ratification being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States considering it necessary again to submit the convention, in this state, to the Senate, on the 19th day of December, 1801, it was resolved by the Senate that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions, was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities, so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pretensions), under which

the United States were placed, in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound for ever to guarantee from that time the then possessions of the Crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered at, or not long after, the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

"'The fifth article of the amendments to the constitution provides: "Nor shall private property be taken for public use, without just compensation." If the indemnities to which citizens of the United States were entitled for French spoliations prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indemnities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful consideration that repeated and urgent appeals have been, in vain, made to the justice of France for satisfaction of flagrant wrongs committed upon property of other citizens of the United States, subsequent to the period of the 30th of September, 1800.'

"Before the interference of our government with these claims, they constituted just demands against the government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated is property, as clearly as the ship itself. It may not be so valuable, or so certain; but it is as clear a right, and has been uniformly so regarded by the courts of law. The papers show that American citizens had claims against the French government for six hundred and fifteen vessels unlawfully seized and confiscated. If this were so, it is difficult to see how the government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French government had been ready to make compensation, in money, for the property thus illegally seized and confiscated; or how the government could appropriate to itself the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, without making compensation, any more than it could appropriate to itself, without making compensation, six hundred and fifteen ships which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

"It will be perceived at once, sir, that these claims do not rest on the ground of any neglect or omission, on the part of the government of the United States, in demanding satisfaction from France. That is not the ground. The government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the government of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition that the United

States would postpone or relinquish these claims. And to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

“This, sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own government. And now, sir, before proceeding to the disputed part of the case, permit me to state what is admitted.

“In the first place, then, it is universally admitted that these petitioners once had just claims against the government of France, on account of these illegal captures and condemnations.

“In the next place, it is admitted that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is for ever discharged from all duty of paying or satisfying them, in whole or in part.

“These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions:

“1. That these claims subsisted against France up to the time of the treaty of September, 1800, between France and the United States.

“2. That they were released, surrendered, or extinguished by that treaty, its amendment in the Senate, and the manner of its final ratification.

“3. That they were thus released, surrendered, or extinguished, for political and national considerations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

“4. That the amount or measure of indemnity proposed by this bill is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

“1. Were these subsisting claims against France up to the time of the treaty? It is a conclusive answer to this question, to say that the government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French government fully admitted their existence, and acknowledged its obligation to make such indemnity.

“The negotiation, which terminated in the treaty, was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which was immediately acceded to by the ministers of France.

“On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray, say:

“‘Citizen ministers:—The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission—an object which they believe may be best obtained by avoiding to retrace minutely the too well-known and too painful incidents which have rendered a negotiation necessary.

“‘To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of

commercial intercourse between the two countries which must essentially contribute to their mutual advantage.

"'Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken.'

"To this letter the French ministers immediately returned the following answer:

"'The ministers plenipotentiary of the French Republic have read attentively the proposition for a plan of negotiation which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"'They think that the first object of the negotiation ought to be the determination of the regulations, and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them.'

"It is certain, therefore, that the negotiation commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and it is equally clear that, throughout the whole negotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the treaty itself, in the second article, expressly admitted their existence, and solemly recognized the duty of providing for them at some future period.

"It will be observed, sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for individual claims, bring forward, also, claims arising under treaties; taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French ministers at present only to show that, from the first, the French government admitted its obligation to indemnify individuals who had suffered wrongs and injuries.

"The honorable member from New-York [Mr. Wright] contends, sir, that, at the time of concluding the treaty, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument sake, that war had existed, yet we find that, on the restoration of amity, both parties admit the justice of these claims and their continued existence, and the party against which they are preferred acknowledges her obligation, and expresses her willingness to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of a war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbitration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange, indeed, to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims for indemnity for illegal seizures and confiscations.

“The honorable member, sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, sir, to say that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, sir, that whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, did never authorize general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names, claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France and obtained restoration, in our courts, as citizens of France. It must have been a singular war, sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States do not take justice into their own hands.

“The strongest measure, perhaps, adopted by Congress, was the act of May 28, 1798. The honorable member from New-York has referred to this act, and chiefly relies upon it, to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

“It is not an act declaring war; it is not an act authorizing reprisals; it is not an act which, in any way, acknowledges the actual existence of war. Its whole implication and import is the other way. Its title is, ‘An act more effectually to protect the commerce and coasts of the United States.’

“This is its preamble:

“‘Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation: therefore’—

“And then follows its only section, in these words:

“‘Sec. 1. *Be it enacted, &c.*, That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel.’

“This act, it is true, authorized the use of force, under certain circumstances, and for certain objects, against French vessels. But there may be acts of authorized force, there may be assaults, there may be battles, there may be captures of ships and imprisonment of persons, and yet no general war. Cases of this kind may occur under that practice of retortion which is

justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

"The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels hovering on our coast, and capturing our vessels, under authority, or pretence of authority, from a foreign state, might be captured and brought in, and vessels already seized by them retaken. The act is limited to armed vessels; but why was this, if general war existed? Why was not the naval power of the country let loose at once, if there were war, against the commerce of the enemy? The cruisers of France were preying on our commerce; if there was war, why were we restrained from general reprisals on her commerce? This restraining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our coast, for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts passed at and near the same time demonstrate the understanding of Congress to have been, that although the relations between the two countries were greatly disturbed, yet that war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New-York lays so much stress, as proving the actual existence of war with France, Congress passed another act, entitled 'An act authorizing the President of the United States to raise a provisional army;' and the first section declared that the President should be authorized, 'in the event of a declaration of war against the United States, or of actual invasion of their territory by a foreign power, or of imminent danger of such invasion, to cause to be enlisted,' &c., ten thousand men.

"On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry, and six troops of light dragoons, 'to be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged,' &c.

"The following spring, by the act of the 2d of March, 1799, entitled 'An act giving eventual authority to the President of the United States to augment the army,' Congress provided that it should be lawful for the President of the United States, in case war should break out between the United States and a foreign European power, &c., to raise twenty-four regiments of infantry, &c. And in the act for better organizing the army, passed the next day, Congress repeats the declaration, contained in a former act, that certain provisions shall not take effect unless war shall break out between the United States and some European prince, potentate, or state.

"On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army; and this last act declared that further enlistments should be suspended until the further order of Congress, unless in the recess of Congress and during the continuance of the existing differences between the United States and the French Republic, war should break out between the United States and the French Republic, or imminent danger of an invasion of their territory by the said Republic should be discovered.

"On the 14th of May, 1800, four months before the conclusion of the treaty, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops under the provisions of the previous laws. No commentary is necessary, sir, on the texts of these statutes, to show that Congress never recognized the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes, commencing in 1798, running through 1799, and

ending in 1800, with the actual existence of war between the two countries at any period within those years.

"The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here again it seems to me an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed suspending the commercial intercourse between the United States, each for one year. Did any government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and, of course, subjects all vessels found so engaged, with their cargoes, to capture and condemnation as enemy's property. The first of these laws was passed June 13, 1798, the last, February 27, 1800. Will the honorable member from New-York tell us when the war commenced? When did it break out? When did those 'differences,' of which the acts of Congress speak, assume a character of general hostility? Was there a state of war on the 13th of June, 1798, when Congress passed the first non-intercourse act; and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace in June, 1798? and, if so, I ask again, at what time after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endangered, disturbed, agitated peace; but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. And as many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

"As little did the executive government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States, and the refusal of indemnity by the government of France, proceed to say: 'This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.'

"It is equally clear, on the other hand, that neither the French government nor the French ministers acted on the supposition that war had existed between the two nations. And it was for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the treaty, the ministers plenipotentiary of the French Republic write thus to Messrs. Ellsworth, Davie, and Murray: 'In the first place, they will insist upon the principle already laid down in their former note, viz.: that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which existed for some time between France and the United States, by the

act of some agents rather than by the will of the respective governments, has not been a state of war, at least on the side of France.'

"Finally, sir, the treaty itself, what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that 'differences' have arisen between the two states, and that they have, therefore, respectively, appointed their plenipotentiaries, and given them full powers to treat upon those 'differences,' and to terminate the same.

"But the second article of the treaty, as negotiated and agreed on by the ministers of both governments, is, of itself, a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war, since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two governments, not being able to agree on them at present, will negotiate further on them, at convenient time thereafter. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American executive government, to the language of our ministers, to the declarations of the French government and the French ministers, or to the unequivocal language of the treaty itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

"If the treaty had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was postponed, would have had no just claim on their own government. But the treaty did not remain in this state. This second article was stricken out by the Senate; and, in order to see the obvious motive of the Senate in thus striking out the second article, allow me to read the whole article. It is in these words:

"'The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time, and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"The article thus stipulating to make the claims of France, under the old treaties, matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the treaty in this corrected form. France ratified the treaty, as thus amended, with the further declaration that, by thus retrenching the second article, the two nations renounce the respective pretensions which were the object of the article. In this declaration of the French government, the Senate afterwards acquiesced; so that the government of France, by this retrenchment, agreed to renounce her claims under the treaties of 1778, and the United States, in like manner, renounced the claims of their citizens for indemnities due to them.

"And this proves, sir, the second proposition which I stated at the commencement of my remarks, viz.: that these claims were released, relinquished, or extinguished, by the amendment of the treaty, and its ratification as amended. It is only necessary to add, on this point, that these claims for captures before 1800 would have been good claims under the late treaty with France, and would have come in for a dividend in the fund provided by that treaty, if they had not been released by the treaty of 1800. And they are now excluded from all participation in the benefit of the late treaty, because of such release or extinguishment by that of 1800.

“In the third place, sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released by the government of the United States, on national considerations, and for objects in which these claimants had no more interest than any other citizens.

“Now, sir, I do not feel called on to make out that the claims and complaints of France against the government of the United States were well founded. It is certain that she put forth such claims and complaints, and insisted on them to the end. It is certain that, by the treaty of alliance of 1778, the United States did guaranty to France her West India possessions. It is certain that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the government. For the violation of these treaties she claimed indemnity from the government of the United States. Without admitting the justice of these pretensions, the government of the United States found them extremely embarrassing, and they authorized our ministers in France to buy them off by money.

“For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this:

“France admitted that citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the government of the United States.

“She would not satisfy our citizens, till our government agreed to satisfy her. Finally, a treaty is ratified, by which the claims on both sides are renounced.

“The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment, by France, of her claims against our government? And who can doubt it? Look to the negotiation; the claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to; the claims on both sides are there reserved together. And look to the Senate’s amendment, and to the subsequent declaration of the French government, acquiesced in by the Senate; and there the claims on both sides are renounced together. What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New-York. If the United States did not agree to renounce these claims, in consideration that France would renounce hers, what was the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subjects of so much previous controversy, and at one time so near being the cause of open war—did the government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

“And, on the other hand, let me ask, was it for nothing that France relinquished, what she had so long insisted on, the obligation of the United States to fulfil the treaties of 1778? For the extinguishment of this obligation we had already offered her a large sum of money, which she had declined. Was she now willing to give it up without any equivalent?

“Sir, the whole history of the negotiation is full of proof that the individual claims of our citizens, and the government claims of France against the United States, constituted the respective demands of the two parties. They were brought forward together, discussed

together, insisted on together. The French ministers would never consent to disconnect them. While they admitted, in the fullest manner, the claims on our side, they maintained, with persevering resolution, the claims on the side of France. It would fatigue the Senate were I to go through the whole correspondence, and show, as I could easily do, that, in every stage of the negotiation, these two subjects were kept together. I will only refer to some of the more prominent and decisive parts.

"In the first place, the general instructions which our ministers received from our own government, when they undertook the mission, directed them to insist on the claims of American citizens against France, to propose a joint board of commissioners to state those claims, and to agree to refer the claims of France for infringements of the treaty of commerce to the same board. I will read, sir, so much of the instructions as comprehend these points:

"'1. At the opening of the negotiation you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French Republic or its agents. And all captures and condemnations are deemed irregular or illegal when contrary to the law of nations, generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce of the 6th of February, 1778, fairly and ingenuously interpreted, while that treaty remained in force.'

"'2. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a board of commissioners, similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain.'

"'As the French government have heretofore complained of infringements of the treaty of amity and commerce, by the United States or their citizens, all claims for injuries, thereby occasioned to France or its citizens, are to be submitted to the same board; and whatever damages they award will be allowed by the United States, and deducted from the sums awarded to be paid by France.'

"Now, sir, suppose this board had been constituted, and suppose that it had made awards against France, in behalf of citizens of the United States, and had made awards also in favor of the government of France against the government of the United States; and then these last awards had been deducted from the amount of the former, and the property of citizens thus applied to discharge the public obligations of the country, would any body doubt that such citizens would be entitled to indemnity? And are they less entitled, because, instead of being first liquidated and ascertained, and then set off, one against the other, they are finally agreed to be set off against each other, and mutually relinquished in the lump?

"Acting upon their instructions, it will be seen that the American ministers made an actual offer to suspend the claim for indemnities till France should be satisfied as to her political rights under the treaties. On the 15th of July they made this proposition to the French negotiators:

"'Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, to the exclusion of their enemies.'

“This, it will be at once seen, was a direct offer to suspend the claims of our own citizens till our government should be willing to renew to France the obligation of the treaty of 1778. Was not this an offer to make use of private property for public purposes?

“On the 11th of August, the French plenipotentiaries thus write to the ministers of the United States:

“‘The propositions which the French ministers have the honor to communicate to the ministers plenipotentiary of the United States are reduced to this simple alternative:

“‘Either the ancient treaties, with the privileges resulting from priority, and a stipulation of reciprocal indemnities;

“‘Or a new treaty, assuring equality without indemnity.’

“In other words, this offer is, ‘if you will acknowledge or renew the obligation of the old treaties, which secure to us privileges in your ports which our enemies are not to enjoy, then we will make indemnities for the losses of your citizens; or, if you will give up all claim for such indemnities, then we will relinquish our especial privileges under the former treaties, and agree to a new treaty which shall only put us on a footing of equality with Great Britain, our enemy.’

“On the 20th of August our ministers propose that the former treaties, so far as they respect the rights of privateers, shall be renewed; but that it shall be optional with the United States, by the payment, within seven years, of three millions of francs, either in money or in securities issued by the French government for indemnities to our citizens, to buy off this obligation, or to buy off all its political obligations, under both the old treaties, by payment in like manner of five millions of francs.

“On the 4th of September the French ministers submit these propositions.

“‘A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other.

“‘The indemnities which shall be due by France to the citizens of the United States shall be paid for by the United States, and in return for which France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guaranty of the 11th article of the treaty of alliance.’

“The American ministers considered these propositions as inadmissible. They, however, on their part, made an approach to them, by proposing, in substance, that it should be left optional with the United States, on the exchange of the ratification, to relinquish the indemnities, and in that case, the old treaties not to be obligatory on the United States, so far as they conferred exclusive privileges on France. This will be seen in the letter of the American ministers of the 5th of September.

“On the 18th of September the American ministers say to those of France;

“‘It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it:

“‘1st. The ministers plenipotentiary of the respective parties not being able at present to agree respecting the former treaties and indemnities, the parties will, in due and convenient time, further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation.’

“This, the Senate will see, is substantially the proposition which was ultimately accepted, and which formed the second article of the treaty. By that article, these claims, on both sides, were postponed for the present, and afterwards, by other acts of the two governments, they were mutually and for ever renounced and relinquished.

“And now, sir, if any gentleman can look to the treaty, look to the instructions under which it was concluded, look to the correspondence which preceded it, and look to the subsequent agreement of the two governments to renounce claims, on both sides, and not admit that the property of these private citizens has been taken to buy off embarrassing claims of France on the government of the United States, I know not what other or further evidence could ever force that conviction on his mind.

“I will conclude this part of the case by showing you how this matter was understood by the American administration which finally accepted the treaty, with this renouncement of indemnities. The treaty was negotiated in the administration of Mr. Adams. It was amended in the Senate, as already stated, and ratified on the third day of February, 1801, Mr. Adams being still in office. Being thus ratified, with the amendment, it was sent back to France, and on the thirty-first day of July, the first Consul ratified the treaty, as amended by striking out the second article, but accompanied the ratification with this declaration, ‘provided that, by this retrenchment, the two states renounce their respective pretensions, which are the object of the said article.’

“With this declaration appended, the treaty came back to the United States. Mr. Jefferson had now become President, and Mr. Madison was Secretary of State. In consequence of the declaration of the French government, accompanying its ratification of the treaty and now attached to it, Mr. Jefferson again referred the treaty to the Senate, and on the 19th of December, 1801, the Senate resolved that they considered the treaty as duly ratified. Now, sir, in order to show what Mr. Jefferson and his administration thought of this treaty, and the effect of its ratification, in its then existing form, I beg leave to read an extract of an official letter from Mr. Madison to Mr. Pinckney, then our minister in Spain. Mr. Pinckney was at that time negotiating for the adjustment of our claims on Spain; and, among others, for captures committed within the territories of Spain, by French subjects. Spain objected to these claims, on the ground that the United States had claimed redress of such injuries from France. In writing to Mr. Pinckney (under date of February 6th, 1804), and commenting on this plea of Spain, Mr. Madison says:

“‘The plea on which it seems the Spanish government now principally relies, is the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States. This plea did not appear in the early objections of Spain to our claims. It was an afterthought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other.’

“‘The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority. Spain, therefore, is answerable for them. To her we have looked, and continue to look for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may, if she pleases, resort to France as we resort to her. But whether her resort to France would be just or unjust is a question between her and France, not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration, in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by

the United States; they made, therefore, no part of the bargain with her, and could not be included in the release.'

"Certainly, sir, words could not have been used which should more clearly affirm that these individual claims, these private rights of property, had been applied to public uses. Mr. Madison here declares, unequivocally, that these claims had been admitted by France; that they were relinquished by the government of the United States; that they were relinquished for a valuable consideration; that that consideration was a correspondent release of the United States from certain claims on them; and that the whole transaction was a bargain between the two governments. This, sir, be it remembered, was little more than two years after the final promulgation of the treaty; it was by the Secretary of State under that administration which gave effect to the treaty in its amended form, and it proves, beyond mistake and beyond doubt, the clear judgment which that administration had formed upon the true nature and character of the whole transaction."

120. French Spoliations—Mr. Benton's Speech

"The whole stress of the question lies in a few simple facts, which, if disembarrassed from the confusion of terms and conditions, and viewed in their plain and true character, render it difficult not to arrive at a just and correct view of the case. The advocates of this measure have no other grounds to rest their case upon than an assumption of facts; they assume that the United States lay under binding and onerous stipulations to France; that the claims of this bill were recognized by France; and that the United States made herself responsible for these claims, instead of France; took them upon herself, and became bound to pay them, in consideration of getting rid of the burdens which weighed upon her. It is assumed that the claims were good when the United States abandoned them; and that the consideration, which it is pretended the United States received, was of a nature to make her fully responsible to the claimants, and to render it obligatory upon her to satisfy the claims.

"The measure rests entirely upon these assumptions; but I shall show that they are nothing more than assumptions; that these claims were not recognized by France, and could not be, by the law of nations; they were good for nothing when they were made; they were good for nothing when we abandoned them. The United States owed nothing to France, and received no consideration whatever from her, to make us responsible for payment. What I here maintain, I shall proceed to prove, not by any artful chain of argument, but by plain and historical facts.

"Let me ask, sir, on what grounds is it maintained that the United States received a valuable consideration for these claims? Under what onerous stipulations did she lie? In what did her debt consist, which it is alleged France gave up in payment for these claims? By the treaty of '78, the United States was bound to guarantee the French American possessions to France; and France, on her part, guaranteed to the United States her sovereignty and territory. In '93, the war between Great Britain and France broke out; and this rupture between those nations immediately gave rise to the question how far this guaranty was obligatory upon the United States? Whether we were bound by it to protect France on the side of her American possessions against any hostile attack of Great Britain; and thus become involved as subalterns in a war in which we had no concern or interest whatever? Here we come to the point at once; for if it should appear that we were not bound by this guaranty to become parties to a distant European war, then, sir, it will be an evident, a decided result and conclusion, that we were under no obligation to France—that we owed her no debt on account of this guaranty; and, plainly enough, it will follow, we received no valuable consideration for the claims of this bill, when France released us from an obligation which it will appear we never owed. Let us briefly see how the case stands.

"France, to get rid of claims made by us, puts forward counter claims under this guaranty; proposing by such a diplomatic manœuvre to get rid of our demand, the injustice of which she protested against. She succeeded, and both parties abandoned their claims. And is it now to be urged upon us that, on the grounds of this astute diplomacy, we actually received a valuable consideration for claims which were considered good for nothing? France met our claims, which were good for nothing, by a counter claim, which was good for nothing; and when we found ourselves thus encountered, we abandoned our previous claim, in order to be released from the counter one opposed to it. After this, is it, I would ask, a suitable return for our over-wrought anxiety to obtain satisfaction for our citizens, that any one of them should, some thirty years after this, turn round upon us and say: "now you have received a valuable consideration for our claims; now, then, you are bound to pay us!" But this is in fact, sir, the

language of this bill. I unhesitatingly say that the guaranty (a release from which is the pretended consideration by which the whole people of the United States are brought in debtors to a few insurance offices to the amount of millions), this guaranty, sir, I affirm, was good for nothing. I speak on no less authority, and in no less a name than that of the great father of his country, Washington himself, when I affirm that this guaranty imposed upon us no obligations towards France. How, then, shall we be persuaded that, in virtue of this guaranty, we are bound to pay the debts and make good the spoliations of France?

"When the war broke out between Great Britain and France in 1793, Washington addressed to his cabinet a series of questions, inquiring their opinions on this very question—how far the treaty of guaranty of 1778 was obligatory upon the United States—intending to take their opinions as a guidance for his conduct in such a difficult situation. [Here the honorable Senator read extracts from Washington's queries to his cabinet, with some of the opinions themselves.]

"In consequence of the opinions of his cabinet concurring with his own sentiments, President Washington issued a proclamation of neutrality, disregarding the guaranty, and proclaiming that we were not bound by any preceding treaties to defend American France against Great Britain. The wisdom of this measure is apparent. He wisely thought it was not prudent our infant Republic should become absorbed in the vortex of European politics; and therefore, sir, not without long and mature deliberation how far this treaty of guaranty was obligatory upon us, he pronounced against it; and in so doing he pronounced against the very bill before us; for the bill has nothing to stand upon but this guaranty; it pretends that the United States is bound to pay for injuries inflicted by France, because of a release from a guaranty by which the great Washington himself solemnly pronounced we were not bound! What do we now behold, sir? We behold an array in this House, and on this floor, against the policy of Washington! They seek to undo his deed; they condemn his principles; they call in question the wisdom and justice of his wise and paternal counsels; they urge against him that the guaranty bound us, and what for? What is the motive of this opposition against his measures? Why, sir, that this bill may pass; and the people, the burden-bearing people, be made to pay away a few millions, in consideration of obligations which, after mature deliberation, Washington pronounced not to lie upon us!

"I think, sir, enough has been said to put to rest for ever the question of our obligations under this guaranty. Whatever the claims may be, it must be evident to the common sense of every individual, that we are not, and cannot be, bound to pay them in the stead of France, because of a pretended release from a guaranty which did not bind us; I say did not bind us, because, to have observed it, would have led to our ruin and destruction; and it is a clear principle of the law of nations, that a treaty is not obligatory when it is impossible to observe it. But, sir, leaving the question whether we were made responsible for the debts of France, whether we were placed under an obligation to atone to our own citizens for injuries which a foreign power had committed; leaving this question as settled (and I trust settled for ever), I come to consider the claims themselves, their justice, and their validity. And here the principle of this bill will prove, on this head, as weak and untenable—nay, more—as outrageous to every idea of common sense, as it was on the former head. With what reason, I would ask, can gentlemen press the American people to pay these claims, when it would be unreasonable to press France herself to pay them? If France, who committed the wrong, could not justly be called upon to atone for it, how can the United States now be called upon for this money? In 1798, the treaty of peace with France was virtually abolished by various acts of Congress authorizing hostilities, and by proclamation of the President to the same effect; it was abolished on account of its violation by France; on account of those depredations which this bill calls upon us to make good. By those acts of Congress we sought satisfaction for these

claims; and, having done so, it was too late afterwards to seek fresh satisfaction by demanding indemnity. There was war, sir, as the gentleman from Georgia has clearly shown—war on account of these spoliations—and when we sought redress, by acts of warfare, we precluded ourselves from the right of demanding redress by indemnity. We could not, therefore, justly urge these claims against France; and I therefore demand, how can they be urged against us? What are the invincible arguments by which gentlemen establish the justice and validity of these claims? For, surely, before we consent to sweep away millions from the public treasury, we ought to hear at least some good reasons. Let me examine their good reasons. The argument to prove the validity of these claims, and that we are bound to pay them, is this: France acknowledged them, and the United States took them upon herself; that is, they were paid by way of offset, and the valuable consideration the United States received was a release from her pretended obligations! Now, sir, let us see how France acknowledged them. These very claims were denied, resisted, and rejected, by every successive government of France! The law of nations was urged against them; because, having engaged in a state of war, on the account of them, we had no right to a double redress—first by reprisals, and afterwards by indemnity! Besides, France justified her spoliations, on the ground that we violated our neutrality; that the ships seized were laden with goods belonging to the English, the enemies of France; and it is well known, that, in ninety-nine cases out of a hundred, this was the fact—that American citizens lent their names to the English, and were ready to risk all the dangers of French spoliation, for sake of the great profits, which more than covered the risk. And, in the face of all these facts, we are told that the French acknowledged the claims, paid them by a release, and we are now bound to satisfy them! And how is this proved? Where are the invincible arguments by which the public treasury is to be emptied? Hear them, if it is possible even to hear them with patience! When we urged these claims, the French negotiators set up a counter claim; and, to obtain a release from this, we abandoned them! Thus it is that the French acknowledged these claims; and, on this pretence, because of this diplomatic cunning and ingenuity, we are now told that the national honor calls on us to pay them! Was ever such a thing heard of before? Why, sir, if we pass this bill, we shall deserve eternal obloquy and disgrace from the whole American people. France, after repeatedly and perseveringly denying and resisting these claims, at last gets rid of them for ever by an ingenious trick, and by pretending to acknowledge them; and now her debt (if it was a debt) is thrown upon us; and, in consequence of this little trick, the public treasury is to be tricked out of several millions! Sir, this is monstrous! I say it is outrageous! I intend no personal disrespect to any gentleman by these observations; but I must do my duty to my country, and I repeat it, sir, this is outrageous!

“It is strenuously insisted upon, and appears to be firmly relied upon by gentlemen who have advocated this measure, that the United States has actually received from France full consideration for these claims; in a word, that France has paid them! I have already shown, by historical facts, by the law of nations, and, further, by the authority and actions of Washington himself, the father of his country, that we were placed under no obligations to France by the treaty of guaranty; and that, therefore, a release from obligations which did not exist, is no valuable consideration at all! But, sir, how can it be urged upon us that France actually paid us for claims which were denied and resisted, when we all know very well that, for undisputed claims, for claims acknowledged by treaty, for claims solemnly engaged to be paid, we could never succeed in getting one farthing. I thank the senator from New Hampshire (Mr. Hill), for the enlightened view he has given on this case. What, sir, was the conduct of Napoleon, with respect to money? He had bound himself to pay us twenty millions of francs, and he would not pay one farthing! And yet, sir, we are confidently assured by the advocates of this bill that these claims were paid to us by Napoleon! When Louisiana was sold, he ordered Marbois to get fifty millions, and did not even then, intend to

pay us out of that sum the twenty millions he had bound himself by treaty to pay. Marbois succeeded in getting thirty millions of francs more from us, and from this the twenty millions due was deducted; thus, sir, we were made to pay ourselves our own due, and Napoleon escaped the payment of a farthing. I mean to make no reflection upon our negotiators at that treaty; we may be glad that we got Louisiana at any amount; for, if we had not obtained it by money, we should soon have possessed it by blood: the young West, like a lion, would have sprung upon the delta of the Mississippi, and we should have had an earlier edition of the battle of New Orleans. It is not to be regretted, therefore, that we gained Louisiana by negotiation, although we paid our debts ourselves in that bargain. But Napoleon absolutely scolded Marbois for allowing the deduction of twenty millions out of the sum we paid for Louisiana, forgetting that his minister had got thirty millions more than he ordered him to ask, and that we had paid ourselves the twenty millions due to us under treaty. Having such a man to deal with, how can it be maintained on this floor that the United States has been paid by him the claims in this bill, and that, therefore, the treasury is bound to satisfy them? Let senators, I entreat them, but ask themselves the question, what these claims were worth in the view of Napoleon, that they may not form such an unwarranted conclusion as to think he ever paid them. Every government of France which preceded him had treated them as English claims, and is it likely that he who refused to pay claims subsequent to these, under treaty signed by himself, would pay old claims anterior to 1800? The claims were not worth a straw; they were considered as lawful spoliations; that by our proclamation we had broken the neutrality; and, after all, that they were incurred by English enterprises, covered by the American flag. It is pretended he acknowledged them! Would he have inserted two lines in the treaty to rescind them, to get rid of such claims, when he would not pay those he had acknowledged?

To recur once more, sir, to the valuable consideration which it is pretended we received for these claims. It is maintained that we were paid by receiving a release from onerous obligations imposed upon us by the treaty of guaranty, which obligations I have already shown that the great Washington himself pronounced to be nothing; and therefore, sir, it plainly follows that this valuable consideration was—nothing!

What, sir! Is it said we were released from obligations? From what obligations, I would ask, were we relieved? From the obligation of guaranteeing to France her American possessions; from the obligation of conquering St. Domingo for France! From an impossibility, sir! for do we not know that this was impossible to the fleets and armies of France, under Le Clerc, the brother-in-law of Napoleon himself? Did they not perish miserably by the knives of infuriated negroes and the desolating ravages of pestilence? Again, we were released from the obligation of restoring Guadaloupe to the French; which also was not possible, unless we had entered into a war with Great Britain! And thus, sir, the valuable consideration, the release by which these claims are said to be fully paid to the United States, turns out to be a release from nothing! a release from absolute impossibilities; for it was not possible to guarantee to France her colonies; she lost them, and there was nothing to guarantee; it was a one-sided guaranty! She surrendered them by treaty, and there is nothing for the guaranty to operate on.

The gentleman from Georgia [Mr. King], has given a vivid and able picture of the exertions of the United States government in behalf of these claims. He has shown that they have been paid, and more than paid, on our part, by the invaluable blood of our citizens! Such, indeed, is the fact. What has not been done by the United States on behalf of these claims? For these very claims, for the protection of those very claimants, we underwent an incredible expense both in military and naval armaments.

[Here the honorable senator read a long list of military and naval preparations made by Congress for the protection of these claims, specifying the dates and the numbers.]

Nor did the United States confine herself solely to these strenuous exertions and expensive armaments; besides raising fleets and armies, she sent across the Atlantic embassies and agents; she gave letters of marque, by which every injured individual might take his own remedy and repay himself his losses. For these very claims the people were laden at that period with heavy taxes, besides the blood of our people which was spilt for them. Loans were raised at eight per cent. to obtain redress for these claims; and what was the consequence? It overturned the men in power at that period; this it was which produced that result, more than political differences.

The people were taxed and suffered for these same claims in that day; and now they are brought forward again to exhaust the public treasury and to sweep away more millions yet from the people, to impose taxes again upon them, for the very same claims for which the people have already once been taxed; reviving the system of '98, to render loans and debts and encumbrances again to be required; to embarrass the government, entangle the State, to impoverish the people; to dig, in a word, by gradual measures of this description, a pit to plunge the nation headlong into inextricable difficulty and ruin!

The government, in those days, performed its duty to the citizens in the protection of their commerce; and by vindicating, asserting, and satisfying these claims, it left nothing undone which now is to be done; the pretensions of this bill are therefore utterly unfounded! Duties are reciprocal; the duty of government is protection, and that of citizens allegiance. This bill attempts to throw upon the present government the duties and expenses of a former government, which have been already once acquitted. On its part, government has fulfilled, with energy and zeal, its duty to the citizens; it has protected and now is protecting their rights, and asserting their just claims. Witness our navy, kept up in time of peace, for the protection of commerce and for the profit of our citizens; witness our cruisers on every point of the globe, for the security of citizens pursuing every kind of lawful business. But, there are limits to the protection of the interests of individual citizens; peace must, at one time or other, be obtained, and sacrifices are to be made for a valuable consideration. Now, sir, peace is a valuable consideration, and claims are often necessarily abandoned to obtain it. In 1814, we gave up claims for the sake of peace; we gave up claims for Spanish spoliations, at the treaty of Florida; we gave up claims to Denmark. These claims also were given up, long anterior to others I have mentioned. When peace is made, the claims take their chance; some are given up for a gross sum, and some, such as these, when they are worth nothing, will fetch nothing. How monstrous, therefore, that measure is, which would transfer abandoned and disputed claims from the country, by which they were said to be due, to our own country, to our own government, upon our own citizens, requiring us to pay what others owed (nay, what it is doubtful if they did owe); requiring us to pay what we have never received one farthing for, and for which, if we had received millions, we have paid away more than those millions in arduous exertions on their behalf!

I should not discharge the duty I owe to my country, if I did not probe still deeper into these transactions. What were the losses which led to these claims? Gentlemen have indulged themselves in all the flights and raptures of poetry on this pathetic topic; we have heard of "ships swept from the ocean, families plunged in want and ruin;" and such like! What is the fact, sir? It is as the gentleman from New Hampshire has said: never, sir, was there known, before or since, such a flourishing state of commerce as the very time and period of these spoliations. At that time, men made fortunes if they saved one ship only, out of every four or five, from the French cruisers! Let us examine the stubborn facts of sober arithmetic, in this

case, and not sit still and see the people's money charmed out of the treasury by the persuasive notes of poetry. [Mr. B here referred to public documents showing that, in the years 1793, '94, '95, '96, '97, '98, '99, up to 1800, the exports, annually increased at a rapid rate, till, in 1800 they amounted to more than $91,000,000].

It must be taken into consideration that, at this period, our population was less than it is now, our territory was much more limited, we had not Louisiana and the port of New Orleans, and yet our commerce was far more flourishing than it ever has been since; and at a time, too, when we had no mammoth banking corporation to boast of its indispensable, its vital necessity to commerce! These are the facts of numbers, of arithmetic, which blow away the edifice of the gentlemen's poetry, as the wind scatters straws.

With respect to the parties in whose hands these claims are. They are in the hands of insurance offices, assignees, and jobbers; they are in the hands of the knowing ones who have bought them up for two, three, five, ten cents in the dollar! What has become of the screaming babes that have been held up after the ancient Roman method, to excite pity and move our sympathies? What has become of the widows and original claimants? They have been bought out long ago by the knowing ones. If we countenance this bill, sir, we shall renew the disgraceful scenes of 1793, and witness a repetition of the infamous fraud and gambling, and all the old artifices which the certificate funding act gave rise to. (Mr. B. here read several interesting extracts, describing the scenes which then took place.)

One of the most revolting features of this bill is its relation to the insurers. The most infamous and odious act ever passed by Congress was the certificate funding act of 1793, an act passed in favor of a crowd of speculators; but the principle of this bill is more odious than even it; I mean that of paying insurers for their losses. The United States, sir, insure! Can any thing be conceived more revolting and atrocious than to direct the funds of the treasury, the property of the people, to such iniquitous uses? On what principle is this grounded? Their occupation is a safe one; they make calculations against all probabilities; they make fortunes at all times; and especially at this very time when we are called upon to refund their losses, they made immense fortunes. It would be far more just and equitable if Congress were to insure the farmers and planters, and pay them their losses on the failure of the cotton crop; they, sir, are more entitled to put forth such claims than speculators and gamblers, whose trade and business it is to make money by losses. This bill, if passed, would be the most odious and unprincipled ever passed by Congress.

Another question, sir, occurs to me: what sum of money will this bill abstract from the treasury? It says five millions, it is true; but it does not say "and no more;" it does not say that they will be in full. If the project of passing this bill should succeed, not only will claims be made, but next will come interest upon them! Reflect, sir, one moment: interest from 1798 and 1800 to this day! Nor is there any limitation of the amount of claims; no, sir, it would not be possible for the imagination of man, to invent more cunning words than the wording of this bill. It is made to cover all sorts of claims; there is no kind of specification adequate to exclude them; the most illegal claims will be admitted by its loose phraseology!

Again suffer me to call your attention to another feature of this atrocious measure; let me warn my country of the abyss which it is attempted to open before it, by this and other similar measures of draining and exhausting the public treasury!

These claims rejected and spurned by France; these claims for which we have never received one cent, all the payment ever made for them urged upon us by their advocates being a metaphysical and imaginary payment; these claims which, under such deceptive circumstances as these, we, sir, are called upon to pay, and to pay to insurers, usurers,

gamblers, and speculators; these monstrous claims which are foisted upon the American people, let me ask, how are they to be adjudged by this bill? Is it credible, sir? They are to be tried by an *ex parte* tribunal! Commissioners are to be appointed, and then, once seated in this berth, they are to give away and dispose of the public money according to the cases proved! No doubt sir, they will be all honorable men. I do not dispute that! No doubt it will be utterly impossible to prove corruption, or bribery, or interested motives, or partialities against them; nay, sir, no doubt it will be dangerous to suspect such honorable men; we shall be replied to at once by the indignant question, "are they not all honorable men?" But to all intents and purposes this tribunal will be an *ex parte*, a one-sided tribunal and passive to the action of the claimants.

Again, look at the species of evidence which will be invited to appear before these commissioners; of what description will it be? Here is not a thing recent and fresh upon which evidence, may be gained. Here are transactions of thirty or forty years ago. The evidence is gone, witnesses dead, memories failing, no testimony to be procured, and no lack of claimants, notwithstanding. Then, sir, the next best evidence, that suspicious and worthless sort of evidence, will have to be restored to; and this will be ready at hand to suit every convenience in any quantity. There could not be a more effective and deeper plan than this devised to empty the treasury! Here will be sixty millions exhibited as a lure for false evidence, and false claims; an awful, a tremendous temptation for men to send their souls to hell for the sake of money. On the behalf of the moral interests of my country, while it may yet not be too late, I denounce this bill, and warn Congress not to lend itself to a measure by which it will debauch the public morals, and open a wide gulf of wrong-doing and not-to-be-imagined evil!

The bill proposes the amount of only five millions, while, by the looseness of its wording, it will admit old claims of all sorts and different natures; claims long since abandoned for gross sums; all will come in by this bill! One hundred millions of dollars will not pay all that will be patched up under the cover of this bill! In bills of this description we may see a covert attempt to renew the public debt, to make loans and taxes necessary, and the engine of loans necessary with them! There are those who would gladly overwhelm the country in debt; that corporations might be maintained which thrive by debt, and make their profits out of the misery and encumbrances of the people. Shall the people be denied the least repose from taxation? Shall all the labor and exertions of government to extinguish the public debt be in vain? Shall its great exertions to establish economy in the State, and do away with a system of loans and extravagance, be thwarted and resisted by bills of this insidious aim and character? Shall the people be prevented from feeling in reality that we have no debt: shall they only know it by dinners and public rejoicings? Shall such a happy and beneficial result of wise and wholesome measures be rendered all in vain by envious efforts to destroy the whole, and render it impossible for the country to go on without borrowing and being in debt?

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The bill passed the Senate by a vote of 25 to 20; but failed in the House of Representatives. It still continues to importune the two Houses; and though baffled for fifty years, is as pertinacious as ever. Surely there ought to be some limit to these presentations of the same claim. It is a game in which the government has no chance. No number of rejections decides any thing in favor of the government; a single decision in their favor decides all against them. Renewed applications become incessant, and endless; and eventually must succeed. Claims become stronger upon age—gain double strength upon time—often directly, by newly discovered evidence—always indirectly, by the loss of adversary evidence, and by the death

of contemporaries. Two remedies are in the hands of Congress—one, to break up claim agencies, by allowing no claim to be paid to an agent; the other, to break up speculating assignments, by allowing no more to be received by an assignee than he has actually paid for the claim. Assignees and agents are now the great prosecutors of claims against the government. They constitute a profession—a new one—resident at Washington city. Their calling has become a new industrial pursuit—and a most industrious one—skilful and persevering, acting on system and in phalanx; and entirely an overmatch for the succession of new members who come ignorantly to the consideration of the cases which they have so well dressed up. It would be to the honor of Congress, and the protection of the treasury, to institute a searching examination into the practices of these agents, to see whether any undue means are used to procure the legislation they desire.

121. Attempted Assassination Of President Jackson

On Friday, the 30th of January, the President with some members of his Cabinet, attended the funeral ceremonies of Warren R. Davis, Esq., in the hall of the House of Representatives—of which body Mr. Davis had been a member from the State of South Carolina. The procession had moved out with the body, and its front had reached the foot of the broad steps of the eastern portico, when the President, with Mr. Woodbury, Secretary of the Treasury, and Mr. Mahlon Dickerson, Secretary of the Navy, were issuing from the door of the great rotunda—which opens upon the portico. At that instant a person stepped from the crowd into the little open space in front of the President, levelled a pistol at him, at the distance of about eight feet, and attempted to fire. It was a percussion lock, and the cap exploded, without firing the powder in the barrel. The explosion of the cap was so loud that many persons thought the pistol had fired: I heard it at the foot of the steps, far from the place, and a great crowd between. Instantly the person dropped the pistol which had missed fire, took another which he held ready cocked in the left hand, concealed by a cloak—levelled it—and pulled the trigger. It was also a percussion lock, and the cap exploded without firing the powder in the barrel. The President instantly rushed upon him with his uplifted cane: the man shrunk back; Mr. Woodbury aimed a blow at him; Lieutenant Gedney of the Navy knocked him down; he was secured by the bystanders, who delivered him to the officers of justice for judicial examination. The examination took place before the chief justice of the district, Mr. Cranch; by whom he was committed in default of bail. His name was ascertained to be Richard Lawrence, an Englishman by birth, and house-painter by trade, at present out of employment, melancholy and irascible. The pistols were examined, and found to be well loaded; and fired afterwards without fail, carrying their bullets true, and driving them through inch boards at thirty feet distance; nor could any reason be found for the two failures at the door of the rotunda. On his examination the prisoner seemed to be at his ease, as if unconscious of having done any thing wrong—refusing to cross-examine the witnesses who testified against him, or to give any explanation of his conduct. The idea of an unsound mind strongly impressing itself upon the public opinion, the marshal of the district invited two of the most respectable physicians of the city (Dr. Caussin and Dr. Thomas Sewell), to visit him and examine into his mental condition. They did so: and the following is the report which they made upon the case:

“The undersigned, having been requested by the marshal of the District of Columbia to visit Richard Lawrence, now confined in the jail of the county of Washington, for an attempt to assassinate the President of the United States, with a view to ascertain, as far as practicable, the present condition of his bodily health and state of mind, and believing that a detail of the examination will be more satisfactory than an abstract opinion on the subject, we therefore give the following statement. On entering his room, we engaged in a free conversation with him, in which he participated, apparently, in the most artless and unreserved manner. The first interrogatory propounded was, as to his age—which question alone he sportively declined answering. We then inquired into the condition of his health, for several years past—to which he replied that it had been uniformly good, and that he had never labored under any mental derangement; nor did he admit the existence of any of those symptoms of physical derangement which usually attend mental alienation. He said he was born in England, and came to this country when twelve or thirteen years of age, and that his father died in this District, about six or eight years since; that his father was a Protestant and his mother a Methodist, and that he was not a professor of any religion, but sometimes read the Bible, and occasionally attended church. He stated that he was a painter by trade, and had

followed that occupation to the present time; but, of late, could not find steady employment—which had caused much pecuniary embarrassment with him; that he had been generally temperate in his habits, using ardent spirits moderately when at work; but, for the last three or four weeks, had not taken any; that he had never gambled, and, in other respects, had led a regular, sober life.

"Upon being interrogated as to the circumstances connected with the attempted assassination, he said that he had been deliberating on it for some time past, and that he had called at the President's house about a week previous to the attempt, and being conducted to the President's apartment by the porter, found him in conversation with a member of Congress, whom he believed to have been Mr. Sutherland, of Pennsylvania; that he stated to the President that he wanted money to take him to England, and that he must give him a check on the bank, and the President remarked, that he was too much engaged to attend to him—he must call another time, for Mr. Dibble was in waiting for an interview. When asked about the pistols which he had used, he stated that his father left him a pair, but not being alike, about four years since he exchanged one for another, which exactly matched the best of the pair; these were both flint locks, which he recently had altered to percussion locks, by a Mr. Boteler; that he had been frequently in the habit of loading and firing those pistols at marks, and that he had never known them to fail going off on any other occasion, and that, at the distance of ten yards, the ball always passed through an inch plank. He also stated that he had loaded those pistols three or four days previous, with ordinary care, for the purpose attempted; but that he used a pencil instead of a ramrod, and that during that period, they were at all times carried in his pocket; and when asked why they failed to explode, he replied he knew no cause. When asked why he went to the capitol on that day, he replied that he expected that the President would be there. He also stated, that he was in the rotunda when the President arrived; and on being asked why he did not then attempt to shoot him, he replied that he did not wish to interfere with the funeral ceremony, and therefore waited till it was over. He also observed that he did not enter the hall, but looked through a window from a lobby, and saw the President seated with members of Congress, and he then returned to the rotunda, and waited till the President again entered it, and then passed through and took his position in the east portico, about two yards from the door, drew his pistols from his inside coat pocket, cocked them and held one in each hand, concealed by his coat, lest he should alarm the spectators—and states, that as soon as the one in the right hand missed fire, he immediately dropped or exchanged it, and attempted to fire the second, before he was seized; he further stated that he aimed each pistol at the President's heart, and intended, if the first pistol had gone off, and the president had fallen, to have defended himself with the second, if defence had been necessary. On being asked if he did not expect to have been killed on the spot, if he had killed the President, he replied he did not; and that he had no doubt but that he would have been protected by the spectators. He was frequently questioned whether he had any friends present, from whom he expected protection. To this he replied, that he never had mentioned his intention to any one, and that no one in particular knew his design; but that he presumed it was generally know that he intended to put the President out of the way. He further stated, that when the President arrived at the door, near which he stood, finding him supported on the left by Mr. Woodbury, and observing many persons in his rear, and being himself rather to the right of the President, in order to avoid wounding Mr. Woodbury, and those in the rear, he stepped a little to his own right, so that should the ball pass through the body of the President, it would be received by the door-frame or stone wall. On being asked if he felt no trepidation during the attempt: He replied, not the slightest, until he found that the second pistol had missed fire. Then observing that the President was advancing upon him, with an uplifted cane, he feared that it contained a sword, which might have been thrust through him before he could have been protected by the crowd. And when interrogated as to

the motive which induced him to attempt the assassination of the President, he replied, that he had been told that the President had caused his loss of occupation, and the consequent want of money, and he believed that to put him out of the way, was the only remedy for this evil; but to the interrogatory, who told you this? he could not identify any one, but remarked that his brother-in-law, Mr. Redfern, told him that he would have no more business, because he was opposed to the President—and he believed Redfern to be in league with the President against him. Again being questioned, whether he had often attended the debates in Congress, during the present session, and whether they had influenced him in making this attack on the person of the President, he replied that he had frequently attended the discussions in both branches of Congress, but that they had, in no degree, influenced his action.

"Upon being asked if he expected to become the president of the United States, if Gen. Jackson had fallen, he replied no.

"When asked whom he wished to be the President, his answer was, there were many persons in the House of Representatives. On being asked if there were no persons in the Senate, yes, several; and it was the Senate to which I alluded. Who, in your opinion, of the Senate, would make a good President? He answered, Mr. Clay, Mr. Webster, Mr. Calhoun. What do you think of Col. Benton, Mr. Van Buren, or Judge White, for President? He thought they would do well. On being asked if he knew any member of either house of Congress, he replied that he did not—and never spoke to one in his life, or they to him. On being asked what benefit he expected himself from the death of the President, he answered he could not rise unless the President fell, and that he expected thereby to recover his liberty, and that the mechanics would all be benefited; that the mechanics would have plenty of work; and that money would be more plenty. On being asked why it would be more plenty, he replied, it would be more easily obtained from the bank. On being asked what bank, he replied, the Bank of the United States. On being asked if he knew the president, directors, or any of the officers of the bank, or had ever held any intercourse with them, or knew how he could get money out of the bank, he replied no—that he slightly knew Mr. Smith only.

"On being asked with respect to the speeches which he had heard in Congress, and whether he was particularly pleased with those of Messrs. Calhoun, Clay, and Webster, he replied that he was, because they were on his side. He was then asked if he was well pleased with the speeches of Col. Benton and Judge White? He said he was and thought Col. Benton highly talented.

"When asked if he was friendly to Gen. Jackson, he replied, no. Why not? He answered, because he was a tyrant. Who told you he was a tyrant? He answered, it was a common talk with the people, and that he had read it in all the papers. He was asked if he could name any one who had told him so? He replied, no. He was asked if he ever threatened to shoot Mr. Clay, Mr. Webster, or Mr. Calhoun, or whether he would shoot them if he had an opportunity? He replied, no. When asked if he would shoot Mr. Van Buren? He replied, no, that he once met with Mr. Van Buren in the rotunda, and told him he was in want of money and must have it, and if he did not get it he (Mr. Van Buren), or Gen. Jackson must fall. He was asked if any person were present during the conversation? He replied, that there were several present, and when asked if he recollected one of them, he replied that he did not. When asked if any one advised him to shoot Gen. Jackson, or say that it ought to be done? He replied, I do not like to say. On being pressed on this point, he said no one in particular had advised him.

"He further stated, that believing the President to be the source of all his difficulties, he was still fixed in his purpose to kill him, and if his successor pursued the same course, to put him out of the way also—and declared that no power in this country could punish him for having

done so, because it would be resisted by the powers of Europe, as well as of this country. He also stated, that he had been long in correspondence with the powers of Europe, and that his family had been wrongfully deprived of the crown of England, and that *he* should yet live to regain it—and that he considered the President of the United States nothing more than his clerk.

"We now think proper to add, that the young man appears perfectly tranquil and unconcerned, as to the final result, and seems to anticipate no punishment for what he has done. The above contains the leading, and literally expressed facts of the whole conversation we had with him, which continued at least two hours. The questions were frequently repeated at different stages of the examination; and presented in various forms."

It is clearly to be seen from this medical examination of the man, that this attempted assassination of the President, was one of those cases of which history presents many instances—a diseased mind acted upon by a general outcry against a public man. Lawrence was in the particular condition to be acted upon by what he heard against General Jackson:—a workman out of employment—needy—idle—mentally morbid; and with reason enough to argue regularly from false premises. He heard the President accused of breaking up the labor of the country! and believed it—of making money scarce! and he believed it—of producing the distress! and believed it—of being a tyrant! and believed it—of being an obstacle to all relief! and believed it. And coming to a regular conclusion from all these beliefs, he attempted to do what he believed the state of things required him to do—take the life of the man whom he considered the sole cause of his own and the general calamity—and the sole obstacle to his own and the general happiness. Hallucination of mind was evident; and the wretched victim of a dreadful delusion was afterwards treated as insane, and never brought to trial. But the circumstance made a deep impression upon the public feeling, and irresistibly carried many minds to the belief in a superintending Providence, manifested in the extraordinary case of two pistols in succession—so well loaded, so coolly handled, and which afterwards fired with such readiness, force, and precision—missing fire, each in its turn, when levelled eight feet at the President's heart.

122. Alabama Expunging Resolutions

Mr. King, of Alabama, presented the preamble and joint resolution of the general assembly of his State, entreating their senators in Congress to use their “untiring efforts” to cause to be expunged from the journal of the Senate, the resolve condemnatory of President Jackson, for the removal of the deposits. Mr. Clay desired to know, before any order was taken on those resolutions, whether the senator presenting them, proposed to make any motion in relation to expunging the journal? This inquiry was made in a way to show that Mr. King was to meet resistance to his motion if he attempted it. The expunging process was extremely distasteful to the senators whose act was proposed to be stigmatized;—and they now began to be sensitive at its mention.—When Mr. Benton first gave notice of his intention to move it, his notice was looked upon as an idle menace, which would end in nothing. Now it was becoming a serious proceeding. The States were taking it up. Several of them, through their legislatures—Alabama, Mississippi, New Jersey, New-York, North Carolina—had already given the fatal instructions; and it was certain that more would follow. Those of Alabama were the first presented; and it was felt necessary to make head against them from the beginning. Hence, the interrogatory put by Mr. Clay to Mr. King—the inquiry whether he intended to move an expunging resolution?—and the subsequent motion to lay the resolutions of the State upon the table if he answered negatively. Now it was not the intention of Mr. King to move the expunging resolution. It was not his desire to take that business out of the hands of Mr. Benton, who had conceived it—made a speech for it—given notice of it at the last session as a measure for the present one—and had actually given notice at the present session of his intention to offer the resolution. Mr. King’s answer would necessarily, therefore, be in the negative, and Mr. Clay’s motion then became regular to lay it upon the table. Mr. Benton, therefore, felt himself called upon to answer Mr. Clay, and to recall to the recollection of the Senate what took place at the time the sentence of condemnation had passed; and rose and said:

“He had then (at the time of passing the condemnatory resolution), in his place, given immediate notice that he should commence a series of motions for the purpose of expunging the resolutions from the journals. He had then made use of the word expunge, in contradistinction to the word repeal, or the word reverse, because it was his opinion then, and that opinion had been confirmed by all his subsequent reflection, that repeal or reversal of the resolution would not do adequate justice. To do that would require a complete expurgation of the journal. It would require that process which is denominated expunging, by which, to the present, and to all future times, it would be indicated that that had been placed upon the journals which should never have gone there. He had given that notice, after serious reflection, that it might be seen that the Senate was trampling the constitution of the United States under foot; and not only that, but also the very forms, to say nothing of the substance, of all criminal justice.

“He had given this notice in obedience to the dictates of his bosom, which were afterwards sustained by the decision of his head, without consultation with any other person, but after conference only with himself and his God. To a single human being he had said that he should do it, but he had not consulted with any one. In the ordinary routine of business, no one was more ready to consult with his friends, and to defer to their opinions, than he was; but there were some occasions on which he held council with no man, but took his own course, without regard to consequences. It would have been a matter of entire indifference with him, had the whole Senate risen as one man, and declared a determination to give a

unanimous vote against him. It would have mattered nothing. He would not have deferred to any human being. Actuated by these feelings he had given notice of his intention in the month of May; and in obedience to that determination he had, on the last day of the session, laid his resolution on the table, in order to keep the matter alive.

"This brought him to the answer to the question proposed. The presentation of the resolutions of the legislature of Alabama afforded a fit and proper occasion to give that public notice which he had already informally and privately given to many members of the Senate. He had said that he should bring forward his resolution at the earliest convenient time. And yesterday evening, when he saw the attempt which was made to give to a proceeding emanating from the Post Office Committee, and to which, by the unanimous consent of that committee, a legislative direction had been assigned, a new form, by one of the senators from South Carolina, so as to make it a proceeding against persons, in contradistinction to the public matters embodied in the report; when he heard these persons assailed by one of the senators from South Carolina, in such a manner as to prevent any possibility of doubt concerning them; and when he discovered that the object of these gentle gentlemen was impeachment in substance, if not in form, he did at once form the determination to give notice this morning of his intention to move his resolution at the earliest convenient period.

"This was his answer to the question which had been proposed.

"Mr. King, of Alabama, said he was surprised to hear the question of the honorable senator from Kentucky, as he did not expect such an inquiry: for he had supposed it was well understood by every member of the Senate what his sentiments were in regard to the right of instruction. The legislature of Alabama had instructed him to pursue a particular course, and he should obey their instructions. With regard to the resolution to which the legislature alluded, he could merely say that he voted against it at the time it was adopted by the Senate. His opinion as to it was then, as well as now, perfectly understood. If the gentleman from Missouri [Mr. Benton] declined bringing the subject forward relative to the propriety of expunging the resolution in question from the journal of the Senate, he, himself should, at some proper time, do so, and also say something on the great and important question as to the right of instruction. Now, that might be admitted in its fullest extent. He held his place there, subject to the control of the legislature of Alabama, and whenever their instructions reached him, he should be governed by them. He made this statement without entering into the consideration of the propriety or impropriety of senators exercising their own judgment as to the course they deemed most proper to pursue. For himself, never having doubted the right of a legislature to instruct their senators in Congress, he should consider himself culpable if he did not carry their wishes into effect, when properly expressed. And he had hoped there would have been no expression of the Senate at this time, as he was not disposed to enter into a discussion then, for particular reasons, which it was not necessary he should state.

"As to the propriety of acting on the subject then, that would depend upon the opinions of gentlemen as to the importance, the great importance, of having the journal of the Senate freed from what many supposed to be an unconstitutional act of the Senate, although the majority of it thought otherwise. He would now say that, if no one should bring forward a proposition to get the resolution expunged, he, feeling himself bound to obey the opinions of the legislature, should do so, and would vote for it. If no precedent was to be found for such an act of the Senate, he should most unhesitatingly vote for expunging the resolution from the journal of the Senate, in such manner as should be justified by precedent.

"Mr. Clay said the honorable member from Alabama had risen in his place, and presented to the Senate two resolutions, adopted by the legislature of his State, instructing him and his colleague to use their untiring exertions to cause to be expunged from the journals of the

Senate certain resolutions passed during the last session of Congress, on the subject of the removal of the deposits from the Bank of the United States. The resolutions of Alabama had been presented; they were accompanied by no motion to carry the intentions of that State into effect; nor were they accompanied by any intimation from the honorable senator, who presented them, of his intention to make any proposition, in relation to them, to the Senate. Under these circumstances, the inquiry was made by him (Mr. C) of the senator from Alabama, which he thought the occasion called for. The inquiry was a very natural one, and he had learned with unfeigned surprise that the senator did not expect it. He would now say to the senator from Alabama, that of him, and of him alone, were these inquiries made; and with regard to the reply made by another senator (Mr. Benton), he would further say, that his relations to him were not such as to enable him to know what were that senator's intentions, at any time, and on any subject; nor was it necessary he should know them.

"He had nothing further to say, than to express the hope that the senator from Alabama would, for the present, withdraw the resolutions he had presented; and if, after he had consulted precedents, and a careful examination of the constitution of the United States, he finds that he can, consistently with them, make any propositions for the action of the Senate, he (Mr. C.) would be willing to receive the resolutions, and pay to them all that attention and respect which the proceedings of one of the States of this Union merited. If the gentleman did not pursue that course, he should feel himself bound, by every consideration, by all the obligations which bound a public man to discharge his duty to his God, his country, and his own honor, to resist such an unconstitutional procedure as the reception of these resolutions, without the expressed wish of the legislature of Alabama, and without any intimation from her senators, of any proposition to be made on them, at the very threshold. He did hope that, for the present, the gentleman would withdraw these resolutions, and at a proper time present them with some substantive proposition for the consideration of the Senate. If he did not, the debate must go on, to the exclusion of the important one commenced yesterday, and which every gentleman expected to be continued to-day, as he should in such case feel it necessary to submit a motion for the Senate to decide whether, under present circumstances, the resolutions could be received.

"Mr. Clay declared that when such a resolution should be offered he should discharge the duty which he owed to his God, his country and his honor.

"Mr. King of Alabama, had felt an unwillingness from the first to enter into this discussion, for reasons which would be understood by every gentleman. It was his wish, and was so understood by one or two friends whom he had consulted, that the resolutions should lie on the table for the present, until the debate on another subject was disposed of. In reply to the senator from Kentucky, he must say that he could not, situated as he was, accede to his proposition. His object certainly was to carry into effect the wishes of the legislature of his State; and he, as well as his colleague, felt bound to obey the will of the sovereign State of Alabama, whenever made known to them. He certainly should, at a proper time, present a distinct proposition in relation to these resolutions for the consideration of the Senate; and the senator from Kentucky could then have an opportunity of discharging 'his duty to his God, to his country, and his own honor,' in a manner most consistent with his own sense of propriety.

"Mr. Clay would not renew the intimation of any intention on his part, to submit a motion to the Senate, if there was any probability that the senator from Alabama would withdraw the resolutions he had submitted. He now gave notice that, if the senator did not think fit to withdraw them, he should feel it his duty to submit a proposition which would most probably lead to a debate, and prevent the one commenced yesterday from being resumed to-day.

“Mr. Calhoun moved that the resolution be laid upon the table, to give the senator from Alabama [Mr. King], an opportunity to prepare a resolution to accomplish the meditated purpose of rescinding the former resolutions of the Senate. I confess, sir (observed Mr. C), I feel some curiosity to see how the senator from Alabama will reconcile such a proceeding with the free and independent existence of a Senate. I feel, sir, a great curiosity to hear how that gentleman proposes that the journals are to be kept, if such a procedure is allowed to take effect. I should like to know how he proposes to repeal a journal. By what strange process he would destroy facts, and annihilate events and things which are now the depositories of history. When he shall have satisfied my curiosity on this particular, then there is another thing I am anxious to be informed upon, and that is, what form, what strange and new plan of proceeding, will he suggest for the adoption of the Senate? I will tell him; I will show him the only resource that is left, the point to which he necessarily comes, and that is this: he will be obliged to declare, in his resolution, that the principle upon which the Senate acted was not correct; that it was a false and erroneous principle. And let me ask, what was that principle, which now, it seems, is to be destroyed? The principle on which the Senate acted, the principle which that gentleman engages to overthrow, is this: ‘we have a right to express our opinion.’ He will be compelled to deny that; or, perhaps, he may take refuge from such a predicament by qualifying his subversion of this first principle of legislative freedom. And how will he qualify the denial of this principle? that is, how will he deny it, and yet apparently maintain it? He has only one resource left, and that is, to pretend that we have a right to express our opinions, but not of the President. This is the end and aim; yes, this is the inevitable consequence and result of such an extraordinary, such a monstrous procedure.

“So then, it is come to this, that the Senate has no right to express its opinion in relation to the Executive? A distinction is now set up between the President and all other officers, and the gentleman is prepared with a resolution to give effect and energy to the distinction; and now, for the first time that such a doctrine has ever been heard on the American soil, he is prepared to profess and publish, in the face of the American people, that old and worn-out dogma of old and worn-out nations, ‘the King can do no wrong!’ that his officers, his ministers, are alone responsible; that we shall be permitted perhaps to utter our opinions of them; but a unanimous opinion expressed by the Senate, in relation to the President himself, is no longer suffered to exist, is no longer permitted to be given; it must be expunged from the journals.

“I confess I am agitated with an intense curiosity: I wish to see with what ingenuity of artful disguise the Senate is to be reduced to the dumb legislation of Bonaparte’s Senate. This very question brings on the issue. This very proposition of expunging our resolutions is the question in which the expunging of our legislative freedom and independence is to be agitated. I confess I long to see the strange extremities to which the gentleman will come. It is a question of the utmost magnitude; I an anxious to see it brought on; two senators [Messrs. Benton, and King of Alabama] have pledged themselves to bring it forward. They cannot do it too soon—they cannot too soon expose the horrible reality of the condition to which our country is reduced. I hope they will make no delay; let them hasten in their course; let them lose no time in their effort to expunge the Senate, and dissolve the system of government and constitution. Yes, I entreat them to push their deliberate purpose to a resolve. They have now given origin to a question than which none perhaps is, in its effects and tendencies, of deeper and more radical importance; it is a question more important than that of the bank, or than that of the Post Office, and I am exceedingly anxious to see how far they will carry out the doctrine they have advanced; a doctrine as enslaving and as despotic as any that is maintained by the Autocrat of all the Russias. To give them an opportunity, I move to lay the resolutions on the table, and I promise them that, when they move their resolution, I will be ready to take it up.

"Mr. Clay said that the proposition to receive the resolutions was a preliminary one, and was the question to which he had at first invited the attention of the Senate. The debate, certainly, had been very irregular, and not strictly in order. He had contended, from the first, for the purpose of avoiding an interference with a debate on another subject, that the subject of the Alabama resolutions should not be agitated at that time. The senator from Alabama having refused to withdraw these resolutions, he was compelled to a course which would, in all probability, lead to a protracted debate.

"Mr. Clay then submitted the following:

"*Resolved*, That the resolutions of the legislature of Alabama, presented by the senator from that State, ought not to be acted upon by the Senate, inasmuch as they are not addressed to the Senate, nor contain any request that they be laid before the Senate; and inasmuch, also, as that which those resolutions direct should be done, cannot be done without violating the constitution of the United States."

"Mr. Calhoun here moved to lay the resolutions on the table, which motion took precedence of Mr. Clay's, and was not debatable. He withdrew it, however, at the request of Mr. Clayton.

"Mr. Benton said an objection had been raised to the resolutions of Alabama, by the senator from South Carolina and the senator from Delaware, to which he would briefly reply. Need he refer those gentlemen to the course of their own reading? he would refer them to the case in a State contiguous to South Carolina, where certain proceedings of its legislature were publicly burnt. (The journal of the Yazoo fraud, in Georgia.) Need he refer them to the case of Wilkes? where the British House of Commons expunged certain proceedings from their journal—expunged! not by the childish process of sending out for every copy and cutting a leaf from each, but by a more effectual process. He would describe the *modus* as he read it in the parliamentary history. It was this: There was a total suspension of business in the House, and the clerk, taking the official journal, the original record of its proceedings, and reading the clause to be expunged, obliterated it, word after word, not by making a Saint Andrew's cross over the clause, as is sometimes done in old accounts, but by completely erasing out every letter. This is the way expunging is done, and this is what I propose to get done in the Senate, through the power of the people, upon this lawless condemnation of President Jackson: and no system of tactics or manœuvres shall prevent me from following up the design according to the notice given yesterday.

"Mr. King of Alabama, in reply, said that when the proper time arrived—and he should use his own time, on his own responsibility—he would bring forward the resolution, of which the senator from Missouri had given notice, if not prevented by the previous action of that gentleman. He had no doubt of the power of the Senate to repeal any resolution it had adopted. What! repeal facts? asked the senator from South Carolina. He would ask that gentleman if they had it not in their power to retrace their steps when they have done wrong? If they had it not in their power to correct their own journal when asserting what was not true? The democratic party of the country had spoken, pronounced judgment upon the facts stated in that journal. They had declared that these facts were not true; that the condemnation pronounced against the Chief Magistrate, for having violated the constitution of the United States, was not true; and it was high time that it was stricken from the journal it disgraced.

"Mr. Calhoun observed that the senator from Alabama having made some personal allusions to him, he felt bound to notice them, although not at all disposed to intrude upon the patience of the Senate. The senator had said that he (Mr. C.) was truly connected with party. Now, if by 'party' the gentleman meant that he was enlisted in any political scheme, that he desired to promote the success of any party, or was anxious to see any particular man elevated to the

Chief Magistracy, he did him great injustice. It was a long time since he (Mr. C.) had taken any active part in the political affairs of the country. The senator need only to have looked back to his vote, for the last eight years, to have been satisfied that he (Mr. C.) had voluntarily put himself in the very small minority to which he belonged, and that he had done this to serve the gallant and patriotic State of South Carolina. Would the gentleman say that he did not step forward in defence of South Carolina, in the great and magnanimous stand which she took in defence of her rights? Now, he wished the senator to understand him, that he had put himself in a minority of at least one to a hundred; that he had abandoned party voluntarily, freely; and he would tell every Senator—for he was constrained to speak of himself, and therefore he should speak boldly—he would not turn upon his heel for the administration of the affairs of this government. He believed that such was the hold which corruption had obtained in this government, that any man who should undertake to reform it would not be sustained."

Mr. King of Alabama moved that the resolutions be printed, which motion was superseded by a motion to lay it on the table, which prevailed—yeas twenty-seven, nays twenty—as follows:

"Yeas.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster.

"Nays.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Moore, Morris, Preston, Robinson, Shepley, Tallmadge, Tipton, White, Wright."

And thus the resolutions of a sovereign State, in favor of expunging what it deemed to be a lawless sentence passed upon the President, were refused even a reception and a printing—a circumstance which seemed to augur badly for the final success of the series of expunging motions which I had pledged myself to make. But, in fact, it was not discouraging—but the contrary. It strengthened the conviction that such conduct would sooner induce the change of senators in the democratic States, and permit the act to be done.

123. The Expunging Resolution

From the moment of the Senate's condemnation of General Jackson, Mr. Benton gave notice of his intention to move the expunction of the sentence from the journal, periodically and continually until the object should be effected, or his political life come to its end. In conformity to this notice, he made his formal motion at the session '34-'35; and in these words:

"*Resolved*, That the resolution adopted by the Senate, on the 28th day of March, in the year 1834, in the following words: '*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' be, and the same hereby is, ordered to be expunged from the journals of the Senate; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States."

This proposition was extremely distasteful to the Senate—to the majority which passed the sentence on General Jackson; and Mr. Southard, senator from New Jersey, spoke their sentiments, and his own, when he thus bitterly characterized it as an indictment which the Senate itself was required to try, and to degrade itself in its own condemnation,—he said:

"The object of this resolution (said Mr. S.), not to obtain an expression from the Senate that their former opinions were erroneous, nor that the Executive acted correctly in relation to the public treasury. It goes further, and denounces the act of the Senate as so unconstitutional, unjustifiable, and offensive, that the evidence of it ought not to be permitted to remain upon the records of the government. It is an indictment against the Senate. The senator from Missouri calls upon us to sit in judgment upon our own act, and warns us that we can save ourselves from future and lasting denunciation and reproach only by pronouncing our own condemnation by our votes. He assures us that he has no desire or intention to degrade the Senate, but the position in which he would place us is one of deep degradation—degradation of the most humiliating character—which not only acknowledges error, and admits inexcusable misconduct in this legislative branch of the government, but bows it down before the majesty of the Executive, and makes us offer incense to his infallibility."

The bitterness of this self trial was aggravated by seeing the course which the public mind was taking. A current, strong and steady, and constantly swelling, was setting in for the President and against the Senate; and resolutions from the legislatures of several States—Alabama, Mississippi, New Jersey, North Carolina—had already arrived instructing their senators to vote for the expurgation which Mr. Benton proposed. In the mean time he had not yet made his leading speech in favor of his motion; and he judged this to be the proper time to do so, in order to produce its effects on the elections of the ensuing summer; and accordingly now spoke as follows:

Mr. Benton then rose and addressed the Senate in support of his motion. He said that the resolution which he had offered, though resolved upon, as he had heretofore stated, without consultation with any person, was not resolved upon without great deliberation in his own mind. The criminating resolution, which it was his object to expunge, was presented to the Senate, December 26th, 1833. The senator from Kentucky who introduced it [Mr. Clay],

commenced a discussion of it on that day, which was continued through the months of January and February, and to the end, nearly, of the month of March. The vote was taken upon it the 28th of March; and about a fortnight thereafter he announced to the Senate his intention to commence a series of motions for expunging the resolution from the journal. Here, then, were nearly four months for consideration; for the decision was expected; and he had very anxiously considered, during that period, all the difficulties, and all the proprieties, of the step which he meditated. Was the intended motion to clear the journal of the resolution right in itself? The convictions of his judgment told him that it was. Was expurgation the proper mode? Yes; he was thoroughly satisfied that that was the proper mode of proceeding in this case. For the criminating resolution which he wished to get rid of combined all the characteristics of a case which required erasure and obliteration: for it was a case, as he believed, of the exercise of power without authority, without even jurisdiction; illegal, irregular, and unjust. Other modes of annulling the resolution, as rescinding, reversing, repealing, could not be proper in such a case; for they would imply rightful jurisdiction, a lawful authority, a legal action, though an erroneous judgment. All that he denied. He denied the authority of the Senate to pass such a resolution at all; and he affirmed that it was unjust, and contrary to the truth, as well as contrary to law. This being his view of the resolution, he held that the true and proper course, the parliamentary course of proceeding in such a case, was to expunge it.

But, said Mr. B., it is objected that the Senate has no right to expunge any thing from its journal; that it is required by the constitution to keep a journal; and, being so required, could not destroy any part of it. This, said Mr. B., is sticking in the bark; and in the thinnest bark in which a shot, even the smallest, was ever lodged. Various are the meanings of the word keep, used as a verb. To keep a journal is to write down, daily, the history of what you do. For the Senate to keep a journal is to cause to be written down, every day, the account of its proceedings; and, having done that, the constitutional injunction is satisfied. The constitution was satisfied by entering this criminating resolution on the journal; it will be equally satisfied by entering the expunging resolution on the same journal. In each case the Senate keeps a journal of its own proceedings.

It is objected, also, that we have no right to destroy a part of the journal; and that to expunge is to destroy and to prevent the expunged part from being known in future. Not so the fact, said Mr. B. The matter expunged is not destroyed. It is incorporated in the expunging resolution, and lives as long as that lives; the only effect of the expurgation being to express, in the most emphatic manner, the opinion that such matter ought never to have been put in the journal.

Mr. B. said he would support these positions by authority, the authority of eminent examples; and would cite two cases, out of a multitude that might be adduced, to show that expunging was the proper course, the parliamentary course, in such a case as the one now before the Senate, and that the expunged matter was incorporated and preserved in the expunging resolution.

Mr. B. then read, from a volume of British Parliamentary History, the celebrated case of the Middlesex election, in which the resolution to expel the famous John Wilkes was expunged from the journal, but preserved in the expurgatory resolution, so as to be just as well read now as if it had never been blotted out from the journals of the British House of Commons. The resolution ran in these words: “That the resolution of the House of the 17th February, 1769, ‘that John Wilkes, Esq., having been, in this session of Parliament, expelled this House, was and is incapable of being elected a member to serve in the present Parliament,’ be expunged from the journals of this House, as being subversive of the rights of the whole body

of electors of this kingdom." Such, said Mr. B., were the terms of the expunging resolution in the case of the Middlesex election, as it was annually introduced from 1769 to 1782; when it was finally passed by a vote of near three to one, and the clause ordered to be expunged was blotted out of the journal, and obliterated, by the clerk at the table, in the presence of the whole House, which remained silent, and all business suspended until the obliteration was complete. Yet the history of the case is not lost. Though blotted out of one part of the journal, it is saved in another; and here, at the distance of half a century, and some thousand miles from London, the whole case is read as fully as if no such operation had ever been performed upon it.

Having given a precedent from British parliamentary history, Mr. B. would give another from American history; not, indeed, from the Congress of the assembled States, but from one of the oldest and most respectable States of the Union; he spoke of Massachusetts, and of the resolution adopted in the Senate of that State during the late war, adverse to the celebration of our national victories; and which, some ten years afterwards, was expunged from the journals by a solemn vote of the Senate.

A year ago, said Mr. B., the Senate tried President Jackson; now the Senate itself is on trial nominally before itself; but in reality before America, Europe, and posterity. We shall give our voices in our own case; we shall vote for or against this motion; and the entry upon the record will be according to the majority of voices. But that is not the end, but the beginning of our trial. We shall be judged by others; by the public, by the present age, and by all posterity! The proceedings of this case, and of this day, will not be limited to the present age; they will go down to posterity, and to the latest ages. President Jackson is not a character to be forgotten in history. His name is not to be confined to the dry catalogue and official nomenclature of mere American Presidents. Like the great Romans who attained the consulship, not by the paltry arts of electioneering, but through a series of illustrious deeds, his name will live, not for the offices he filled, but for the deeds which he performed. He is the first President that has ever received the condemnation of the Senate for the violation of the laws and the constitution, the first whose name is borne upon the journals of the American Senate for the violation of that constitution which he is sworn to observe, and of those laws which he is bound to see faithfully executed. Such a condemnation cannot escape the observation of history. It will be read, considered, judged! when the men of this day, and the passions of this hour, shall have passed to eternal repose.

Before he proceeded to the exposition of the case which he intended to make, he wished to avail himself of an argument which had been conclusive elsewhere, and which he trusted could not be without effect in this Senate. It was the argument of public opinion. In the case of the Middlesex election, it had been decisive with the British House of Commons; in the Massachusetts case, it had been decisive with the Senate of that State. In both these cases many gentlemen yielded their private opinions to public sentiment; and public sentiment having been well pronounced in the case now before the Senate, he had a right to look for the same deferential respect for it here which had been shown elsewhere.

Mr. B. then took up a volume of British parliamentary history for the year 1782, the 22d volume, and read various passages from pages 1407, 1408, 1410, 1411, to show the stress which had been laid on the argument of public opinion in favor of expunging the Middlesex resolutions; and the deference which was paid to it by the House, and by members who had, until then, opposed the motion to expunge. He read first from Mr. Wilkes' opening speech, on renewing his annual motion for the fourteenth time, as follows:

"If the people of England, sir, have at any time explicitly and fully declared an opinion respecting a momentous constitutional question, it has been in regard to the Middlesex

election in 1768." * * * * "Their voice was never heard in a more clear and distinct manner than on this point of the first magnitude for all the electors of the kingdom, and I trust will now be heard favorably."

He then read from Mr. Fox's speech. Mr. Fox had heretofore opposed the expunging resolution, but now yielded to it in obedience to the voice of the people.

"He (Mr. Fox) had turned the question often in his mind, he was still of opinion that the resolution which gentlemen wanted to expunge was founded on proper principles." * * * * "Though he opposed the motion, he felt very little anxiety for the event of the question; for when he found the voice of the people was against the privilege, as he believed was the case at present, he would not preserve the privilege." * * * * "The people had associated, they had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents."

Having read these passages, Mr. B. said they were the sentiments of an English whig of the old school. Mr. Fox was a whig of the old school. He acknowledged the right of the people to instruct their representatives. He yielded to the general voice himself, though not specially instructed; and he uses the remarkable expression which acknowledges the duty of Parliament to obey the will of the people. "They had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents." This, said Mr. B., was fifty years ago; it was spoken by a member of Parliament, who, besides being the first debater of his age, was at that time Secretary at War. He acknowledged the duty of Parliament to obey the voice of the people. The son of a peer of the realm, and only not a peer himself because he was not the eldest son, he still acknowledged the great democratic principle which lies at the bottom of all representative government. After this, after such an example, will American Senators be unwilling to obey the people? Will they require people to teach Congress the lesson which Mr. Fox says the English people had taught their Parliament fifty years ago? The voice of the people of the United States had been heard on this subject. The elections declared it. The vote of many legislatures declared it. From the confines of the Republic the voice of the people came rolling in—a swelling tide, rising as it flowed—and covering the capitol with its mountain waves. Can that voice be disregarded? Will members of a republican Congress be less obedient to the voice of the people than were the representatives of a monarchical House of Commons?

Mr. B. then proceeded to the argument of his motion. He moved to expunge the resolution of March 28, 1834, from the journals of the Senate, because it was illegal and unjust; vague and indefinite; a criminal charge without specification; unwarranted by the constitution and laws; subversive of the rights of defence which belong to an accused and impeachable officer; of evil example; and adopted at a time and under circumstances to involve the political rights and the pecuniary interests of the people of the United States in peculiar danger and serious injury.

These reasons for expunging the criminating resolution from the journals, Mr. B. said, were not phrases collected and paraded for effect, or strung together for harmony of sound. They were each, separately and individually, substantive reasons; every word an allegation of fact, or of law. Without going fully into the argument now, he would make an exposition which would lay open his meaning, and enable each allegation, whether of law or of fact, to be fully understood, and replied to in the sense intended.

1. *Illegal and unjust.*—These were the first heads under which Mr. B. would develope his objections, he would say the outline of his objections, to the resolution proposed to be expunged. He held it to be illegal, because it contained a criminal charge, on which the

President might be impeached, and for which he might be tried by the Senate. The resolution adopted by the Senate is precisely the first step taken in the House of Representatives to bring on an impeachment. It was a resolution offered by a member in his place, containing a criminal charge against an impeachable officer, debated for a hundred days; and then voted upon by the Senate, and the officer voted to be guilty. This is the precise mode of bringing on an impeachment in the House of Representatives; and, to prove it, Mr. B. would read from a work of approved authority on parliamentary practice; it was from Mr. Jefferson's Manual. Mr. B. then read from the Manual, under the section entitled Impeachment, and from that head of the section entitled accusation. The writer was giving the British Parliamentary practice, to which our own constitution is conformable. "The Commons, as the grand inquest of the nation, became suitors for penal justice. The general course is to pass a resolution containing a criminal charge against the supposed delinquent; and then to direct some member to impeach him by oral accusation at the bar of the House of Lords, in the name of the Commons."

Repeating a clause of what he had read, Mr. B. said the general course is to pass a criminal charge against the supposed delinquent. This is exactly what the Senate did; and what did it do next? Nothing. And why nothing? Because there was nothing to be done by them but to execute the sentence they had passed; and that they could not do. Penal justice was the consequence of the resolution; and a judgment of penalties could not be attempted on such an irregular proceeding. The only kind of penal justice which the Senate could inflict was that of public opinion; it was to ostracize the President, and to expose him to public odium, as a violator of the laws and constitution of his country. Having shown the resolution to be illegal, Mr. B. would pronounce it to be unjust; for he affirmed the resolution to be untrue; he maintained that the President had violated no law, no part of the constitution, in dismissing Mr. Duane from the Treasury, appointing Mr. Taney, or causing the deposits to be removed; for these were the specifications contained in the original resolution, also in the second modification of the resolution, and intended in the third modification, when stripped of specifications, and reduced to a vague and general charge. It was in this shape of a general charge that the resolution passed. No new specifications were even suggested in debate. The alterations were made voluntarily, by the friends of the resolution, at the last moment of the debate, and just when the vote was to be taken. And why were the specifications then dropped? Because no majority could be found to agree in them? or because it was thought prudent to drop the name of the Bank of the United States? or for both these reasons together? Be that as it may, said Mr. B., the condemnation of the President, and the support of the bank, were connected in the resolution, and will be indissolubly connected in the public mind; and the President was unjustly condemned in the same resolution that befriended and sustained the cause of the bank. He held the condemnation to be untrue in point of fact, and therefore unjust; for he maintained that there was no breach of the laws and constitution in any thing that President Jackson did, in removing Mr. Duane, or in appointing Mr. Taney, or in causing the deposits to be removed. There was no violation of law, or constitution, in any part of these proceedings; on the contrary, the whole country, and the government itself, was redeemed from the dominion of a great and daring moneyed corporation, by the wisdom and energy of these very proceedings.

2. *Vague and indefinite*; a criminal charge without specification. Such was the resolution, Mr. B. said, when it passed the Senate; but such it was not when first introduced, nor even when first altered; in its first and second forms it contained specifications, and these specifications identified the condemnation of the President with the defence of the bank; in its third form, these specifications were omitted, and no others were substituted; the bank and the resolution stood disconnected on the record, but as much connected, in fact, as ever. The resolution was

reduced to a vague and indefinite form, on purpose, and in that circumstance, acquired a new character of injustice to President Jackson. His accusers should have specified the law, and the clause in the constitution, which was violated; they should have specified the acts which constituted the violation. This was due to the accused, that he might know on what points to defend himself; it was due to the public, that they might know on what points to hold the accusers to their responsibility, and to make them accountable for an unjust accusation. To sustain this position, Mr. B. had recourse to history and example, and produced the case of Mr. Giles's accusation of General Hamilton, then Secretary of the Treasury, in the year 1793. Mr. Giles, he said, proceeded in a manly, responsible manner. He specified the law and the alleged violations of the law, so that the friends of General Hamilton could see what to defend, and so as to make himself accountable for the accusation. He specified the law, which he believed to be violated, by its date and its title; and he specified the two instances in which he held that law to have been infringed.

Mr. B. said he had a double object in quoting this resolution of Mr. Giles, which was intended to lay the foundation for an impeachment against General Hamilton; it was to show, first, the speciality with which these criminating resolutions should be drawn; next, to show the absence of any allegations of corrupt or wicked intention. The mere violation of law was charged as the offence, as it was in three of the articles of impeachment against Judge Chase; and thus, the absence of an allegation of corrupt intention in the resolution adopted against President Jackson, was no argument against its impeachment character, especially as exhibited in its first and second form, with the criminal averment, "dangerous to the liberties of the people."

For the purpose of exposing the studied vagueness of the resolution as passed, detecting its connection with the Bank of the United States, demonstrating its criminal character in twice retaining the criminal averment, "dangerous to the liberties of the people," and showing the progressive changes it had to undergo before it could conciliate a majority of the votes, Mr. B. would exhibit all three of the resolutions, and read them side by side of each other, as they appeared before the Senate, in the first, second, and third forms which they were made to wear. They appeared first in the embryo, or primordial form; then they assumed their aurelia, or chrysalis state; in the third stage, they reached the ultimate perfection of their imperfect nature.

First Form.—*December 26, 1833.*

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

Second Form.—*March 28, 1834.*

"*Resolved*, That, in taking upon himself the responsibility of removing the deposit of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

Third Form.—*March 28, 1834.*

"*Resolved*, That the President, in the late executive proceedings, in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Having exhibited the original resolution, with its variations, Mr. B. would leave it to others to explain the reasons of such extraordinary metamorphoses. Whether to get rid of the bank association, or to get rid of the impeachment clause, or to conciliate the votes of all who were willing to condemn the President, but could not tell for what, it was not for him to say; but one thing he would venture to say, that the majority who agreed in passing a general resolution, containing a criminal charge against President Jackson, for violating the laws and the constitution, cannot now agree in naming the law or the clause in the constitution violated, or in specifying any act constituting such violation. And here Mr. B. paused, and offered to give way to the gentlemen of the opposition, if they would now undertake to specify any act which President Jackson had done in violation of law or constitution.

3. *Unwarranted by the constitution and laws.*—Mr. B. said this head explained itself. It needed no development to be understood by the Senate or the country. The President was condemned without the form of a trial; and, therefore, his condemnation was unwarranted by the constitution and laws.

4. *Subversive of the rights of defence, which belong to an accused and impeachable officer.*—This head, also (Mr. B. said), explained itself. An accused person had a right to be heard before he was condemned; an impeachable officer could not be condemned unheard by the Senate, without subverting all the rights of defence which belong to him, and disqualifying the Senate to act as impartial judges in the event of his being regularly impeached for the same offence. In this case, the House of Representatives, if they confided in the Senate's condemnation, would send up an impeachment; that they had not done so, was proof that they had no confidence in the correctness of our decision.

5. *Of evil example.*—Nothing, said Mr. B., could he more unjust and illegal in itself, and therefore more evil in example, than to try people without a hearing, and condemn them without defence. In this case, such a trial and such a condemnation was aggravated by the refusal of the Senate, after their sentence was pronounced, to receive the defence of the President, and let it be printed for the inspection of posterity! So that, if this criminating resolution is not expunged, the singular spectacle will go down to posterity, of a condemnation, and a refusal to permit an answer from the condemned person standing recorded on the pages of the same journal! Mr. B. said the Senate must look forward to the time—far ahead, perhaps, but a time which may come—when this body may be filled with disappointed competitors, or personal enemies of the President, or of aspirants to the very office which he holds, and who may not scruple to undertake to cripple him by senatorial condemnations; to attaint him by convictions; to ostracise him by vote; and lest this should happen, and the present condemnation of President Jackson should become the precedent for such an odious proceeding, the evil example should be arrested, should be removed, by expunging the present sentence from the journals of the Senate. And here Mr. B. would avail himself of a voice which had often been heard in the two Houses of Congress, and always with respect and veneration. It was the voice of a wise man, an honest man, a good man, a patriot; one who knew no cause but the cause of his country; and who, a quarter of a century ago, foresaw and described the scenes of this day, and foretold the consequences which must have happened to any other President, under the circumstances in which President Jackson has been placed. He spoke of Nathaniel Macon of North Carolina, and of the sentiments which he expressed, in the year 1810, when called upon to give a vote in approbation of Mr. Madison's conduct in dismissing Mr. Jackson, the then British minister to the United States. He opposed the resolution of approbation, because the House had nothing to do with the President in their legislative character, except the passing of laws, calling for information or impeaching; and, looking into the evil consequences of undertaking to judge of the President's conduct, he foretold the exact predicament in which the Senate is now involved,

with respect to President Jackson. Mr. B. then read extracts from the speech of Mr. Macon, on the occasion referred to:

"I am opposed to the resolution, not for the reasons which have been offered against it, nor for any which can be drawn from the documents before us, but because I am opposed to addressing the President of the United States upon any subject whatever. We have nothing to do with him, in our legislative character, except the passing of laws, calling on him for information, or to impeach. On the day of the presidential election, we, in common with our fellow-citizens, are to pass on his conduct, and resolutions of this sort will have no weight on that day. It is on this ground solely that I am opposed to adopting any resolution whatever in relation to the Executive conduct. If the national legislature can pass resolutions to approve the conduct of the President, may they not also pass resolutions to censure? And what would be the situation of the country, if we were now discussing a motion to request the President to recall Mr. Jackson, and again to endeavor to negotiate with him?"

6. *At a time, and under circumstances, to involve the political rights and pecuniary interests of the people of the United States in serious injury and peculiar danger.*—This head of his argument, Mr. B. said, would require a development and detail which he had not deemed necessary at this time, considering what had been said by him at the last session, and what would now be said by others, to give the reasons which he had so briefly touched. But at this point he approached new ground; he entered a new field; he saw an extended horizon of argument and fact expand before him, and it became necessary for him to expand with his subject. The condemnation of the President is indissolubly connected with the cause of the bank! The first form of the resolution exhibited the connection; the second form did also; every speech did the same; for every speech in condemnation of the President was in justification of the bank; every speech in justification of the President was in condemnation of the bank; and thus the two objects were identical and reciprocal. The attack of one was a defence of the other; the defence of one was the attack of the other. And thus it continued for the long protracted period of nearly one hundred days—from December 26th, 1833, to March 28th, 1834—when, for reasons not explained to the Senate, upon a private consultation among the friends of the resolution, the mover of it came forward to the Secretary's table, and voluntarily made the alterations which cut the connection between the bank and the resolution! but it stood upon the record, by striking out every thing relative to the dismissal of Mr. Duane, the appointment of Mr. Taney, and the removal of the deposits. But the alteration was made in the record only. The connection still subsisted in fact, now lives in memory, and shall live in history. Yes, sir, said Mr. B., addressing himself to the President of the Senate; yes, sir, the condemnation of the President was in indissolubly connected with the cause of the bank, with the removal of the deposits, the renewal of the charter, the restoration of the deposits, the vindication of Mr. Duane, the rejection of Mr. Taney, the fate of elections, the overthrow of Jackson's administration, the fall of prices, the distress meetings, the distress memorials, the distress committees, the distress speeches; and all the long list of hapless measures which astonished, terrified, afflicted, and deeply injured the country during the long and agonized protraction of the famous panic session. All these things are connected, said Mr. B.; and it became his duty to place a part of the proof which established the connection before the Senate and the people.

Mr. B. then took up the appendix to the report made by the Senate's Committee of Finance on the bank, commonly called Mr. Tyler's report, and read extracts from instructions sent to two-and-twenty tranches of the bank, contemporaneously with the progress of the debate on the criminating resolutions; the object and effect of which, and their connection with the debate in the Senate, would be quickly seen. Premising that the bank had dispatched orders to the same branches, in the month of August, and had curtailed $4,066,000, and again, in the

month of October, to curtail $5,825,000, and to increase the rates of their exchange, and had expressly stated in a circular, on the 17th of that month, that this reduction would place the branches in a position of entire security, Mr. B. invoked attention to the shower of orders, and their dates, which he was about to read. He read passages from page 77 to 82, inclusive. They were all extracts of letters from the president of the bank in person, to the presidents of the branches; for Mr. B. said it must be remembered, as one of the peculiar features of the bank attack upon the country last winter, that the whole business of conducting this curtailment, and raising exchanges, and doing whatever it pleased with the commerce, currency, and business of the country, was withdrawn from the board of directors, and confided to one of those convenient committees of which the president is ex officio member and creator; and which, in this case, was expressly absolved from reporting to the board of directors! The letters, then, are all from Nicholas Biddle, president, and not from Samuel Jaudon, cashier, and are addressed direct to the presidents of the branch banks.

When Mr. B. had finished reading these extracts, he turned to the report made by the senator from Virginia, who sat on his right [Mr. Tyler], where all that was said about these new measures of hostility, and the propriety of the bank's conduct in this third curtailment, and in its increase upon rates of exchange, was compressed into twenty lines, and the wisdom or necessity of them were left to be pronounced upon by the judgment of the Senate. Mr. B. would read those twenty lines of that report:

"The whole amount of reduction ordered by the above proceedings (curtailment ordered on 8th and 17th of October) was $5,825,906. The same table, No. 4, exhibits the fact, that on the 23d of January a further reduction was ordered to the amount of $3,320,000. This was communicated to the offices in letters from the president, stating 'that the present situation of the bank, and the new measures of hostility which are understood to be in contemplation, make it expedient to place the institution beyond the reach of all danger; for this purpose, I am directed to instruct your office to conduct its business on the following footing' (appendix, No. 9, copies of letters). The offices of Cincinnati, Louisville, Lexington, St. Louis, Nashville, and Natchez, were further directed to confine themselves to ninety days' bills on Baltimore, and the cities north of it, of which they were allowed to purchase any amount their means would justify: and to bills on New Orleans, which they were to take only in payment of pre-existing debts to the bank and its offices; while the office at New Orleans was directed to abstain from drawing on the Western offices, and to make its purchases mainly on the North Atlantic cities. The committee has thus given a full, and somewhat elaborate detail of the various measures resorted to by the bank, from the 13th of August, 1833; of their wisdom and necessity the Senate will best be able to pronounce a correct judgment."

This, Mr. B. said, was the meagre and stinted manner in which the report treated a transaction which he would show to be the most cold-blooded, calculating, and diabolical, which the annals of any country on this side of Asia could exhibit.

[Mr. Tyler here said there were two pages on this subject to be found at another part of the report, and opened the report at the place for Mr. B.]

Mr. B. said the two pages contained but few allusions to this subject, and nothing to add to or vary what was contained in the twenty lines he had read. He looked upon it as a great omission in the report; the more so as the committee had been expressly commanded to report upon the curtailments and the conduct of the bank in the business of internal exchange. He had hoped to have had searching inquiries and detailed statements of facts on these vital points. He looked to the senator from Virginia [Mr. Tyler] for these inquiries and statements. He wished him to show, by the manner in which he would drag to light, and expose to view,

the vast crimes of the bank, that the Old Dominion was still the mother of the Gracchi; that the Old lady was not yet forty-five; that she could breed sons! Sons to emulate the fame of the Scipios. But he was disappointed. The report was dumb, silent, speechless, upon the operations of the bank during its terrible campaign of panic and pressure upon the American people. And now he would pay one instalment of the speech which had been promised some time ago on the subject of this report; for there was part of that speech which was strictly applicable and appropriate to the head he was now discussing.

Mr. B. then addressed himself to the senator from Virginia, who sat on his right [Mr. Tyler], and requested him to supply an omission in his report, and to inform what were those new measures of hostility alluded to in the two-and-twenty letters of instruction of the bank, and repeated in the report, and which were made the pretext for this third curtailment, and these new and extraordinary restrictions and impositions upon the purchase of bills of exchange.

[Mr. Tyler answered that it was the expected prohibition upon the receivability of the branch bank drafts in payment of the federal revenue.]

Mr. B. resumed: The senator is right. These drafts are mentioned in one of the circular letters, and but one of them, as the new measure understood to be in contemplation, and which understanding had been made the pretext for scourging the country. He (Mr. B.) was incapable of a theatrical artifice—a stage trick—in a grave debate. He had no question but that the senator could answer his question, and he knew that he had answered it truly; but he wanted his testimony, his evidence, against the bank; he wanted proof to tie the bank down to this answer, to this pretext, to this thin disguise for her conduct in scourging the country. The answer is now given; the proof is adduced; and the apprehended prohibition of the receivability of the branch drafts stands both as the pretext and the sole pretext for the pressure commenced in January, the doubling the rates of exchange, breaking up exchanges between the five Western branch banks, and concentrating the collection of bills of exchange upon four great commercial cities.

Mr. B. then took six positions, which he enumerated, and undertook to demonstrate to be true. They were:

1. That it was untrue, in point of fact, that there were any new measures in contemplation, or action, to destroy the bank.

2. That it was untrue, in point of fact, that the President harbored hostile and revengeful designs against the existence of the bank.

3. That it was untrue, in point of fact, that there was any necessity for this third curtailment, which was ordered the last of January.

4. That there was no excuse, justification, or apology for the conduct of the bank in relation to domestic exchange, in doubling its rates, breaking it up between the five Western branches turning the collection of bills upon the principal commercial cities, and forbidding the branch at New Orleans to purchase bills on any part of the West.

5. That this curtailment and these exchange regulations in January were political and revolutionary, and connected themselves with the resolution in the Senate for the condemnation of President Jackson.

6. That the distress of the country was occasioned by the Bank of the United States and the Senate of the United States, and not by the removal of the deposits.

Having stated his positions, Mr. B. proceeded to demonstrate them.

1. As to the new measures to destroy the bank, Mr. B. said there were no such measures. The one indicated, that of stopping the receipt of the branch bank drafts in payments to the United States, existed nowhere but in the two-and-twenty letters of instruction of the president of the bank. There is not even an allegation that the measure existed; the language is "in contemplation"—"understood to be in contemplation," and upon this flimsy pretext of an understanding of something in contemplation, and which something never took place, a set of ruthless orders are sent out to every quarter of the Union to make a pressure for money, and to embarrass the domestic exchanges of the Union. Three days would have brought an answer from Washington to Philadelphia—from the Treasury to the bank; and let it be known that there was no intention to stop the receipt of these drafts at that time. But it would seem that the bank did not recognize the legitimacy of Mr. Taney's appointment! and therefore would not condescend to correspond with him as Secretary of the Treasury! But time gave the answer, even if the bank would not inquire at the Treasury. Day after day, week after week, month after month passed off, and these redoubtable new measures never made their appearance. Why not then stop the curtailment, and restore the exchanges to their former footing? February, March, April, May, June, five months, one hundred and fifty days, all passed away; the new measures never came; and yet the pressure upon the country was kept up; the two-and-twenty orders were continued in force. What can be thought of an institution which, being armed by law with power over the moneyed system of the whole country, should proceed to exercise that power to distress that country for money upon an understanding that something was in contemplation; and never inquire if its understanding was correct, nor cease its operations, when each successive day, for one hundred and fifty days, proved to it that no such thing was in contemplation? At last, on the 27th of June, when the pressure is to be relaxed, it is done upon another ground; not upon the ground that the new measures had never taken effect, but because Congress was about to rise without having done any thing for the bank. Here is a clear confession that the allegation of new measures was a mere pretext; and that the motive was to operate upon Congress, and force a restoration of the deposits, and renewal of the charter.

Mr. B. said he knew all about these drafts. The President always condemned their legality, and was for stopping the receipt of them. Mr. Taney, when Attorney General, condemned them in 1831. Mr. B. had applied to Mr. McLane, in 1832, to stop them; but he came to no decision. He applied to Mr. Duane, by letter, as soon as he came into the Treasury; but got no answer. He applied to Mr. Taney as soon as he arrived at Washington in the fall of 1833; and Mr. Taney decided that he would not stop them until the moneyed concerns of the country had recovered their tranquillity and prosperity, lest the bank should make it the pretext of new attempts to distress the country; and thus the very thing which Mr. Taney refused to do, lest it should be made a pretext for oppression, was falsely converted into a pretext to do what he was determined they should have no pretext for doing.

But Mr. B. took higher ground still; it was this: that, even if the receipt for the drafts had been stopped in January or February, there would have been no necessity on that account for curtailing debts and embarrassing exchanges. This ground he sustained by showing—1st. That the bank had at that time two millions of dollars in Europe, lying idle, as a fund to draw bills of exchange upon; and the mere sale of bills on this sum would have met every demand which the rejection of the drafts could have thrown upon it. 2. That it sent the money it raised by this curtailment to Europe, to the amount of three and a half millions; and thereby showed that it was not collected to meet any demand at home. 3d. That the bank had at that time (January, 1834) the sum of $4,230,509 of public money in hand, and therefore had United States money enough in possession to balance any injury from rejection of drafts. 4th. That the bank had notes enough on hand to supply the place of all the drafts, even if they were all

driven in. 5th. That it had stopped the receipt of these branch drafts itself at the branches, except each for its own in November, 1833, and was compelled to resume their receipt by the energetic and just conduct of Mr. Taney, in giving transfer drafts to be used against the branches which would not honour the notes and drafts of the other branches. Here Mr. B. turned upon Mr. Tyler's report, and severely arraigned it for alleging that the bank always honored its paper at every point, and furnishing a supply of negative testimony to prove that assertion, when there was a large mass of positive testimony, the disinterested evidence of numerous respectable persons, to prove the contrary, and which the committee had not noticed.

Finally, M. B. had recourse to Mr. Biddle's own testimony to annihilate his (Mr. Biddle's) affected alarm for the destruction of the bank, and the injury to the country from the repulse of these famous branch drafts from revenue payments. It was in a letter of Mr. Biddle to Mr. Woodbury in the fall of 1834, when the receipt of these drafts was actually stopped, and in the order which was issued to the branches to continue to issue them as usual. Mr. B. read a passage from this letter to show that the receipt of these drafts was always a mere Treasury arrangement, in which the bank felt no interest; that the refusal to receive them was an object at all times of perfect indifference to the bank, and would not have been even noticed by it, if Mr. Woodbury had not sent him a copy of his circular.

Mr. B. invoked the attention of the Senate upon the fatal contradictions which this letter of November, and these instructions of January, 1834, exhibit. In January, the mere understanding of a design in contemplation to exclude these drafts from revenue payments, is a danger of such alarming magnitude, an invasion of the rights of the bank in such a flagrant manner, a proof of such vindictive determination to prostrate, sacrifice, and ruin the institution, that the entire continent must be laid under contribution to raise money to enable the institution to stand the shock! November of the same year when the order for the rejection actually comes, then the same measure is declared to be one of the utmost indifference to the bank; in which it never felt any interest; which the Treasury adopted for its own convenience; which was always under the exclusive control of the Treasury; about which the bank had never expressed a wish; of which it would have taken no notice if the Secretary had not sent them a circular; and the expediency of which it was not intended to question in the remotest degree! Having pointed out these fatal contradictions, Mr. B. said it was a case in which the emphatic ejaculation might well be repeated: Oh! that mine enemy would write a book!

To put the seal of the bank's contempt on the order prohibiting the receipt of these drafts, to show its disregard of law, and its ability to sustain its drafts upon its own resources, and without the advantage of government receivability, Mr. B. read the order which the president of the bank addressed to all the branches on the receipt of the circular which gave him information of the rejection of these drafts. It was in these words: "This will make no alteration whatever in your practice, with regard to issuing or paying these drafts, which you will continue as heretofore." What a pity, said Mr. B., that the president of the bank could not have thought of issuing such an order as this in January, instead of sending forth the mandate for curtailing debts, embarrassing exchange, levying three millions and a half, alarming the country with the cry of danger, and exhibiting President Jackson as a vindictive tyrant, intent upon the ruin of the bank!

2. The hostility of the President to the bank. This assertion, said Mr. B., so incontinently reiterated by the president of the bank, is taken up and repeated by our Finance Committee, to whose report he was now paying an instalment of those respects which he had promised them. This assertion, so far as the bank and the committee are concerned in making it is an assertion without evidence, and, so far as the facts are concerned, is an assertion against

evidence. If there is any evidence of the bank or the committee to support this assertion, in the forty pages of the report, or the three hundred pages of the appendix, the four members of the Finance Committee can produce it when they come to reply. That there was evidence to contradict it, he was now ready to show. This evidence consisted in four or five public and prominent facts, which he would now mention, and in other circumstances, which he would show hereafter. The first was the fact which he mentioned when this report was first read on the 18th of December last, namely, that President Jackson had nominated Mr. Biddle at the head of the government directors, and thereby indicated him for the presidency of the bank, for three successive years after this hostility was supposed to have commenced. The second was, that the President had never ordered a *scire facias* to issue against the bank to vacate its charter, which he has the right, under the twenty-third section of the charter, to do, whenever he believed the charter to be violated. The third, that during many years, he has never required his Secretaries of the Treasury to stop the governmental receipt of the branch bank drafts, although his own mind upon their illegality had been made up for several years past. The fourth, that after all the clamor—all the invocations upon heaven and earth against the tyranny of removing the deposits—those deposits have never happened to be quite entirely removed! An average of near four millions of dollars of public money has remained in the hands of the bank for each month, from the 1st of October, 1833, to the 1st of January, 1835, inclusively! embracing the entire period from the time the order was to take effect against depositing in the Bank of the United States down to the commencement of the present year! So far are the deposits from being quite entirely removed, as the public are led to believe, that, at the distance of fifteen months from the time the order for the removal began to take effect, there remained in the hands of the bank the large sum of three millions eight hundred and seventy-eight thousand nine hundred and fifty-one dollars and ninety-seven cents, according to her own showing in her monthly statements. That President Jackson is, and always has been, opposed to the existence of the bank, is a fact as true as it is honorable to him; that he is hostile to it, in the vindictive and revengeful sense of the phrase, is an assertion, Mr. B. would take the liberty to repeat, without evidence, so far as he could see into the proofs of the committee, and against evidence, to the full extent of all the testimony within his view. Far from indulging in revengeful resentment against the bank, he has been patient, indulgent, and forebearing towards it, to a degree hardly compatible with his duty to his country, and with his constitutional supervision over the faithful execution of the laws; to a degree which has drawn upon him, as a deduction from his own conduct, an argument in favor of the legality of this very branch bank currency, on the part of this very committee, as may be seen in their report. Again, the very circumstance on which this charge of hostility rests in the two-and-twenty letters of Mr. Biddle, proves it to be untrue: for the stoppage of the drafts, understood to be in contemplation, was not in contemplation, and did not take place until the pecuniary concerns of the country were tranquil and prosperous; and when it did thus take place, the president of the bank declared it to have been always the exclusive right of the government to do it, in which the bank had no interest, and for which it cared nothing. No, said Mr. B., the President has opposed the recharter of the bank; he has not attacked its present charter; he has opposed its future, not its present existence; and those who characterize this opposition to a future charter as attacking the bank, and destroying the bank, must admit that they advocate the hereditary right of the bank to a new charter after the old one is out; and that they deny to a public man the right of opposing that hereditary claim.

3. That there was no necessity for this third curtailment ordered in January. Mr. B. said, to have a full conception of the truth of this position, it was proper to recollect that the bank made its first curtailment in August, when the appointment of an agent to arrange with the deposit banks announced the fact that the Bank of the United States was soon to cease to be the depository of public moneys. The reduction under that first curtailment was $4,066,000.

The second was in October, and under that order for curtailment the reduction was $5,825,000. The whole reduction, then, consequent upon the expected and actual removal of deposits, was $9,891,000. At the same time the whole amount of deposits on the first day of October, the day for the removal, or rather for the cessation to deposit in the United States Bank to take effect, was $9,868,435; and on the first day of February, 1834, when the third curtailment was ordered, there were still $3,066,561 of these deposits on hand, and have remained on hand to near that amount ever since; so that the bank in the two first curtailments, accomplished between August and January, had actually curtailed to the whole amount, and to the exact amount, upon precise calculation, of the amount of deposits on hand on the first of October; and still had, on the first of January, a fraction over three millions of the deposits in its possession. This simple statement of sums and dates shows that there was no necessity for ordering a further reduction of $3,320,000 in January, as the bank had already curtailed to the whole amount of the deposits, and $22,500 over. Nor did the bank put the third curtailment upon that ground, but upon the new measures in contemplation; thus leaving her advocates every where still to attribute the pressure created by the third curtailment to the old cause of the removal of the deposits. This simple statement of facts is sufficient to show that this third curtailment was unnecessary. What confirms that view, is that the bank remitted to Europe, as fast as it was collected, the whole amount of the curtailment, and $105,000 over; there to lie idle until she could raise the foreign exchange to eight per cent. above par; which she had sunk to five per cent. below par, and thus make two sets of profits out of one operation in distressing and pressing the country.

4. No excuse for doubling the rates of exchange, breaking up the exchange business in the West, forbidding the branch at New Orleans to purchase a single bill on the West, and concentrating the collection of exchange on the four great commercial cities. For this, Mr. B. said, no apology, no excuse, no justification, was offered by the bank. The act stood unjustified and unjustifiable. The bank itself has shrunk from the attempt to justify it; our committee, in that report of which the bank proclaims itself to be proud, gives no opinion in its brief notice of a few lines upon this transaction; but leaves it to the Senate to pronounce upon its wisdom and necessity! The committee, Mr. B. said, had failed in their duty to their country by the manner in which they had veiled this affair of the exchanges in a few lines; and then blinked the question of its enormity, by referring it to the judgment of the Senate. He made the same remark upon the contemporaneous measure of the third curtailment; and called on the author of the report [Mr. Tyler] to defend his report, and to defend the conduct of the bank now, if he could; and requested him to receive all this part of his speech as a further instalment paid of what was due to that report on the bank.

5. That the curtailment and exchange regulations of January were political and revolutionary, and connect themselves with the contemporaneous proceedings of the Senate for the condemnation of the President. That this curtailment, and these regulations were wanton and wicked, was a proposition, Mr. B. said, which resulted as a logical conclusion from what had been already shown, namely, that they were causeless and unnecessary, and done upon pretexts which have been demonstrated to be false. That they were political and revolutionary, and connected with the proceedings in the Senate for the condemnation of the President, he would now prove. In the exhibition of this proof, the first thing to be looked to is the chronology of the events—the time at which the bank made this third curtailment, and sent forth these exchange regulations—and the time at which the Senate carried on the proceeding against the President. Viewed under this aspect, the two movements are not only connected, but identical and inseparable. The time for the condemnation of the President covers the period from the 25th of December, 1833, to the 28th of March, 1834; the bank movement is included in the same period; the orders for the pressure were issued from the

21st of January to the 1st of February, and were to accomplish their effect in the month of March, and by the first of April; except in one place, where, for a reason which will be shown at a proper time, the accomplishment of the effect was protracted till the 10th day of April. These, Mr. B. said, were the dates of issuing the orders and accomplishing their effect; the date of the adoption of the resolution in the bank for this movement is not given in the report, but must have been, in the nature of things, anterior to the issue of the orders; it must have been some days before the issue of the orders; and was, in all probability, a few days after the commencement of the movement in the Senate against the President. The next point of connection, Mr. B. said, was in the subject matter; and here it was necessary to recur to the original form, and to the second form, of the resolution for the condemnation of the President. In the first, or primordial form, the resolution was expressly connected with the cause of the bank. It was, for dismissing Mr. Duane because he would not remove the deposits, and appointing Mr. Taney because he would remove them. In the second form of the resolution—that form which naturalists would call its aurelia, or chrysalis state—the phraseology of the connection was varied, but still the connection was retained and expressed. The names of Mr. Duane and Mr. Taney were dropped; and the removal of the deposits upon his own responsibility, was the alleged offence of the President. In its third and ultimate transformation, all allusion to the bank was dropped, and the vague term “revenue” was substituted; but it was a substitution of phrase only, without any alteration of sense or meaning. The resolution is the same under all its phases. It is still the bank, and Mr. Taney, and Mr. Duane, and the removal of the deposits, which are the things to be understood, though no longer prudent to express. All these substantial objects are veiled, and substituted by the empty phrase “revenue;” which might signify the force bill in South Carolina, and the bank question in Philadelphia! The vagueness of the expression left every gentleman to fight upon his own hook, and to hang his vote upon any mental reservation which could be found in his own mind! and Mr. B. would go before the intelligence of any rational man with the declaration that the connection between the condemnation of the President and the cause of the bank was doubly proved; first by the words of the resolution, and next by the omission of those words. The next point of connection, Mr. B. said, was detected in the times, varied to suit each State, at which the pressure under the curtailment was to reach its maximum; and the manner in which the restrictions upon the sale and purchase of bills of exchange was made to fall exclusively and heavily upon the principal commercial cities, at the moment when most deeply engaged in the purchase and shipment of produce. Thus, in New-York, where the great charter elections were to take place during the first week in April, the curtailment was to reach its maximum pressure on the first day of that month. In Virginia, where the elections are continued throughout the whole month of April, the pressure was not to reach its climax until the tenth day of that month. In Connecticut, where the elections occurred about the first of April, the pressure was to have its last turn of the screw in the month of March. And in these three instances, the only ones in which the elections were depending, the political bearing of the pressure was clear and undeniable. The sympathy in the Senate in the results of those political calculations, was displayed in the exultation which broke out on receiving the news of the elections in Virginia, New-York, and Connecticut—an exultation which broke out into the most extravagant rejoicings over the supposed downfall of the administration. The careful calculation to make the pressure and the exchange regulations fall upon the commercial cities at the moment to injure commerce most, was also visible in the times fixed for each. Thus, in all the western cities, Cincinnati, Louisville, Lexington, Nashville, Pittsburg, Saint Louis, the pressure was to reach its maximum by the first day of March; the shipments of western produce to New Orleans being mostly over by that time; but in New Orleans the pressure was to be continued till the first of April, because the shipping season is protracted there till that month, and thus the produce which left the

upper States under the depression of the pressure, was to meet the same pressure upon its arrival in New Orleans; and thus enable the friends of the bank to read their ruined prices of western produce on the floor of this Senate. In Baltimore, the first of March was fixed, which would cover the active business season there. So much, said Mr. B., for the pressure by curtailment; now for the pressure by bills of exchange, and he would take the case of New Orleans first. All the branches in the West, and every where else in the Union, were authorized to purchase bills of exchange at short dates, not exceeding ninety days, on that emporium of the West; so as to increase the demand for money there; at the same time the branch in New Orleans was forbid to purchase a single bill in any part of the valley of the Mississippi. This prohibition was for two purposes; first, to break up exchange; and next, to make money scarce in New Orleans; as, in default of bills of exchange, silver would be shipped, and the shipping of silver would make a pressure upon all the local banks. To help out this operation, Mr. B. said, it must be well and continually remembered that the Bank of the United States itself abducted about one million and a quarter of hard dollars from New Orleans during the period of the pressure there; thus proving that all her affected necessity for curtailment was a false and wicked pretext for the cover of her own political and revolutionary views.

The case of the western branches was next adverted to by Mr. B. Among these, he said, the business of exchange was broken up *in toto*. The five western branches were forbid to purchase exchange at all; and this tyrannical order was not even veiled with the pretext of an excuse. Upon the North Atlantic cities, Mr. B. said, unlimited authority to all the branches was given to purchase bills, all at short dates, under ninety days; and all intended to become due during the shipping season, and to increase the demand for money while the curtailment was going on, and the screw turning from day to day to lessen the capacity of getting money, and make it more scarce as the demand for it became urgent. Thus were the great commercial cities, New Orleans, New-York, Baltimore, and Philadelphia, subject to a double process of oppression; and that at the precise season of purchasing and shipping crops, so as to make their distress recoil upon the planters and farmers; and all this upon the pretext of new measures understood to be in contemplation. Time again becomes material, said Mr. B. The bank pressure was arranged in January, to reach its climax in March and the first of April; the debate in the Senate for the condemnation of President Jackson, which commenced in the last days of December, was protracted over the whole period of the bank pressure, and reached its consummation at the same time; namely, the 28th day of March. The two movements covered the same period of time, reached their conclusions together, and co-operated in the effect to be produced; and during the three months of this double movement, the Senate chamber resounded daily with the cry that the tyranny and vengeance of the President, and his violation of laws and constitution, had created the whole distress, and struck the nation from a state of Arcadian felicity—from a condition of unparalleled prosperity—to the lowest depth of misery and ruin. And here Mr. B. obtested and besought the Senate to consider the indifference with which the bank treated its friends in the Senate, and the sorrowful contradiction in which they were left to be caught. In the Senate, and all over the country, the friends of the bank were allowed to go on with the old tune, and run upon the wrong scent, of removal of the deposits creating all the distress; while, in the two-and-twenty circular letters dispatched to create this distress, it was not the old measure alone, but the new measures contemplated, which constituted the pretext for this very same distress. Thus, the bank stood upon one pretext, and its friends stood upon another; and for this mortifying contradiction, in which all its friends have become exposed to see their mournful speeches exploded by the bank itself, a just indignation ought now to be felt by all the friends of the bank, who were laying the distress to the removal of the deposits, and daily crying out that nothing could relieve the country but the restoration of the deposits, or the recharter of the bank; while the

bank itself was writing to its branches that it was the new measures understood to be in contemplation that was occasioning all the mischief. Mr. B. would close this head with a remark which ought to excite reflections which should never die away; which should be remembered as long as national banks existed, or asked for existence. It was this: That here was a proved case of a national bank availing itself of its organization, and of its power, to send secret orders, upon a false pretext, to every part of the Union, to create distress and panic for the purpose of accomplishing an object of its own; and then publicly and calumniously charging all this mischief on the act of the President for the removal of the deposits. This recollection should warn the country against ever permitting another national bank to repeat a crime of such frightful immorality, and such enormous injury to the business and property of the people. Mr. B. expressed his profound regret that the report of the bank committee was silent upon these dreadful enormities, while so elaborate upon trifles in favor of the bank. He was indignant at the mischief done to private property; the fall in the price of staples, of stocks, and of all real and personal estate; at the ruin of many merchants, and the injury of many citizens, which took place during this hideous season of panic and pressure. He was indignant at the bank for creating it, and still more for its criminal audacity in charging its own conduct upon the President; and he was mortified, profoundly mortified, that all this should have escaped the attention of the Finance Committee, and enabled them to make a report of which the bank, in its official organ, declares itself to be justly proud; which it now has undergoing the usual process of diffusion through the publication of supplemental gazettes; which it openly avers would have insured the recharter if it had come out in time; and to which it now looks for such recharter as soon as President Jackson retires, and the country can be thrown into confusion by the distractions of a presidential election.

Mr. B. now took up another head of evidence to prove the fact that the curtailment and exchange regulations of January were political and revolutionary, and connected with the proceedings of the Senate for the condemnation of the President; and here he would proceed upon evidence drawn from the bank itself. Mr. B. then read extracts from Mr. Biddle's letters of instructions (January 30, 1834) to Joseph Johnson, Esquire, president of the branch bank at Charleston, South Carolina. They were as follows: "With a view to meet the coming crisis in the banking concerns of the country, and especially to provide against new measures of hostility understood to be in contemplation by the executive officers at Washington, a general reduction has been ordered at the several offices, and I have now to ask your particular attention to accomplish it." * * * * "It is as disagreeable to us as it can be to yourselves to impose any restrictions upon the business of the office. But you are perfectly aware of the effort which has been making for some time to prostrate the bank, to which this new measure to which I have alluded will soon be added, unless the projectors become alarmed at it. On the defeat of these attempts to destroy the bank depends, in our deliberate judgment, not merely the pecuniary interests, but the whole free institutions of our country; and our determination is, by even a temporary sacrifice of profit, to place the bank entirety beyond the reach of those who meditate its destruction."

Mr. B. would invoke the deepest attention to this letter. The passages which he had read were not in the circulars addressed at the same time to the other branches. It was confined to this letter, with something similar in one more which he would presently read. The coming crisis in the banking concerns of the country is here shadowed forth, and secretly foretold, three months before it happened; and with good reason, for the prophet of the evil was to assist in fulfilling his prophecy. With this secret prediction, made in January, is to be connected the public predictions contemporaneously made on this floor, and continued till April, when the explosion of some banks in this district was proclaimed as the commencement of the general ruin which was to involve all local banks, and especially the whole safety-fund list of banks,

in one universal catastrophe. The Senate would remember all this, and spare him repetitions which must now be heard with pain, though uttered with satisfaction a few months ago. The whole free institutions of our country was the next phrase in the letter to which Mr. B. called attention. He said that in this phrase the political designs of the bank stood revealed; and he averred that this language was identical with that used upon this floor. Here, then, is the secret order of the bank, avowing that the whole free institutions of the country are taken into its holy keeping; and that it was determined to submit to a temporary sacrifice of profit in sustaining the bank, which itself sustains the whole free institutions of the country! What insolence! What audacity! But, said Mr. B., what is here meant by free institutions, was the elections! and the true meaning of Mr. Biddle's letter is, that the bank meant to submit to temporary sacrifices of money to carry the elections, and put down the Jackson administration. No other meaning can be put upon the words; and if there could, there is further proof in reserve to nail the infamous and wicked design upon the bank. Another passage in this letter, Mr. B. would point out, and then proceed to a new piece of evidence. It was the passage which said this new measure will soon be added, unless the projectors become alarmed at it. Now, said Mr. B., take this as you please; either that the projectors did, or did not, become alarmed at their new measure; the fact is clear that no new measure was put in force, and that the bank, in proceeding to act upon that assumption, was inventing and fabricating a pretext to justify the scourge which it was meditating against the country. Dates are here material, said Mr. B. The first letters, founded on these new measures, were dated the 21st of January; and spoke of them as being understood to be in contemplation. This letter to Mr. Johnson, which speaks hypothetically, is dated the 30th of January, being eight days later; in which time the bank had doubtless heard that its understanding about what was in contemplation was all false; and to cover its retreat from having sent a falsehood to two-and-twenty branches, it gives notice that the new measures which were the alleged pretext of panic and pressure upon the country were not to take place, because the projectors had got alarmed. The beautiful idea of the projectors—that is to say, General Jackson, for he is the person intended—becoming alarmed at interdicting the reception of illegal drafts at the treasury, is conjured up as a salvo for the honor of the bank, in making two-and-twenty instances of false assertion. But the panic and pressure orders are not countermanded. They are to go on, although the projectors do become alarmed, and although the new measure be dropped.

Mr. B. had an extract from a second letter to read upon this subject. It was to the president of the New Orleans branch, Mr. W. W. Montgomery, and dated Bank of the United States the 24th of January. He read the extract: "The state of things here is very gloomy; and, unless Congress takes some decided step to prevent the progress of the troubles, they may soon outgrow our control. Thus circumstanced, our first duty is, to the institution, to preserve it from all danger; and we are therefore anxious, for a short time at least, to keep our business within manageable limits, and to make some sacrifice of property to entire security. It is a moment of great interest, and exposed to sudden changes in public affairs, which may induce the bank to conform its policy to them; of these dangers, should any occur, you will have early advice." When he had read this extract, Mr. B. proceeded to comment upon it; almost every word of it being pregnant with political and revolutionary meaning of the plainest import. The whole extract, he said, was the language of a politician, not of a banker, and looked to political events to which the bank intended to conform its policy. In this way, he commented successively upon the gloomy state of things at the bank (for the letter is dated in the bank), and the troubles which were to outgrow their control, unless Congress took some decided step. These troubles, Mr. B. said, could not be the dangers to the bank; for the bank had taken entire care of itself in the two-and-twenty orders which it had sent out to curtail loans and break up exchanges. Every one of these orders announced the power of the bank,

and the determination of the bank, to take care of itself. Troubles outgrow our control! What insolence! When the bank itself, and its confederates, were the creators and fomenters of all these troubles, the progress of which it affected to deplore. The next words—moment of great interest, exposed to sudden changes in public affairs, induce the bank to conform its policy to them—Mr. B. said, were too flagrant and too barefaced for comment. They were equivalent to an open declaration that a revolution was momently expected, in which Jackson's administration would be overthrown, and the friends of the bank brought into power; and, as soon as that happened, the bank would inform its branches of it; and would then conform its policy to this revolution, and relieve the country from the distress which it was then inflicting upon it. Sir, said Mr. B., addressing the Vice-President, thirty years ago, the prophetic vision of Mr. Jefferson foresaw this crisis; thirty years ago, he said that this bank was an enemy to our form of government; that, by its ramification and power, and by seizing on a critical moment in our affairs, it could upset the government! And this is what it would have done last winter, had it not been for one man! one man! one single man! with whom God had vouchsafed to favor our America in that hour of her greatest trial. That one man stood a sole obstacle to the dread career of the bank; stood for six months as the rampart which defended the country, the citadel upon which the bank artillery incessantly thundered! And what was the conduct of the Senate all this time? It was trying and condemning that man, killing him off with a senatorial condemnation, removing the obstacle which stood between the bank and its prey; and, in so doing, establishing the indissoluble connection between the movement of the bank in distressing the country, and the movement of the Senate in condemning the President.

Mr. B. said that certainly no more proof was necessary, on this head, to show that the designs of the bank were political and revolutionary, intended to put down General Jackson's administration, and to connect itself with the Senate; but he had more proof, that of a publication under the editorial head of the *National Gazette*, and which publication he assumed to say, was written by the president of the bank. It was a long article of four columns; but he would only read a paragraph. He read: "The great contest now waging in this country is between its free institutions and the violence of a vulgar despotism. The government is turned into a baneful faction, and the spirit of liberty contends against it throughout the country. On the one hand is this miserable cabal, with all the patronage of the Executive; on the other hand, the yet unbroken mind and heart of the country, with the Senate and the bank;—[in reading these words, in which the bank associated itself with the Senate, Mr. B. repeated the famous expression of Cardinal Wolsey, in associating himself with the king: '*Ego et rex meus*;']—the House of Representatives, hitherto the intuitive champion of freedom, shaken by the intrigues of the kitchen, hesitates for a time, but cannot fail before long to break its own fetters first, and then those of the country. In that quarrel, we predict, they who administer the bank will shrink from no proper share which the country may assign to them. Personally, they must be as indifferent as any of their fellow-citizens to the recharter of the bank. But they will not suffer themselves, nor the institution intrusted to them, to be the instruments of private wrong and public outrage; nor will they omit any effort to rescue the institutions of the country from being trodden under foot by a faction of interlopers. To these profligate adventurers, whether their power is displayed in the executive or legislative department, the directors of the bank will, we are satisfied, never yield the thousandth part of an inch of their own personal rights, or their own official duties; and will continue this resistance until the country, roused to a proper sense of its dangers and its wrongs, shall drive the usurpers out of the high places they dishonor." This letter, said Mr. B., discloses, in terms which admit of no explanation or denial, the design of the bank in creating the pressure which was got up and continued during the panic session. It was to rouse the people, by dint of suffering, against the President and the House of Representatives, and to overturn them both

at the ensuing elections. To do this, now stands revealed as its avowed object. The Senate and the bank were to stand together against the President and the House; and each to act its part for the same common object: the bank to scourge the people for money, and charge its own scourging upon the President; the Senate to condemn him for a violation of the laws and constitution, and to brand him as the Cæsar, Cromwell, Bonaparte—the tyrant, despot, usurper, whose head would be cut off in any kingdom of Europe for such acts as he practised here. Mr. B. said, the contemplation of the conduct of the bank, during the panic session, was revolting and incredible. It combined every thing to revolt and shock the moral sense. Oppression, falsehood, calumny, revolution, the ruin of individuals, the fabrication of false pretences, the machinations for overturning the government, the imputation of its own crimes upon the head of the President; the enriching its favorites with the spoils of the country, insolence to the House of Representatives, and its affected guardianship of the liberties of the people and the free institutions of the country; such were the prominent features of its conduct. The parallel of its enormity was not to be found on this side of Asia; an example of such remorseless atrocity was only to be seen in the conduct of the Paul Benfields and the Debi Sings who ravaged India under the name of the Marquis of Hastings. Even what had been casually and imperfectly brought to light, disclosed a system of calculated enormity which required the genius of Burke to paint. What was behind would require labors of a committee, constituted upon parliamentary principles, not to plaster, but to probe the wounds and ulcers of the bank; and such a committee he should hope to see, not now, but hereafter, not in the vacation but in the session of Congress. For he had no idea of these peripatetic and recess committees, of which the panic session had been so prolific. He wanted a committee, unquestionable in the legality of its own appointment, duly qualified in a parliamentary sense for discovering the misconduct they are set to investigate; and sitting under the wing of the authority which can punish the insolent, compel the refractory, and enforce the obedience which is due to its mandates.

6. The distress of the country occasioned by the Bank of the United States and the Senate of the United States.—This, Mr. B. said, might be an unpleasant topic to discuss in the Senate; but this Senate, for four months of the last session, and during the whole debate on the resolution to condemn the President, had resounded with the cry that the President had created all the distress; and the huge and motley mass, throughout the Union, which marched under the *oriflamme* of the bank, had every where repeated and reiterated the same cry. If there was any thing unpleasant, then, in the discussion of this topic in this place, the blame must be laid on those who, by using that argument in support of their resolution against the President, devolved upon the defenders of the President the necessity of refuting it. Mr. B. would have recourse to facts to establish his position. The first fact he would recur to was the history of a reduction of deposits, made once before in this same bank, so nearly identical in every particular with the reduction which took place under the order for the late removal of deposits, that it would require exact references to documentary evidence to put its credibility beyond the incredulity of the senses. Not only the amount from which the reduction was made, its progress, and ultimate depression, corresponded so closely as each to seem to be the history of the same transaction, but they began in the same month, descended in the same ratio, except in the instances which operate to the disadvantage of the late reduction, and, at the end of fifteen months, had reached the same point. Mr. B. spoke of the reduction of deposits which took place in the years 1818 and 1819; and would exhibit a table to compare it with the reductions under the late order for the removal of the deposits.

Here, said Mr. B., is a similar and parallel redaction of deposits in this same bank, and that at a period of real pecuniary distress to itself; a period when great frauds were discovered in its management; when a committee examined it, and reported it guilty of violating its charter;

when its stock fell in a few weeks from one hundred and eighty to ninety; when propositions to repeal its charter, without the formality of a *scire facias*, were discussed in Congress; when nearly all presses, and nearly all voices, condemned it; and when a real necessity compelled it to reduce its discounts and loans with more rapidity, and to a far greater comparative extent, than that which has attended the late reduction. Yet, what was the state of the country? Distressed, to be sure, but no panic; no convulsion in the community; no cry of revolution. And why this difference? If mere reduction of deposits was to be attended with these effects at one time, why not at the other? Sir, said Mr. B., addressing the Vice-President, the reason is plain and obvious. The bank was unconnected with politics, in 1819; it had no desire, at that time, to govern the elections, and to overturn an administration; it had no political confederates; it had no president of the bank then to make war upon the President of the United States, and to stimulate and aid a great political party in crushing the President, who would not sign a new charter, and in crushing the House of Representatives which stood by him. There was no resolution then to condemn the President for a violation of the laws and the constitution. And it was this fatal resolution, which we now propose to expunge, which did the principal part of the mischief. That resolution was the root of the evil; the signal for panic meetings, panic memorials, panic deputations, panic speeches, and panic jubilees. That resolution, exhibited in the Senate chamber, was the scarlet mantle of the consul, hung out from his tent; it was the signal for battle. That resolution, and the alarm speeches which attended it, was the tocsin which started a continent from its repose. And the condemnation which followed it, and which left this chamber just in time to reach the New-York, Virginia, and Connecticut elections, completed the effect upon the public mind, and upon the politics and commerce of the country, which the measures of the bank had been co-operating for three months to produce. And here he must express his especial and eternal wonder how all these movements of bank and Senate co-operating together, if not by arrangement, at least by a most miraculous system of accidents, to endanger the political rights, and to injure the pecuniary interests of the people of the United States, could so far escape the observation of the investigating committee of the Senate, as not to draw from them the expression of one solitary opinion, the suggestion of one single idea, the application of one single remark, to the prejudice of the bank. Surely they ought to have touched these scenes with something more than a few meagre, stinted, and starved lines of faint allusion to the “new measures understood to be in contemplation;” those new measures which were so falsely, so wickedly fabricated to cover the preconcerted and premeditated plot to upset the government by stimulating the people to revolution, through the combined operations of the pecuniary pressure and political alarms.

The table itself was entitled to the gravest recollection, not only for the comparison which it suggested, but the fact of showing the actual progress and history of the removal of the deposits, and blasting the whole story of the President’s hostility to the bank. From this table it is seen that the deposits, in point of fact, have never been all taken from the bank; that the removal, so far as it went, was gradual and gentle; that an average of three millions has always been there; that nearly four millions was there on the 1st day of January last; and before these facts, the fabricated story of the President’s hostility to the bank, his vindictiveness, and violent determination to prostrate, destroy, and ruin the institution, must fall back upon its authors, and recoil upon the heads of the inventors and propagators of such a groundless imputation.

Mr. B. could give another fact to prove that it was the Senate and the bank, and the Senate more than the bank, which produced the distress during the last winter. It was this: that although the curtailments of the bank were much larger both before and after the session of Congress, yet there was no distress in the country, except during the session, and while the

alarm speeches were in a course of delivery on this floor. Thus, the curtailment from the 1st of August to the 1st of October, was $4,066,000; from the 1st of October to the meeting of Congress in December, the curtailment was $5,641,000—making $9,707,000 in four months, and no distress in the country. During the session of Congress (seven months) there was a curtailment of $3,428,138; and during this time the distress raged. From the rise of Congress (last of June) to the 1st of November, a period of four months, the curtailment was $5,270,771, and the word distress was not heard in the country. Why? Because there were no panic speeches. Congress had adjourned; and the bank, being left to its own resources, could only injure individuals, but could not alarm and convulse the community.

Mr. B. would finish this view of the conduct of the bank in creating a wanton pressure, by giving two instances; one was the case of the deposit bank in this city; the other was the case of a senator opposed to the bank. He said that the branch bank at this place had made a steady run upon the Metropolis Bank from the beginning to the ending of the panic session. The amount of specie which it had taken was $605,000: evidently for the purpose of blowing up the pet bank in this district; and during all that time the branch refused to receive the notes, or branch drafts, of any other branch, or the notes of the mother bank; or checks upon any city north of Baltimore. On the pet bank in Baltimore it would take checks, because the design was to blow up that also. Here, said Mr. B., was a clear and flagrant case of pressure for specie for the mere purpose of mischief, and of adding the Metropolis Bank to the list of those who stopped payment at that time. And here Mr. B. felt himself bound to pay his respects to the Committee on Finance, that went to examine the bank last summer. That committee, at pages 16 and 22, of their report, brought forward an unfounded charge against the administration for making runs upon the branches of the United States Bank, to break them; while it had been silent with respect to a well-founded instance of the same nature from the Bank of the United States towards the deposit bank in this district. Their language is: “The administrative department of the government had manifested a spirit of decided hostility to the bank. It had no reason to expect any indulgence or clemency at its hands; and in this opinion, if entertained by the directors, about which there can be but little question, subsequent events very soon proved they were not mistaken. The President’s address to his cabinet; the tone assumed by the Secretary (Mr. Taney) in his official communication to Congress, and the developments subsequently made by Mr. Duane in his address to the public, all confirm the correctness of this anticipation. The measure which the bank had cause to fear was the accumulation by government of large masses of notes, and the existence thereby of heavy demands against its offices” (p. 16). ”In persevering in its policy of redeeming its notes whenever presented, and thereby continuing them as a universal medium of exchange, in opposition to complaints on that head from some of the branches (see copies of correspondence), the security of the institution and the good of the country were alike promoted. The accumulation of the notes of any one branch for the purpose of a run upon it by any agent of the government, when specie might be obtained at the very places of collection, in exchange for the notes of the most distant branches, would have been odious in the eyes of the public, and ascribed to no other feeling than a feeling of vindictiveness” (p. 22). Upon these extracts, Mr. B. said, it was clear that the committee had been so unfortunate as to commit a series of mistakes, and every mistake to the advantage of the bank, and to the prejudice of the government and the country. First, the government is charged, for the charge is clear, though slightly veiled, that the President of the United States in his vindictiveness against the bank, would cause the notes of the branches to be accumulated, and pressed upon them to break them. Next, the committee omit to notice the very thing actually done, in our very presence here, by the Bank of the United States against a deposit bank, which it charges without foundation upon the President. Then it credits the bank with the honor of paying its notes every where, and exchanging the notes of the most distant branches for specie, when

the case of the Metropolis Bank, here in our presence, for the whole period of the panic session, proves the contrary; and when we have a printed document, positive testimony from many banks, and brokers, testifying that the branches in Baltimore and New-York, during the fall of 1833, positively refused to redeem the notes of other branches, or to accept them in exchange for the notes of the local banks, though taken in payment of revenue; and that, in consequence, the notes of distant branches fell below par, and were sold at a discount, or lent for short periods without interest, on condition of getting specie for them; and that this continued till Mr. Taney coerced the bank, by means of transfer drafts, to cause the notes of her branches to be received and honored at other branches as usual. In all this, Mr. B. said, the report of the committee was most unfortunate; and showed the necessity for a new committee to examine that institution; a committee constituted upon parliamentary principles—a majority in favor of inquiry—like that of the Post Office. The creation of such a committee, Mr. B. said, was the more necessary, as one of the main guards intended by the charter to be placed over the bank was not there during the period of the pressure and panic operations; he alluded to the government directors; the history of whose rejection, after such long delays in the Senate to act on their nomination, is known to the whole country.

The next instance of wanton pressure which Mr. B. would mention, was the case of an individual, then a member of the Senate from Pennsylvania, now minister to St. Petersburg (Mr. Wilkins). That gentleman had informed him (Mr. B.), towards the close of the last session, that the bank had caused a *scire facias* to be served in his house, to the alarm and distress of his wife, to revive a judgment against him, whilst he was here opposing the bank.

[Mr. Ewing, of Ohio, here rose, and wished to know of Mr. B. whether it was the Bank of the United States that had issued this *scire facias* against Mr. Wilkins.]

Mr. B. was very certain that it was. He recollected not only the information, but the time and the place when and where it was given; it was the last days of the last session, and at the window beyond that door (pointing to the door in the corner behind him); and he added, if there is any question to be raised, it can be settled without sending to Russia; the *scire facias*, if issued, will be on record in Pittsburg. Mr. B. then said, the cause of this conduct to Mr. Wilkins can be understood when it is recollected that he had denied on this floor the existence of the great distress which had been depicted at Pittsburg; and the necessity that the bank was under to push him at that time can be appreciated by seeing that two and fifty members of Congress, as reported by the Finance Committee, had received “accommodations” from the bank and its branches in the same year that a senator, and a citizen of Pennsylvania, opposed to the bank, was thus proceeded against.[10]

Mr. B. returned to the resolution which it was proposed to expunge. He said it ought to go. It was the root of the evil, the father of the mischief, the source of the injury, the box of Pandora, which had filled the land with calamity and consternation for six long months. It was that resolution, far more than the conduct of the bank, which raised the panic, sunk the price of property, crushed many merchants, impressed the country with the terror of an impending revolution, and frightened so many good people out of the rational exercise of their elective franchise at the spring elections. All these evils have now passed away. The panic has subsided; the price of produce and property has recovered from its depression, and risen beyond its former bounds. The country is tranquil, prosperous, and happy. The States which had been frightened from their propriety at the spring elections, have regained their self-command. Now, with the total vanishing of its effects, let the cause vanish also. Let this resolution for the condemnation of President Jackson be expunged from the journals of the

[10] At pages 37 and 38 of the report, the Finance Committee fully acquits the bank of all injurious discriminations between borrowers and applicants, of different politics.

Senate! Let it be effaced, erased, blotted out, obliterated from the face of that page on which it should never have been written! Would to God it could be expunged from the page of all history, and from the memory of all mankind. Would that, so far as it is concerned, the minds of the whole existing generation should be dipped in the fabulous and oblivious waters of the river Lethe. But these wishes are vain. The resolution must survive and live. History will record it; memory will retain it; tradition will hand it down. In the very act of expurgation it lives; for what is taken from one page is placed on another. All atonement for the unfortunate calamitous act of the Senate is imperfect and inadequate. Expunge, if we can, still the only effect will be to express our solemn convictions, by that obliteration, that such a resolution ought never to have soiled the pages of our journal. This is all that we can do; and this much we are bound to do, by every obligation of justice to the President, whose name has been attainted; by every consideration of duty to the country, whose voice demands this reparation; by our regard to the constitution, which has been trampled under foot; by respect to the House of Representatives, whose function has been usurped; by self-respect, which requires the Senate to vindicate its justice, to correct its errors, and re-establish its high name for equity, dignity, and moderation. To err is human; not to err is divine; to correct error is the work of supereminent and also superhuman moral excellence, and this exalted work now remains for the Senate to perform.

124. Expunging Resolution: Rejected, And Renewed

The speech which had been delivered by Mr. Benton, was intended for effect upon the country—to influence the forthcoming elections—and not with any view to act upon the Senate, still consisting of the same members who had passed the condemnatory resolution, and not expected to condemn their own act. The expunging resolution was laid upon the table, without any intention to move it again during the present session; but, on the last day of the session, when the Senate was crowded with business, and when there was hardly time to finish up the indispensable legislation, the motion was called up, and by one of its opponents—Mr. Clayton, of Delaware—the author of the motion being under the necessity to vote for the taking up, though expecting no good from it. The moment it was taken up, Mr. White, of Tennessee, moved to strike out the word "expunge," and insert "rescind, reverse, and make null and void." This motion astonished Mr. Benton. Mr. White, besides opposing all the proceedings against President Jackson, had been his personal and political friend from early youth—for the more than forty years which each of them had resided in Tennessee. He expected his aid, and felt the danger of such a defection. Mr. Benton defended his word as being strictly parliamentary, and the only one which was proper to be used when an unauthorized act is to be condemned—all other phrases admitting the legality of the act which is to be invalidated. Mr. White justified his motion on the ground that an expurgation of the journal would be its obliteration, which he deemed inconsistent with the constitutional injunction to "keep" a journal—the word "keep" being taken in its primary sense of "holding," "preserving," instead of "writing," a journal: but the mover of the resolution soon saw that Mr. White was not the only one of his friends who had yielded at that point—that others had given way—and, came about him importuning him to give up the obnoxious word. Seeing himself almost deserted, he yielded a mortifying and reluctant assent; and voted with others of his friends to emasculate his own motion—to reduce it from its high tone of reprobation, to the legal formula which applied to the reversal of a mere error in a legal proceeding. The moment the vote was taken, Mr. Webster rose and exulted in the victory over the hated phrase. He proclaimed the accomplishment of every thing that he desired in relation to the expunging resolution: the word was itself expunged; and he went on to triumph in the victory which had been achieved, saying:

"That which made this resolution, which we have now amended, particularly offensive, was this: it proposed to expunge our journal. It called on us to violate, to obliterate, to erase, our own records. It was calculated to fix a particular stigma, a peculiar mark of reproach or disgrace, on the resolution of March last. It was designed to distinguish it, and reprobate it, in some especial manner. Now, sir, all this most happily, is completely defeated by the almost unanimous vote of the Senate which has just now been taken. The Senate has declared, in the most emphatic manner, that its journal shall not be tampered with. I rejoice most heartily, sir, in this decisive result. It is now settled, by authority not likely to be shaken, that our records are sacred. Men may change, opinions may change, power may change, but, thanks to the firmness of the Senate, the records of this body do not change. No instructions from without, no dictates from principalities or powers, nothing—nothing can be allowed to induce the Senate to falsify its own records, to disgrace its own proceedings, or violate the rights of its members. For one, sir, I feel that we have fully and completely accomplished all that could be desired in relation to this matter. The attempt to induce the Senate to expunge its journal has failed, signally and effectually failed. The record remains, neither blurred, blotted, nor disgraced."

And then, to secure the victory which he had gained, Mr. Webster immediately moved to lay the amended resolution on the table, with the peremptory declaration that he would not withdraw his motion for friend or foe. The resolve was laid upon the table by a vote of 27 to 20. The exulting speech of Mr. Webster restored me to my courage—made a man of me again; and the moment the vote was over, I rose and submitted the original resolution over again, with the detested word in it—to stand for the second week of the next session—with the peremptory declaration that I would never yield it again to the solicitations of friend or foe.

125. Branch Mints At New Orleans, And In The Gold Regions Of Georgia And North Carolina

The bill had been reported upon the proposition of Mr. Waggaman, senator from Louisiana, and was earnestly and perseveringly opposed by Mr. Clay. He moved its indefinite postponement, and contended that the mint at Philadelphia was fully competent to do all the coinage which the country required. He denied the correctness of the argument, that the mint at New Orleans was necessary to prevent the transportation of the bullion to Philadelphia. It would find its way to the great commercial marts of the country whether coined or not. He considered it unwise and injudicious to establish these branches. He supposed it would gratify the pride of the States of North Carolina and Georgia to have them there; but when the objections to the measure were so strong, he could not consent to yield his opposition to it. He moved the indefinite postponement of the bill, and asked the yeas and nays on his motion; which were ordered.—Mr. Mangum regretted the opposition of the senator from Kentucky (Mr. Clay), and thought it necessary to multiply the number of American coins, and bring the mints to the places of production. There was an actual loss of near four per cent. in transporting the gold bullion from the Georgia and North Carolina mines to Philadelphia for coinage. With respect to gratifying the pride of the Southern States, it was a misconception; for those States had no pride to gratify. He saw no evil in the multiplication of these mints. It was well shown by the senator from Missouri, when the bill was up before, that, in the commentaries on the constitution it was understood that branches might be multiplied.—Mr. Frelinghuysen thought that the object of having a mint was mistaken. The mint was established for the accommodation of the government, and he thought the present one sufficient. Why put an additional burden upon the government because the people in the South have been so fortunate as to find gold?—Mr. Bedford Brown of North Carolina, said the senator from New Jersey, asked why we apply to Congress to relieve us from the burden of transporting our bullion to be coined, when the manufacturers of the North did not ask to be paid for transporting their material. He said it was true the manufacturers had not asked for this transportation assistance, but they asked for what was much more valuable, and got it—protection. The people of the South ask no protection; they rely on their own exertions; they ask but a simple act of justice—for their rights, under the power granted by the States to Congress to regulate the value of coin, and to make the coin itself. It has the exclusive privilege of Congress, and he wished to see it exercised in the spirit in which it was granted; and which was to make the coinage general for the benefit of all the sections of the Union, and not local to one section. The remark of the gentlemen is founded in mistake. What are the facts? Can the gold bullion of North Carolina be circulated as currency? We all know it cannot; it is only used as bullion, and carried to Philadelphia at a great loss. Another reason for the passage of the bill, and one which Mr. Brown hoped would not be less regarded by senators on the other side of the House, was that the measure would be auxiliary to the restoration of the metallic currency, and bring the government back to that currency which was the only one contemplated by the constitution.

Mr. Benton took the high ground of constitutional right to the establishment of these branches, and as many more as the interests of the States required. He referred to the Federalist, No. 44, written by Mr. Madison, that in surrendering the coining power to the federal government, the States did not surrender their right to have local mints. He read the passage from the number which he mentioned, and which was the exposition of the clause in the constitution relative to the coining power. It was express, and clear in the assertion, that

the States were not to be put to the expense and trouble of sending their bullion and foreign coins to a central mint to be recoined; but that, as many local mints would be established under the authority of the general government as should be necessary. Upon this exposition of the meaning of the constitution, Mr. B. said, the States accepted the constitution; and it would be a fraud on them now to deny branches where they were needed. He referred to the gold mines in North Carolina, and the delay with which that State accepted the constitution, and inquired whether she would have accepted it at all, without an amendment to secure her rights, if she could have foreseen the great discoveries of gold within her limits, and the present opposition to granting her a local mint. That State, through her legislature, had applied for a branch of the mint years ago, and all that was said in her favor was equally applicable to Georgia. Mr. B. said, the reasons in the Federalist for branch mints were infinitely stronger now than when Mr. Madison wrote in 1788. Then, the Southern gold region was unknown, and the acquisition of Louisiana not dreamed of. New Orleans, and the South, now require branch mints, and claim the execution of the constitution as expounded by Mr. Madison.

Mr. B. claimed the right to the establishment of these branches as an act of justice to the people of the South and the West. Philadelphia could coin, but not diffuse the coin among them. Money was attracted to Philadelphia from the South and West, but not returned back again to those regions. Local mints alone could supply them. France had ten branch mints; Mexico had eight; the United States not one. The establishment of branches was indispensable to the diffusion of a hard-money currency, especially gold; and every friend to that currency should promote the establishment of branches.

Mr. B. said, there were six hundred machines at work coining paper money—he alluded to the six hundred banks in the United States; and only one machine at work coining gold and silver. He believed there ought to be five or six branch mints in the United States; that is, two or three more than provided for in this bill; one at Charleston, South Carolina, one at Norfolk or Richmond, Virginia, and one at New-York or Boston. The United States Bank had twenty-four branches; give the United States Mint five or six branches; and the name of that bank would cease to be urged upon us. Nobody would want her paper when they could get gold.

Mr. B. scouted the idea of expense on such an object as this. The expense was but inconsiderable in itself, and was nothing compared to its object. For the object was to supply the country with a safe currency,—with a constitutional currency; and currency was a thing which concerned every citizen. It was a point at which the action of government reached every human being, and bore directly upon his property, upon his labor, and upon his daily bread. The States had a good currency when this federal government was formed; it was gold and silver for common use, and large bank notes for large operations. Now the whole land is infested with a vile currency of small paper: and every citizen was more or less cheated. He himself had but two bank notes in the world, and they were both counterfeits, on the United States Bank, with St. Andrew’s cross drawn through their faces. He used nothing but gold and silver since the gold bill passed.

In reply to Mr. Frelinghuysen, who asked where was the gold currency? He would answer, far the greatest part of it was in the vaults of the Bank of the United States, and its branches, to be sold or shipped to Europe; or at all events, to be kept out of circulation, to enable the friends of the bank to ask, where is the gold currency? and then call the gold bill a humbug. But he would tell the gentleman where a part of the gold was; it was in the Metropolis Bank in this city, and subject to his check to the full amount of his pay and mileage. Yes, said Mr. B., now, for the first time, Congress is paid in gold, and it is every member’s own fault if he does not draw it and use it.

Mr. B. said this question concerned the South and West, and he would hope to see the representatives from these two sections united in support of the bill. He saw with pleasure, that several gentlemen from the north of the Potomac, and from New England were disposed to support it. Their help was most acceptable on a subject so near and so dear to the South and West. Every inhabitant of the South and West was personally interested in the success of the bill. From New Orleans, the new coin would ascend the Mississippi River, scatter itself all along its banks, fill all its towns, cities, and villages, branch off into the interior of the country, ascend all the tributary streams, and replenish and refresh the whole face of the land. From the Southern mints, the new gold would come into the West, and especially into Kentucky, Ohio, and Tennessee, by the stock drivers, being to them a safe and easy remittance, and to the country a noble accession to their currency; enabling them quickly to dispense with their small notes.

It was asked, Mr. B. said, what loss has the Western People now sustained for want of gold? He would answer that the whole West was full of counterfeit paper; that counterfeit paper formed a large part of the actual circulation, especially of the United States branch drafts; that sooner or later all these counterfeits must stop in somebody's hands; and they would be sure to stop in the hands of those who were least able to bear the loss. Every trader down the Mississippi, Mr. B. said, was more or less imposed upon with counterfeit paper; some lost nearly their whole cargoes. Now if there was a branch mint in New Orleans every one would get new gold. He could get it direct from the mint; or have his gold examined there before he received it. Mr. B. said that one great object of establishing branch mints was to prevent and detect counterfeiting. Such establishments would detect every counterfeit piece, and enable every body to have recourse to a prompt and safe standard for ascertaining what was genuine and what not. This was a great reason for the ten branches in France.

Mr. B. was against the paper system. He was against all small notes. He was against all paper currency for common use; and being against it he was in favor of the measures that would put down small paper and put up gold and silver. The branching of the mint was one of the indispensable measures for accomplishing that object, and therefore he was for it. He was in favor of practical measures. Speeches alone would not do. A gentleman might make a fine speech in favor of hard money; but unless he gave votes in favor of measures to accomplish it, the speech would be inoperative. Mr. B. held the French currency to be the best in the world, where there was no bank note under 500 francs (near $100), and where, in consequence, there was a gold and silver circulation of upwards of five hundred millions of dollars; a currency which had lately stood two revolutions and one conquest, without the least fluctuation in its quantity or value.

New Orleans, he said, occupied the most felicitous point in America for a mint. It was at the point of reception and diffusion. The specie of Mexico came there; and when there, it ascended the river into the whole West. It was the market city—the emporium of the Great Valley; and from that point every exporter of produce could receive his supply and bring it home. Mr. B. reiterated that this was a question of currency; of hard money against paper; of gold against United States Bank notes. It was a struggle with the paper system. He said the gold bill was one step; the branching the mint would be the second step; the suppression of all notes under twenty dollars would be the third step towards getting a gold and silver currency. The States could do much towards putting down small notes; the federal government could put them down, by putting the banks which issued them under the *ban*; or, what was better, and best of all, returning to the act of 1789, which enacted that the revenues of the federal government should be received in gold and silver coin only.

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The question was then put on Mr. Clay's motion for indefinite postponement—and failed—16 yeas to 27 nays. Further strenuous exertion was made to defeat the bill. Mr. Clay moved to postpone it to the ensuing week—which, being near the end of the session, would be a delay which might be fatal to it; but it came near passing—20 yeas to 22 nays. A motion was made by Mr. Clay to recommit the bill to the Committee of Finance—a motion equivalent to its abandonment for the session, which failed. Mr. Calhoun gave the bill an earnest support. He said it was a question of magnitude, and of vital importance to the South, and deserved the most serious consideration. Yet, he was sorry to say, he had seen more persevering opposition made to it than to any other measure for the last two years. It was a sectional question, but one intended to extend equal benefits to all the States—Mr. Clay said, if there had been resistance on one side, there had also been a most unparalleled, and he must say, unbounded perseverance on the other. He would repeat that in whatever light he had received the proposed measure, he had been unable to come to any other conclusion than this, that it was, in his humble judgment, delusive, uncalled for, calculated to deceive the people—to hold out ideas which would never be realized;—and as utterly unworthy of the consideration of the Senate.—Mr. Calhoun was astonished at the warmth of Mr. Clay on this question—a question as much sectional in one point of view, as a measure could be, but national in another. Let senators say what they would, this government was bound, in his opinion, to establish the mints which had been asked for. Finally, the question was taken, and carried—24 to 19—the yeas being: Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, Webster, White, Wright. The nays were: Messrs. Bell of New Hampshire, Black of Mississippi, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Isaac Hill, Knight, McKean, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson. The bill was immediately carried to the House of Representatives; and there being a large majority there in favor of the hard money policy of the administration, it was taken up and acted upon, although so near the end of the session; and easily passed.

126. Regulation Deposit Bill

The President had recommended to Congress the passage of an act to regulate the custody of the public moneys in the local banks, intrusted with their keeping. It was a renewal of the same recommendation made at the time of their removal, and in conformity to which the House of Representatives had passed the bill which had been defeated in the Senate. The same bill was sent up to the Senate again, and passed by a large majority: twenty-eight to twelve. The yeas were: Messrs. Benton, Black of Mississippi, Calhoun, Clayton of Delaware, Cuthbert of Georgia, Ewing of Ohio, Frelinghuysen, Goldsborough, Kent, Knight, Leigh, Linn, McKean, Mangum, Moore, Alexander Porter, Prentiss, Preston, Robbins, Robinson, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, Wright. The nays were: Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris of Ohio, Poindexter, Ruggles, Shepley, Tallmadge. And thus, the complaint ceased which had so long prevailed against the President, on the alleged illegality of the State bank custody of the public moneys. These banks were taken as a necessity, and as a half-way house between the Bank of the United States and an Independent treasury. After a brief sojourn in the intermediate abode, they passed on to the Independent treasury—there, it is hoped, to remain for ever.

127. Defeat Of The Defence Appropriation, And Loss Of The Fortification Bill

The President in his annual message at the commencement had communicated to Congress the state of our relations with France, and especially the continued failure to pay the indemnities stipulated by the treaty of 1831; and had recommended to Congress measures of reprisal against the commerce of France. The recommendation, in the House of Representatives, was referred to the committee of foreign relations, which through their chairman, Mr. Cambreling, made a report adverse to immediate resort to reprisals, and recommending contingent preparation to meet any emergency which should grow out of a continued refusal on the part of France to comply with her treaty, and make the stipulated payment. In conformity with this last recommendation, and at the suggestion of Mr. John Quincy Adams, it was resolved unanimously upon yeas and nays, or rather upon yeas, their being no nays, and 212 members voting—"That in the opinion of this House, the treaty of the 4th of July 1831 with France be maintained, and its execution insisted upon:" and, with the like unanimity it was resolved—"That preparations ought to be made to meet any emergency growing out of our relations with France." These two resolutions showed the temper of the House, and that it intended to vindicate the rights of our citizens, if necessary at the expense of war. Accordingly an appropriation of three millions of dollars was inserted by the House in the general fortification bill to enable the President to make such military and naval preparations during the recess of Congress as the state of our relations with France might require. This appropriation was zealously voted by the House: in the Senate it met with no favor; and was rejected. The House insisted on its appropriation: the Senate "adhered" to its vote: and that brought the disagreement to a committee of conference, proposed by the House. In the mean time Congress was in the expiring moments of its session; and eventually the whole appropriation for contingent preparation, and the whole fortification bill, was lost by the termination of the Congress. It was a most serious loss; and it became a question which House was responsible for such a misfortune—regrettable at all times, but particularly so in the face of our relations with France. The starting point in the road which led to this loss was the motion made by Mr. Webster to "adhere"—a harsh motion, and more calculated to estrange than to unite the two Houses. Mr. King, of Alabama, immediately took up the motion in that sense; and said:

"He very much regretted that the senator from Massachusetts should have made such a motion; it had seldom or never been resorted to until other and more gentle means had failed to produce a unity of action between the two Houses. At this stage of the proceeding it would be considered (and justly) harsh in its character; and, he had no doubt, if sanctioned by the Senate, would greatly exasperate the other House, and probably endanger the passage of the bill altogether. Are gentlemen, said Mr. K., prepared for this? Will they, at this particular juncture, in the present condition of things, take upon themselves such a fearful responsibility as the rejection of this bill might involve? For himself, if your forts are to be left unarmed, your ships unrepaired and out of commission, and your whole sea-coast exposed without defences of any kind, the responsibility should not rest upon his shoulders. It is as well, said Mr. K., to speak plainly on this subject. Our position with regard to France was known to all who heard him to be of such a character as would not, in his opinion, justify prudent men, men who look to the preservation of the rights and the honor of the nation, in withholding the means, the most ample means, to maintain those rights and preserve unimpaired that honor.

“Mr. K. said, while he was free to confess that the proposed appropriation was not in its terms altogether as specific as he could have wished it, he could not view it in the light which had, or seemed to have, so much alarmed the senator from Massachusetts, and others who had spoken on the subject. We are told, said Mr. K., that the adoption of the amendment made by the House will prostrate the fortress of the constitution and bury under its ruins the liberties of the people. He had too long been accustomed to the course of debate here, particularly in times of high party excitement, to pay much attention to bold assertion or violent denunciation. In what, he asked, does it violate the constitution? Does it give to the President the power of declaring war? You have been told, and told truly, by my friend from Pennsylvania [Mr. Buchanan], that this power alone belongs to Congress; nor does this bill in the slightest degree impair it. Does it authorize the raising of armies? No, not one man can be enlisted beyond the number required to fill up the ranks of your little army; and whether you pass this amendment or not, that power is already possessed under existing laws. Is it, said Mr. K., even unprecedented and unusual? A little attention to the history of our government must satisfy all who heard him, that it is neither the one nor the other.

“During the whole period of the administrations of General Washington and the elder Adams, all appropriations were general, applying a gross sum for the expenditure of the different departments of the government, under the direction of the President; and it was not till Mr. Jefferson came into office, that, at his recommendation, specific appropriations were adopted. Was the constitution violated, broken down, and destroyed, under the administration of the father of his country? Or did the fortress to which the senator from Massachusetts, on this occasion, clings so fondly, tumble into ruin, when millions were placed in the hands of Mr. Jefferson himself, to be disposed of for a designated object, but, in every thing else, subject to his unlimited discretion? No, said Mr. K., our liberties remained unimpaired; and, he trusted in God, would so remain for centuries yet to come. He would not urge his confidence in the distinguished individual at the head of the government as a reason why this amendment should pass; he was in favor of limiting executive discretion as far as practicable; but circumstances may present themselves, causes may exist, which would place it out of the power of Congress promptly to meet the emergency. To whom, then, should they look? Surely to the head of the government—to the man selected by the people to guard their rights and protect their interests. He put it to senators to say whether, in a possible contingency, which all would understand, our forts should not be armed, or ships put in commission? None will venture to gainsay it. Yet the extent to which such armament should be carried must, from the very necessity of the case, be left to the sound discretion of the President. From the position he occupies, no one can be so competent to form a correct judgment, and he could not, if he would, apply the money to other objects than the defences of the country. Mr. K. said he would not, at this last moment of the session, when time was so very precious, further detain the Senate than to express his deep apprehension, his alarm, lest this most important bill should be lost by this conflict between the two Houses. He would beg of senators to reflect on the disastrous consequences which might ensue. He would again entreat the senator from Massachusetts to withdraw his motion, and ask a conference, and thus leave some reasonable ground for hope of ultimate agreement on this most important subject.”

The motion was persisted in, and the “adherence” carried by a vote of twenty-nine to seventeen. The yeas and nays were:

Yeas.—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White.—29.

Nays.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Ruggles, Robinson, Shepley, Tallmadge, Tipton, Wright.—17.

Upon being notified of this vote, the House took the conciliatory step of "insisting;" and asked a "conference." The Senate agreed to the request—appointed a committee on its part, which was met by another on the part of the House, which could not agree about the three millions; and while engaged in these attempts at concord, the existence of the Congress terminated. It was after midnight; the morning of the fourth of March had commenced; many members said their power was at an end—others that it would continue till twelve o'clock, noon; for it was that hour, on the 3d of March, 1789, that the first Congress commenced its existence, and that day should only be counted half, and the half of the next day taken to make out two complete years for each Congress. To this it was answered that, in law, there are no fractions of a day; that the whole day counted in a legal transaction: in the birth of a measure or of a man. The first day that the first Congress sat was the day of its birth, without looking to the hour at which it formed a quorum; the day a man was born was the day of his birth, and he counted from the beginning of the day, and the whole day, and not from the hour and minute at which he entered the world—a rule which would rob all the afternoon-born children of more or less of the day on which they were born, and postpone their majority until the day after their birthday. While these disquisitions were going on, many members were going off; and the Senate hearing nothing from the House, dispatched a message to it, on the motion of Mr. Webster, "respectfully to remind it" of the disagreement on the fortification bill; on receiving which message, Mr. Cambreleng, chairman of conference, on the part of the House, stood up and said:

"That the committee of conference of the two Houses had met, and had concurred in an amendment which was very unsatisfactory to him. It proposed an unconditional appropriation of three hundred thousand dollars for arming the fortifications, and five hundred thousand dollars for repairs of and equipping our vessels of war—an amount totally inadequate, if it should be required, and more than was necessary, if it should not be. When he came into the House from the conference, they were calling the ayes and noes on the resolution to pay the compensation due the gentleman from Kentucky (Mr. Letcher). He voted on that resolution, but there was no quorum voting. On a subsequent proposition to adjourn, the ayes and noes were called, and again there was no quorum voting. Under such circumstances, and at two o'clock in the morning, he did not feel authorized to present to the House an appropriation of eight hundred thousand dollars. He regretted the loss, not only of the appropriation for the defence of the country, but of the whole fortification bill; but let the responsibility fall where it ought—on the Senate of the United States. The House had discharged its duty to the country. It had sent the fortification bill to the Senate, with an additional appropriation, entirely for the defence of the country. The Senate had rejected that appropriation, without even deigning to propose any amendment whatever, either in form or amount. The House sent it a second time; and a second time no amendment was proposed, but the reverse; the Senate adhered, without condescending to ask even a conference. Had that body asked a conference, in the first instance, some provision would have been made for defence, and the fortification bill would have been saved before the hour arrived which terminated the existence of the present House of Representatives. As it was, the committees did not concur till this House had ceased to exist—the ayes and noes had been twice taken without a quorum—the bill was evidently lost, and the Senate must take the responsibility of leaving the country defenceless. He could not feel authorized to report the bill to the House, situated as it was, and at this hour in the morning; but if any other member of the committee of conference proposed to do it, he should make no objection, though he believed such a

proposition utterly ineffectual at this hour; for no member could, at this hour in the morning, be compelled to vote."

Many members said the time was out, and that there had been no quorum for two hours. A count was had, and a quorum not found. The members were requested to pass through tellers, and did so: only eight-two present. Mr. John Y. Mason informed the House that the Senate had adjourned; then the House did the same—making the adjournment in due form, after a vote of thanks to the speaker, and hearing his parting address in return.

128. Distribution Of Revenue

Propositions for distributing the public land revenue among the States, had become common, to be succeeded by others to distribute the lands themselves, and finally the Custom House revenue, as well as that of the lands. The progress of distribution was natural and inevitable in that direction, when once begun. Mr. Calhoun and his friends had opposed these proposed distributions as unconstitutional, as well as demoralizing but after his junction with Mr. Clay, he began to favor them; but still with the salvo of an amendment to the constitution. With this view, in the latter part of the session of 1835, he moved a resolution of inquiry into the extent of executive patronage, the increase of public expenditure, and the increase of the number of persons employed or fed by the federal government; and he asked for a select committee of six to report upon his resolution. Both motions were granted by the Senate; and, according to parliamentary law, and the principles of fair legislation (which always accord a committee favorable to the object proposed), the members of the committee were appointed upon the selection of the six which he wished. They were: Messrs. Webster, Southard, Bibb, King of Georgia, and Benton—which, with himself, would make six. Mr. Webster declined, and Mr. Poindexter was appointed in his place; Mr. Southard did not act; and the committee, consisting of five, stood, politically, three against the administration—two for it; and was thus a frustration of Mr. Calhoun's plan of having an impartial committee, taken equally from the three political parties. He had proposed the committee upon the basis of three political parties in the Senate, desiring to have two members from each party; giving as a reason for that desire, that he wished to go into the examination of the important inquiry proposed, with a committee free from all prejudice, and calculated to give it an impartial consideration. This division into three parties was not to the taste of all the members; and hence the refusal of some to serve upon it. It was the first time that the existence of three parties was proposed to be made the basis of senatorial action, and did not succeed. The actual committee classed democratically, but with the majority opposed to the administration.

At the first meeting a sub-committee of three was formed—Mr. Calhoun of course at its head—to draw up a report for the consideration of the full committee: and of this sub-committee a majority was against the administration. Very soon the committee was assembled to hear the report read. I was surprised at it—both at the quickness of the preparation and the character of the paper. It was an elaborate, ingenious and plausible attack upon the administration, accusing it of having doubled the expenses of the government—of having doubled the number of persons employed or supported by it—of holding the public moneys in illegal custody—of exercising a patronage tending to corruption—the whole the result of an over full treasury, which there was no way to deplete but by a distribution of the surplus revenue among the States; for which purpose an amendment of the constitution would be necessary; and was proposed. Mr. Benton heard the reading in silence; and when finished declared his dissent to it: said he should make no minority report—a kind of reports which he always disliked; but when read in the Senate he should rise in his place and oppose it. Mr. King, of Georgia, sided with Mr. Benton; and thus the report went in. Mr. Calhoun read it himself at the secretary's table, and moved its printing. Mr. Poindexter moved an extra number of 30,000 copies; and spoke at length in support of his motion, and in favor of the report. Mr. King, of Georgia, followed him against the report: and Mr. Benton followed Mr. King on the same side. On the subject of the increase of expenditures doubled within the time mentioned, he showed that it came from extraordinary objects, not belonging to the expenses of the government, but temporary in their nature and transient in their existence; namely, the expenses of removing the Indians, the Indian war upon the Mississippi, and the pension act of

1832; which carried up the revolutionary pensions from $355,000 per annum to $3,500,000—just tenfold—and by an act which the friends of the administration opposed. He showed also that the increase in the number of persons employed, or supported by the government, came in a great degree from the same measure which carried up the number of pensioners from 17,000 to 40,000. On the subject of the illegal custody of the public moneys, it was shown, in the first place, that the custody was not illegal; and, in the second, that the deposit regulation bill had been defeated in the Senate by the opponents of the administration. Having vindicated the administration from the charge of extravagance, and the illegal custody of the public moneys, Mr. Benton came to the main part of the report—the surplus in the treasury, its distribution for eight years among the States (just the period to cover two presidential elections); and the proposed amendment to the constitution to permit that distribution to be made: and here it is right that the report should be allowed to speak for itself. Having assumed the annual surplus to be nine millions for eight years—until the compromise of 1833 worked out its problem;—that this surplus was inevitable, and that there was no legitimate object of federal care on which it could be expended, the report brought out distribution as the only practical depletion of the treasury, and the only remedy for the corruptions which an exuberant treasury engendered. It proceeded thus:

"But if no subject of expenditure can be selected on which the surplus can be safely expended, and if neither the revenue nor expenditure can, under existing circumstances, be reduced, the next inquiry is, what is to be done with the surplus, which, as has been shown, will probably equal, on an average, for the next eight years, the sum of $9,000,000 beyond the just wants of the government? A surplus of which, unless some safe disposition can be made, all other means of reducing the patronage of the Executive must prove ineffectual.

"Your committee are deeply sensible of the great difficulty of finding any satisfactory solution of this question; but believing that the very existence of our institutions, and with them the liberty of the country, may depend on the success of their investigation, they have carefully explored the whole ground, and the result of their inquiry is, that but one means has occurred to them holding out any reasonable prospect of success. A few preliminary remarks will be necessary to explain their views.

"Amidst all the difficulties of our situation, there is one consolation: that the danger from Executive patronage, as far as it depends on excess of revenue, must be temporary. Assuming that the act of 2d of March, 1833, will be left undisturbed, by its provisions the income, after the year 1842, is to be reduced to the economical wants of the government. The government, then, is in a state of passage from one where the revenue is excessive, to another in which, at a fixed and no distant period, it will be reduced to its proper limits. The difficulty in the intermediate time is, that the revenue cannot be brought down to the expenditure, nor the expenditure, without great danger, raised to the revenue, for reasons already explained. How is this difficulty to be overcome? It might seem that the simple and natural means would be, to vest the surplus in some safe and profitable stock, to accumulate for future use; but the difficulty in such a course will, on examination, be found insuperable.

"At the very commencement, in selecting the stock, there would be great, if not insurmountable, difficulties. No one would think of investing the surplus in bank stock, against which there are so many and such decisive reasons that it is not deemed necessary to state them; nor would the objections be less decisive against vesting in the stock of the States, which would create the dangerous relation of debtor and creditor between the government and the members of the Union. But suppose this difficulty surmounted, and that some stock perfectly safe was selected, there would still remain another that could not be surmounted.

There cannot be found a stock, with an interest in its favor sufficiently strong to compete with the interests which, with a large surplus revenue, will be ever found in favor of expenditures. It must be perfectly obvious to all who have the least experience, or who will duly reflect on the subject, that were a fund selected in which to vest the surplus revenue for future use, there would be found in practice a constant conflict between the interest in favor of some local or favorite scheme of expenditure, and that in favor of the stock. Nor can it be less obvious that, in point of fact, the former would prove far stronger than the latter. The result is obvious. The surplus, be it ever so great, would be absorbed by appropriations, instead of being vested in the stock; and the scheme, of course, would, in practice, prove an abortion; which brings us back to the original inquiry, how is the surplus to be disposed of until the excess shall be reduced to the just and economical wants of the government?

"After bestowing on this question, on the successful solution of which so much depends, the most deliberate attention, your committee, as they have already stated, can advise but one means by which it can be effected; and that is, an amendment of the constitution, authorizing the temporary distribution of the surplus revenue among the States till the year 1843; when, as has been shown, the income and expenditure will be equalized.

"Your committee are fully aware of the many and fatal objections to the distribution of the surplus revenue among the States, considered as a part of the ordinary and regular system of this government. They admit them to be as great as can well be imagined. The proposition itself, that the government should collect money for the purpose of such distribution, or should distribute a surplus for the purpose of perpetuating taxes, is too absurd to require refutation; and yet what would be when applied, as supposed, so absurd and pernicious, is, in the opinion of your committee, in the present extraordinary and deeply disordered state of our affairs, not only useful and salutary, but indispensable to the restoration of the body politic to a sound condition; just as some potent medicine, which it would be dangerous and absurd to prescribe to the healthy, may, to the diseased, be the only means of arresting the hand of death. Distribution, as proposed, is not for the preposterous and dangerous purpose of raising a revenue for distribution, or of distributing the surplus as a means of perpetuating a system of duties or taxes; but a temporary measure to dispose of an unavoidable surplus while the revenue is in the course of reduction, and which cannot be otherwise disposed of, without greatly aggravating a disease that threatens the most dangerous consequences; and which holds out hope, not only of arresting its further progress, but also of restoring the body politic to a state of health and vigor. The truth of this assertion a few observations will suffice to illustrate.

"It must be obvious, on a little reflection, that the effects of distribution of the surplus would be to place the interests of the States, on all questions of expenditure, in opposition to expenditure, as every reduction of expense would necessarily increase the sum to be distributed among the States. The effect of this would be convert them, through their interests, into faithful and vigilant sentinels on the side of economy and accountability in the expenditures of this government; and would thus powerfully tend to restore the government, in its fiscal action, to the plain and honest simplicity of former days.

"It may, perhaps, be thought by some that the power which the distribution among the States would bring to bear against the expenditure and its consequent tendency to retrench the disbursements of the government, would be so strong, as not only to curtail useless or improper expenditure, but also the useful and necessary. Such, undoubtedly, would be the consequence, if the process were too long continued; but in the present irregular and excessive action of the system, when its centripetal force threatens to concentrate all its powers in a single department, the fear that the action of this government will be too much

reduced by the measure under consideration, in the short period to which it is proposed to limit its operation, is without just foundation. On the contrary, if the proposed measure should be applied in the present diseased state of the government, its effect would be like that of some powerful alterative medicine operating just long enough to change the present morbid action, but not sufficiently long to superinduce another of an opposite character.

"But it may be objected that, though the distribution might reduce all useless expenditure, it would at the same time give additional power to the interest in favor of taxation. It is not denied that such would be its tendency; and, if the danger from increased duties or taxes was at this time as great as that from a surplus revenue, the objection would be fatal; but it is confidently believed that such is not the case. On the contrary, in proposing the measure, it is assumed that the act of March 2, 1833, will remain undisturbed. It is on the strength of this assumption that the measure is proposed, and, as it is believed, safely proposed.

"It may, however, be said that the distribution may create, on the part of the States, an appetite in its favor which may ultimately lead to its adoption as a permanent measure. It may indeed tend to excite such an appetite, short as is the period proposed for its operation; but it is obvious that this danger is far more than countervailed by the fact that the proposed amendment to the constitution to authorize the distribution would place the power beyond the reach of legislative construction; and thus effectually prevent the possibility of its adoption as a permanent measure; as it cannot be conceived that three-fourths of the States will ever assent to an amendment of the constitution to authorize a distribution, except as an extraordinary measure, applicable to some extraordinary condition of the country like the present.

"Giving, however, to these and other objections which may be urged, all the force that can be claimed for them, it must be remembered the question is not whether the measure proposed is or is not liable to this or that objection, but whether any other less objectionable can be devised; or rather, whether there is any other, which promises the least prospect of relief, that can be applied. Let not the delusion prevail that the disease, after running through its natural course, will terminate of itself, without fatal consequences. Experience is opposed to such anticipations. Many and striking are the examples of free States perishing under that excess of patronage which now afflicts ours. It may, in fact, be said with truth, that all or nearly all diseases which afflict free governments may be traced directly or indirectly to excess of revenue and expenditure; the effect of which is to rally around the government a powerful, corrupt, and subservient corps—a corps ever obedient to its will, and ready to sustain it in every measure, whether right or wrong; and which, if the cause of the disease be not eradicated, must ultimately render the government stronger than the people.

"What progress this dangerous disease has already made in our country it is not for your committee to say; but when they reflect on the present symptoms; on the almost unbounded extent of executive patronage, wielded by a single will; the surplus revenue, which cannot be reduced within proper limits in less than seven years—a period which covers two presidential elections, on both of which all this mighty power and influence will be brought to bear; and when they consider that, with the vast patronage and influence of this government, that of all the States acting in concert with it will be combined, there are just grounds to fear that the fate which has befallen so many other free governments must also befall ours, unless, indeed, some effectual remedy be forthwith applied. It is under this impression that your committee have suggested the one proposal; not as free from all objections, but as the only one of sufficient power to arrest the disease and to restore the body politic to a sound condition; and they have accordingly reported a resolution so to amend the constitution that the money remaining in the treasury at the end of each year till the 1st of January, 1843, deducting

therefrom the sum of $2,000,000 to meet current and contingent expenses, shall annually be distributed among the States and Territories, including the District of Columbia; and, for that purpose, the sum to be distributed to be divided into as many shares as there are senators and representatives in Congress, adding two for each territory and two for the District of Columbia; and that there shall be allotted to each State a number of shares equal to its representation in both Houses, and to the territories, including the District of Columbia, two shares each. Supposing the surplus to be distributed should average $9,000,000 annually, as estimated, it would give to each share $30,405; which multiplied by the number of senators and representatives from a State will show the amount to which any State will be entitled."

The report being here introduced to speak for itself, the reply also is introduced as delivered upon the instant, and found in the Congress register of debates, thus:

"Mr. Benton next came to the proposition in the report to amend the constitution for eight years, to enable Congress to make distribution among the States, Territories, and District of Columbia, of the annual surplus of public money. The surplus is carefully calculated at $9,000,000 per annum for eight years; and the rule of distribution assumed goes to divide that sum into as many shares as there are senators and representatives in Congress; each State to take shares according to her representation; which the report shows would give for each share precisely $30,405; and then leaves it to the State itself, by a little ciphering, in multiplying the aforesaid sum of $30,405 by the whole number of senators and representatives which it may have in Congress, to calculate the annual amount of the stipend it would receive. This process the report extends through a period of eight years; so that the whole sum to be divided to the States, Territories, and District of Columbia, will amount to seventy-two millions of dollars.

"Of all the propositions which he ever witnessed, brought forward to astonish the senses, to confound recollection, and to make him doubt the reality of a past or a present scene, this proposition, said Mr. B., eclipses and distances the whole! What! the Senate of the United States—not only the same Senate, but the same members, sitting in the same chairs, looking in each others' faces, remembering what each had said only a few short months ago—now to be called upon to make an alteration in the constitution of the United States, for the purpose of dividing seventy-two millions of surplus money in the treasury; when that same treasury was proclaimed, affirmed, vaticinated, and proved, upon calculations, for the whole period of the last session, to be sinking into bankruptcy! that it would be destitute of revenue by the end of the year, and could never be replenished until the deposits were restored! the bank rechartered! and the usurper and despot driven from the high place which he dishonored and abused! This was the cry then; the cry which resounded through this chamber for six long months, and was wafted upon every breeze to every quarter of the Republic, to alarm, agitate, disquiet and enrage the people. The author of this report, and the whole party with which he marched under the *oriflamme* of the Bank of the United States, filled the Union with this cry of a bankrupt treasury, and predicted the certain and speedy downfall of the administration, from the want of money to carry on the operations of the government.

"[Mr. Calhoun here rose and wished to know of Mr. Benton whether he meant to include him in the number of those who had predicted a deficiency in the revenue.]

"Mr. B. said he would answer the gentleman by telling him an anecdote. It was the story of a drummer taken prisoner in the low countries by the videttes of Marshal Saxe, under circumstances which deprived him of the protection of the laws of war. About to be shot, the poor drummer plead in his defence that he was a non-combatant; he did not fight and kill people; he did nothing, he said, but beat his drum in the rear of the line. But he was answered,

so much the worse; that he made other people fight, and kill one another, by driving them on with that drum of his in the rear of the line; and so he should suffer for it. Mr. B. hoped that the story would be understood, and that it would be received by the gentleman as an answer to his question; as neither in law, politics, nor war, was there any difference between what a man did by himself, and did by another. Be that as it may, said Mr. B., the strangeness of the scene in which we are now engaged remains the same. Last year it was a bankrupt treasury, and it beggared government; now it is a treasury gorged to bursting with surplus millions, and a government trampling down liberty, contaminating morals, bribing and wielding vast masses of people, from the unemployable funds of countless treasures. Such are the scenes which the two sessions present; and it is in vain to deny it, for the fatal speeches of that fatal session have gone forth to all the borders of the republic. They were printed here by the myriad, franked by members by the ton weight, freighted to all parts by a decried and overwhelmed Post Office, and paid for! paid for! by whom? Thanks for one thing, at least! The report of the Finance Committee on the bank (Mr. Tyler's report) effected the exhumation of one mass—one mass of hidden and buried putridity; it was the printing account of the Bank of the United States for that session of Congress which will long live in the history of our country under the odious appellation of the panic session. That printing account has been dug up; is the black vomit of the bank! and he knew the medicine which could bring forty such vomits from the foul stomach of the old red harlot. It was the medicine of a committee of investigation, constituted upon parliamentary principles; a committee, composed, in its majority, of those who charged misconduct, and evinced a disposition to probe every charge to the bottom; such a committee as the Senate had appointed, at the same session, not for the bank, but for the post office.

"Yes, exclaimed Mr. B., not only the treasury was to be bankrupt, but the currency was to be ruined. There was to be no money. The trash in the treasury, what little there was, was to be nothing but depreciated paper, the vile issues of insolvent pet banks. Silver, and United States bank notes, and even good bills of exchange, were all to go off, all to take leave, and make their mournful exit together; and gold! that was a trick unworthy of countenance; a gull to bamboozle the simple, and to insult the intelligent, until the fall election were over. Ruin, ruin, ruin to the currency was the lugubrious cry of the day, and the sorrowful burden of the speech for six long months. Now, on the contrary, it seems to be admitted that there is to be money, real good money, in the treasury, such as the fiercest haters of the pet banks would wish to have; and that not a little, since seventy-two millions of surpluses are proposed to be drawn from that same empty treasury in the brief space of eight years. Not a word about ruined currency now. Not a word about the currency itself. The very word seems to be dropped from the vocabulary of gentlemen. All lips closed tight, all tongues hushed still, all allusion avoided, to that once dear phrase. The silver currency doubled in a year; four millions of gold coins in half a year; exchanges reduced to the lowest and most uniform rates; the whole expenses of Congress paid in gold; working people receiving gold and silver for their ordinary wages. Such are the results which have confounded the prophets of wo, silenced the tongues of lamentation, expelled the word currency from our debates; and brought the people to question, if it cannot bring themselves, to doubt, the future infallibility of those undaunted alarmists who still go forward with new and confident predictions, notwithstanding they have been so recently and so conspicuously deceived in their vaticinations of a ruined currency, a bankrupt treasury, and a beggard government.

"But here we are, said Mr. B., actually engaged in a serious proposition to alter the constitution of the United States for the period of eight years, in order to get rid of surplus revenue; and a most dazzling, seductive, and fascinating scheme is presented; no less than nine millions a year for eight consecutive years. It took like wildfire, Mr. B. said, and he had

seen a member—no, that might seem too particular—he had seen a gentleman who looked upon it as establishing a new era in the affairs of our America, establishing a new test for the formation of parties, bringing a new question into all our elections, State and federal; and operating the political salvation and elevation of all who supported it and the immediate, utter, and irretrievable political damnation of all who opposed it. But Mr. B. dissented from the novelty of the scheme. It was an old acquaintance of his, only new vamped and new burnished, for the present occasion. It is the same proposition, only to be accomplished in a different way, which was brought forward, some years ago, by a senator from New Jersey (Mr. Dickerson) and which then received unmeasured condemnation, not merely for unconstitutionality, but for all its effects and consequences: the degradation of mendicant States, receiving their annual allowance from the bounty of the federal government; the debauchment of the public morals, when every citizen was to look to the federal treasury for money, and every candidate for office was to outbid his competitor in offering it; the consolidation of the States, thus resulting from a central supply of revenue; the folly of collecting with one hand to pay back with the other; and both hands to be greased at the expense of the citizen, who pays one man to collect the money from him, and another to bring it back to him, *minus* the interest and the cost of a double operation in fetching and carrying; and the eventual and inevitable progress of the scheme to the plunder of the weaker half of the Union by the stronger; when the stronger half would undoubtedly throw the whole burden of raising the money upon the weaker half, and then take the main portion to themselves. Such were the main objections uttered against this plan, seven years ago, when a gallant son of South Carolina (General Hayne) stood by his (Mr. B.'s) side—no, stood before him—and led him in the fight against that fatal and delusive scheme, now brought forward under a more seclusive, dangerous, alarming, inexcusable, unjustifiable, and demoralizing form.

"Yes, said Mr. B., it is not only the revival of the same plan for dividing surplus revenue, which received its condemnation on this floor, seven or eight years ago; but it is the modification, and that in a form infinitely worse for the new States, of the famous land bill which now lies upon our table. It takes up the object of that bill, and runs away with it, giving nine millions where that gave three, and leaves the author of that bill out of sight behind; and can the gentleman from South Carolina (Mr. Calhoun) be so short-sighted as not to see that somebody will play him the same prank, and come forward with propositions to raise and divide twenty, thirty, forty millions; and thus outleap, outjump, and outrun him in the race of popularity, just as far as he himself has now outjumped, outleaped, and outran, the author of the land distribution bill?

"Yes, said Mr. B., this scheme for dividing surplus revenue is an old acquaintance on this floor; but never did it come upon this floor at a time so inauspicious, under a form so questionable, and upon assumptions so unfounded in fact, so delusive in argument. He would speak of the inauspiciousness of the time hereafter; at present, he would take positions in direct contradiction to all the arguments of fact and reason upon which this monstrous scheme of distribution is erected and defended. Condensed into their essence, these arguments are:

"1. That there will be a surplus of nine millions annually, for eight years.

"2. That there is no way to reduce the revenue.

"3. That there is no object of general utility to which these surpluses can be applied.

"4. That distribution is the only way to carry them off without poisoning and corrupting the whole body politic.

“Mr. B. disputed the whole of those propositions, and would undertake to show each to be unfounded and erroneous.

“1. The report says that the surplus will probably equal, on the average, for the next eight years, the sum of $9,000,000 beyond the just wants of the government; and in a subsequent part it says, supposing the surplus to be distributed should average $9,000,000, annually, as estimated, it would give to each share $30,405, which, multiplied by the senators and representatives of any State, would show the sum to which it would be entitled. The amendment which has been reported to carry this distribution into effect is to take effect for the year 1835—the present year—and to continue till the 1st day of January, 1843; of course it is inclusive of 1842, and makes a period of eight years for the distribution to go on. The amendment contains a blank, which is to be filled up with the sum which is to be left in the treasury every year, to meet contingent and unexpected demands and the report shows that this blank is to be filled with the sum of $2,000,000. Here, then, is the totality of these surpluses, eleven millions a year, for eight consecutive years; but of which nine millions are to be taken annually for distribution. Now, nine times eight are seventy-two, so that here is a report setting forth the enormous sum of $72,000,000 of mere surplus, after satisfying all the just wants of the government, and leaving two millions in the treasury, to be held up for distribution, and to excite the people to clamor for their shares of such a great and dazzling prize. At the same time, Mr. B. said, there would be no such surplus. It was a delusive bait held out to whet the appetite of the people for the spoils of their country; and could never be realized, even if the amendment for authorizing the distribution should now pass. The seventy-two millions could never be found; they would exist nowhere but in this report, in the author’s imagination, and in the deluded hopes of an excited community. The seventy-two millions could never be found; they would turn out to be the ‘fellows in Kendal green and buckram suits,’ which figured so largely in the imagination of Sir John Falstaff—the two-and-fifty men in buckram which the valiant old knight received upon his point, thus! [extending a pencil in the attitude of defence]. The calculations of the author of the report were wild, delusive, astonishing, incredible. He (Mr. B.) could not limit himself to the epithet wild, for it was a clear case of hallucination.

“Mr. B. then took up the treasury report of Mr. Secretary Woodbury, communicated at the commencement of the present session of Congress, and containing the estimates required by law of the expected income and expenditure for the present year, and also for the year 1836. At pages 4 and 5 are the estimates for the present year; the income estimated at $20,000,000, the expenditures at $19,683,540; being a difference of only some three hundred thousand dollars between the income and the outlay; and such is the chance for nine millions taken, and two left in the first year of the distribution. At pages 10, 14, 15, the revenue for 1836 is computed; and, after going over all the heads of expense, on which diminutions will probably be made, he computes the income and outlay of the year at about equal; or probably a little surplus to the amount of one million. These are the estimates, said Mr. B., formed upon data, and coming from an officer making reports upon his responsibility, and for the legislative guidance of Congress; and to which we are bound to give credence until they are shown to be incorrect. Here, then, are the first two years of the eight disposed of, and nothing found in them to divide. The last two years of the term could be dispatched even more quickly, said Mr. B.; for every body that understands the compromise act of March, 1833, must know that, in the last two years of the operation of that act, there would be an actual deficit in the treasury. Look at the terms of the act! It proceeds by slow and insensible degrees, making slight deductions once in two years, until the years 1841 and 1842, when it ceases crawling, and commences jumping; and leaps down, at two jumps, to twenty per centum on the value of the articles which pay duty, which articles are less than one half of our importations. Twenty

per cent. upon the amount of goods which will then pay duty will produce but little, say twelve or thirteen millions, upon the basis of sixty or seventy millions of dutiable articles imported then, which only amount to forty-seven millions now. Then there will be no surplus at all for one half the period of eight years: the first two and the last two. In the middle period of four years there will probably be a surplus of two or three millions; but Mr. B. took issue upon all the allegations with respect to it; as that there was no way to reduce the revenue without disturbing the compromise act of March, 1833; that there was no object of general utility to which it could be applied; and that distribution was the only way to get rid of it.

"Equally delusive, and profoundly erroneous, was the gentleman's idea of the surplus which could be taken out of the appropriations. True, that operation could be performed once, and but once. The run of our treasury payments show that about one quarter of the year's expenditure is not paid within the year, but the first quarter of the next year, and thus could be paid out of the revenue received in the first quarter of the next year, even if the revenue of the last quarter of the preceding year was thrown away. But this was a thing which could only be done once. You might rely upon the first quarter, but you could not upon the second, third, and fourth. There would not be a dollar in the treasury at the end of four years, if you deducted a quarter's amount four times successively. It was a case, if a homely adage might be allowed, which would well apply—you could not eat the cake and have it too. Mr. B. submitted it, then, to the Senate, that, on the first point of objection to the report, his issue was maintained. There was no such surplus of nine millions a year for eight years, as had been assumed, nor any thing near it; and this assumption being the corner-stone of the whole edifice of the scheme of distribution, it was sufficient to show the fallacy of that data to blow the whole scheme into the empty air.

"Mr. B. admonished the Senate to beware of ridicule. To pass a solemn vote for amending the constitution, for the purpose of enabling Congress to make distribution of surpluses of revenue, and then find no surplus to distribute, might lessen the dignity and diminish the weight of so grave a body. It might expose it to ridicule; and that was a hard thing for public bodies, and public men, to stand. The Senate had stood much in its time; much in the latter part of Mr. Monroe's administration, when the Washington Republican habitually denounced it as a faction, and displayed many brilliant essays, written by no mean hand, to prove that the epithet was well applied, though applied to a majority. It had stood much, also, during the four years of the second Mr. Adams's administration; as the surviving pages of the defunct National Journal could still attest: but in all that time it stood clear of ridicule; it did nothing upon which saucy wit could lay its lash. Let it beware now! for the passage of this amendment may expose it to untried peril; the peril of song and caricature. And wo the Senate, farewell to its dignity, if it once gets into the windows of the printshop, and becomes the burden of the ballads which the milkmaids sing to their cows.

"2. Mr. B. took up his second head of objection. The report affirmed that there was no way to reduce the revenue before the end of the year 1842, without violating the terms of the compromise act of March, 1833. Mr. B. said he had opposed that act when it was on its passage, and had then stated his objections to it. It was certainly an extraordinary act, a sort of new constitution for nine years, as he had heard it felicitously called. It was made in an unusual manner, not precisely by three men on an island on the coast of Italy, but by two in some room of a boarding-house in this city; and then pushed through Congress under a press of sail, and a duresse of feeling; under the factitious cry of dissolution of the Union, raised by those who had been declaring, on one hand, that the tariff could not be reduced without dissolving the Union; and on the other that it could not be kept up without dissolving the same Union. The value of all such cries, Mr. B. said, would be appreciated in future, when it was seen with how much facility certain persons who had stood under the opposite poles of

the earth, as it were, on the subject of the tariff had come together to compromise their opinions, and to lay the tariff on the shelf for nine years! a period which covered two presidential elections! That act was no favorite of his, but he would let it alone; and thus leaving it to work out its design for nine years, he would say there were ways to reduce the revenue, very sensibly, without affecting the terms or the spirit of that act. And here he would speak upon data. He had the authority of the Secretary of the Treasury (Mr. Woodbury) to declare that he believed he could reduce the revenue in this way and upon imports to the amount of five hundred thousand dollars; and he, Mr. B., should submit a resolution calling upon the Secretary to furnish the details of this reduction to the Senate at the commencement of their next stated session, that Congress might act upon it. Further, Mr. B. would say, that it appeared to him that the whole list of articles in the fifth section of the act, amounting to thirty or forty in number, and which by that section are to be free of duty in 1842, and which in his opinion might be made free this day, and that not only without injury to the manufacturers, but with such manifest advantage to them, that, as an equivalent for it, and for the sake of obtaining it, they ought to come forward of themselves, and make a voluntary concession of reductions on some other points, especially on some classes of woollen goods.

"Having given Mr. Woodbury's authority for a reduction of $500,000 on imports, Mr. B. would show another source from which a much larger reduction could be made, and that without affecting this famous act of March, 1833, in another and a different quarter; it was in the Western quarter, the new States, the public lands! The act of 1833 did not embrace this source of revenue, and Congress was free to act upon it, and to give the people of the new States the same relief on the purchase of the article on which they chiefly paid revenue as it had done to the old States in the reduction of the tariff. Mr. B. did not go into the worn-out and exploded objections to the reduction of the price of the lands which the report had gathered up from their old sleeping places, and presented again to the Senate. Speculators, monopolies, the fall in the price of real estate all over the Union; these were exploded fallacies which he was sorry to see paraded here again, and which he should not detain the Senate to answer. Suffice it to say, that there is no application made now, made heretofore, or intended to be made, so far as he knew, to reduce the price of new land! One dollar and a quarter was low enough for the first choice of new lands; but it was not low enough for the second, third, fourth, and fifth choices! It was not low enough for the refuse lands which had been five, ten, twenty, forty years in market; and which could find no purchaser at $1 25, for the solid reason that they were worth but the half, the quarter, the tenth part, of that sum. It was for such lands that reduction of prices was sought, and had been sought for many years, and would continue to be sought until it was obtained; for it was impossible to believe that Congress would persevere in the flagrant injustice of for ever refusing to reduce the price of refuse and unsalable lands to their actual value. The policy of President Jackson, communicated in his messages, Mr. B. said, was the policy of wisdom and justice. He was for disposing of the lands more for the purpose of promoting settlements, and creating freeholders, than for the purpose of exacting revenue from the meritorious class of citizens who cultivate the soil. He would sell the lands at prices which would pay expenses—the expense of acquiring them from the Indians, and surveying and selling them; and this system of moderate prices with donations, or nominal sales to actual settlers, would do justice to the new States, and effect a sensible reduction in the revenue; enough to prevent the necessity of amending the constitution to get rid of nine million surpluses! But whether the price of lands was reduced or not, Mr. B. said, the revenue from that source would soon be diminished. The revenue had been exorbitant from the sale of lands for three or four years past. And why? Precisely because immense bodies of new lands, and much of it in the States adapted to the production of the great staples which now bear so high a price, have within that period, come into market; but these fresh lands must soon be exhausted; the old and refuse only remain for

sale; and the revenue from that source will sink down to its former usual amount, instead of remaining at three millions a year for nine years, as the report assumes.

“3. When he had thus shown that a diminution of revenue could be effected, both on imports and on refuse and unsalable lands, Mr. B. took up the third issue which he had joined with the report; namely, the possibility of finding an object of general utility on which the surpluses could be expended. The report affirmed there was no such object; he, on the contrary, affirmed that there were such; not one, but several, not only useful, but necessary, not merely necessary, but exigent; not exigent only, but in the highest possible degree indispensable and essential. He alluded to the whole class of measures connected with the general and permanent defence of the Union! In peace, prepare for war! is the admonition of wisdom in all ages and in all nations; and sorely and grievously has our America heretofore paid for the neglect of that admonition. She has paid for it in blood, in money, and in shame. Are we prepared now? And is there any reason why we should not prepare now? Look at your maritime coast, from Passamaquoddy Bay to Florida point; your gulf coast, from Florida point to the Sabine; your lake frontier, in its whole extent. What is the picture? Almost destitute of forts; and, it might be said, quite destitute of armament. Look at your armories and arsenals—too few and too empty; and the West almost destitute! Look at your militia, many of them mustering with corn stalks; the States deficient in arms, especially in field artillery, and in swords and pistols for their cavalry! Look at your navy; slowly increasing under an annual appropriation of half a million a year, instead of a whole million, at which it was fixed soon after the late war, and from which it was reduced some years ago, when money ran low in the treasury! Look at your dock-yards and navy-yards; thinly dotted along the maritime coast, and hardly seen at all on the gulf coast, where the whole South, and the great West, so imperiously demand naval protection! Such is the picture; such the state of our country; such its state at this time, when even the most unobservant should see something to make us think of defence! Such is the state of our defences now, with which, oh! strange and wonderful contradiction! the administration is now reproached, reviled, flouted, and taunted, by those who go for distribution, and turn their backs on defence! and who complain of the President for leaving us in this condition, when five years ago, in the year 1829, he recommended the annual sum of $250,000 for arming the fortifications (which Congress refused to give), and who now are for taking the money out of the treasury, to be divided among the people; instead of turning it all to the great object of the general and permanent defence of the Union, for which they were so solicitous, so clamorous, so feelingly alive, and patriotically sensitive, even one short month ago.

“Does not the present state of the country (said Mr. B.) call for defence? and is not this the propitious time for putting it in defence? and will not that object absorb every dollar of real surplus that can be found in the treasury for these eight years of plenty, during which we are to be afflicted with seventy-two millions of surplus? Let us see. Let us take one single branch of the general system of defence, and see how it stands, and what it would cost to put it in the condition which the safety and the honor of the country demanded. He spoke of the fortifications, and selected that branch, because he had data to go upon; data to which the senator from South Carolina, the author of this report, could not object.

“The design (said Mr. B.) of fortifying the coasts of the United States is as old as the Union itself. Our documents are full of executive recommendations, departmental reports, and reports of committees upon this subject, all urging this great object upon the attention of Congress. From 1789, through every succeeding administration, the subject was presented to Congress; but it was only after the late war, and when the evils of a defenceless coast were fresh before the eyes of the people, that the subject was presented in the most impressive, persevering, and systematic form. An engineer of the first rank (General Bernard) was taken

into our service from the school of the great Napoleon. A resolution of the House of Representatives called on the War Department for a plan of defence, and a designation of forts adequate to the protection of the country; and upon this call examinations were made, estimates framed, and forts projected for the whole maritime coast from Savannah to Boston. The result was the presentation, in 1821, of a plan for ninety forts upon that part of the coast; namely, twenty-four of the first class; twenty-three of the second; and forty-three of the third. Under the administration of Mr. Monroe, and the urgent recommendations of the then head of the War Department (Mr. Calhoun), the construction of these forts was commenced, and pushed with spirit and activity; but, owing to circumstances not necessary now to be detailed, the object declined in the public favor, lost a part of its popularity, perhaps justly, and has since proceeded so slowly that, at the end of twenty years from the late war, no more than thirteen of these forts have been constructed; namely, eight of the first class, three of the second, and two of the third; and of these thirteen constructed, none are armed; almost all of them are without guns or carriages, and more ready for the occupation of an enemy than for the defence of ourselves. This is the state of fortifications on the maritime coast, exclusive of the New England coast to the north of Boston, exclusive of Cape Cod, south of Boston, and exclusive of the Atlantic coast of Florida. The lake frontier is untouched. The gulf frontier, almost two thousand miles in length, barely is dotted with a few forts in the neighborhood of Pensacola, New Orleans, and Mobile; all the rest of the coast may be set down as naked and defenceless. This was our condition. Now, Mr. B. did not venture to give an opinion that the whole plan of fortifications developed in the reports of 1821 should be carried into effect; but he would say, and that most confidently, that much of it ought to be; and it would be the business of Congress to decide on each fort in making a specific appropriation for it. He would also say that many forts would be found to be necessary which were not embraced in that plan; for it did not touch the lake coast, and the gulf coast, nor the New England coast, north of Boston, nor any point of the land frontier. Without going into the question at all, of how many were necessary, or where they should be placed, it was sufficient to show that there were enough wanting, beyond dispute, to constitute an object of utility, worthy of the national expenditure; and sufficient to absorb, not nine millions of annual surplus, to be sure, but about as many millions of surplus as would ever be found, and the bank stock into the bargain. The thirteen forts constructed had cost twelve millions one hundred and thirteen thousand dollars; near one million of dollars each. But this was for construction only; the armament was still to follow; and for this object two millions were estimated in 1821 for the ninety forts then recommended; and of that two millions it may be assumed that but little has been granted by Congress. So much for fortifications; in itself a single branch of defence, and sufficient to absorb many millions. But there were many other branches of defence which, Mr. B. said, he would barely enumerate. There was the navy, including its gradual increase, its dock-yards, its navy-yards; then the armories and arsenals, which were so much wanted in the South and West, and especially in the South, for a reason (besides those which apply to foreign enemies) which need not be named; then the supply of arms to the States, especially field artillery, swords, and pistols, for which an annual but inadequate appropriation had been made for so long a time that he believed the States had almost forgot the subject. Here are objects enough, Mr. President, exclaimed Mr. B., to absorb every dollar of our surplus, and the bank stock besides. The surpluses, he was certain, would be wholly insufficient, and the bank stock, by a solemn resolution of the two Houses of Congress, should be devoted to the object. As a fund was set apart, and held sacred and inviolable, for the payment of the public debt so; should a fund be now created for national defence, and this bank stock should be the first and most sacred item put into it. It is the only way to save that stock from becoming the prey of incessant contrivances to draw money from the treasury. Mr. B. said that he intended to submit resolutions, requesting the President to cause to be communicated to the next

Congress full information upon all the points that he had touched; the probable revenue and expenditure for the next eight years; the plan and expense of fortifying the coast; the navy, and every other point connected with the general and permanent defence of the Union, with a view to let Congress take it up, upon system, and with a design to complete it without further delay. And he demanded, why hurry on this amendment before that information can come in?

"Now is the auspicious moment, said Mr. B., for the republic to rouse from the apathy into which it has lately sunk on the subject of national defence. The public debt is paid; a sum of six or seven millions will come from the bank; some surpluses may occur; let the national defence become the next great object after the payment of the debt, and all spare money go to that purpose. If further stimulus were wanted, it might be found in the present aspect of our foreign affairs, and in the reproaches, the taunts, and in the offensive insinuations which certain gentlemen have been indulging in for two months with respect to the defenceless state of the coast; and which they attribute to the negligence of the administration. Certainly such gentlemen will not take that money for distribution, for the immediate application of which their defenceless country is now crying aloud, and stretching forth her imploring hands.

"Mr. B. would here avail himself of a voice more potential than his own to enforce attention to the great object of national defence, the revival of which he was now attempting. It was a voice which the senator from South Carolina, the author of this proposition to squander in distributions the funds which should be sacred to defence, would instantly recognize. It was an extract from a message communicated to Congress, December 3, 1822, by President Monroe. Whether considered under the relation of similarity which it bears to the language and sentiments of cotemporaneous reports from the then head of the War Department; the position which the writer of those reports then held in relation to President Monroe; the right which he possessed, as Secretary of War, to know, at least, what was put into the message in relation to measures connected with his department; considered under any and all of these aspects, the extracts which he was about to read might be considered as expressing the sentiments, if not speaking the words, of the gentleman who now sees no object of utility in providing for the defence of his country; and who then plead the cause of that defence with so much truth and energy, and with such commendable excess of patriotic zeal.

"Mr. B. then read as follows:

"'Should war break out in any of those countries (the European), who can foretell the extent to which it may be carried, or the desolation which may spread? Exempt as we are from these causes (of European civil wars), our internal tranquillity is secure; and distant as we are from the troubled scene, and faithful to just principles in regard to other powers, we might reasonably presume that we should not be molested by them. This, however, ought not to be calculated on as certain. Unprovoked injuries are often inflicted, and even the peculiar felicity of our situation might, with some, be a cause of excitement and aggression. The history of the late wars in Europe furnishes a complete demonstration that no system of conduct, however correct in principle, can protect neutral powers from injury from any party; that a defenceless position and distinguished love of peace are the surest invitations to war; and that there is no way to avoid it, other than by being always prepared, and willing, for just cause, to meet it. If there be a people on earth, whose more especial duty it is to be at all times prepared to defend the rights with which they are blessed, and to surpass all others in sustaining the necessary burdens, and in submitting to sacrifices to make such preparations, it is undoubtedly the people of these States.'

"Mr. B. having read thus far, stopped to make a remark, and but a remark, upon a single sentiment in it. He would not weaken the force and energy of the whole passage by going over it in detail; but he invoked attention upon the last sentiment—our peculiar duty, so

strongly painted, to sustain burdens, and submit to sacrifices, to accomplish the noble object of putting our country into an attitude of defence! The ease with which we can prepare for the same defence now, by the facile operation of applying to that purpose surpluses of revenue and bank stock, for which we have no other use, was the point on which he would invoke and arrest the Senate's attention.

"Mr. B. resumed his reading, and read the next paragraph, which enumerated all the causes which might lead to general war in Europe, and our involvement in it, and concluded with the declaration 'That the reasons for pushing forward all our measures of defence, with the utmost vigor, appear to me to acquire new force.' And then added, these causes for European war are now in as great force as then; the danger of our involvement is more apparent now than then; the reasons for sensibility to our national honor are nearer now than then; and upon all the principles of the passage from which he was reading, the reasons for pushing forward all our measures of defence with the utmost vigor, possessed far more force in this present year 1835, than they did in the year 1822.

"Mr. B. continued to read:

"'The United States owe to the world a great example, and by means thereof, to the cause of liberty and humanity a generous support. They have so far succeeded to the satisfaction of the virtuous and enlightened of every country. There is no reason to doubt that their whole movement will be regulated by a sacred regard to principle, all our institutions being founded on that basis. The ability to support our own cause, under any trial to which it may be exposed, is the great point on which the public solicitude rests. It has often been charged against free governments, that they have neither the foresight nor the virtue to provide at the proper season for great emergencies; that their course is improvident and expensive; that war will always find them unprepared; and, whatever may be its calamities, that its terrible warnings will be disregarded and forgotten as soon as peace returns. I have full confidence that this charge, so far as it relates to the United States, will be shown to be utterly destitute of truth.'

"Mr. B., as he closed the book, said, he would make a few remarks upon some of the points in this passage, which he had last read—the reproach so often charged upon free governments for want of foresight and virtue, their improvidence and expensiveness, their proneness to disregard and forget in peace the warning lessons of the most terrible calamities of war. And he would take the liberty to suggest that, of all the mortal beings now alive upon this earth, the author of the report under discussion ought to be the last to disregard and to forget the solemn and impressive admonition which the passage conveyed! the last to so act as to subject his government to the mortifying charge which has been so often cast upon them! the last to subject the virtue of the people to the humiliating trial of deciding between the defence and the plunder of their country!

"Mr. B. dwelt a moment on another point in the passage which he had read—the great example which this republic owed to the world, and to the cause of free governments, to prove itself capable of supporting its cause under every trial; and that by providing in peace for the dangers of war. It was a striking point in the passage, and presented a grand and philosophic conception to the reflecting mind. The example to be shown to the world, and the duty of this republic to exhibit it, was an elevated and patriotic conception, and worthy of the genius which then presided over the War Department. But what is the example which we are now required to exhibit? It is that of a people preferring the spoils of their country to its defence! It is that of the electioneerer, going from city to city, from house to house, even to the uninformed tenant of the distant hamlet, who has no means of detecting the fallacies which are brought from afar to deceive his understanding: it is the example of this

electioneerer, with slate and pencil in his hand (and here Mr. B. took up an old book cover, and a pencil, and stooped over it to make figures, as if working out a little sum in arithmetic), it is the example of this electioneerer, offering for distribution that money which should be sacred to the defence of his country; and pointing out for overthrow, at the next election, every candidate for office who should be found in opposition to this wretched and deceptive scheme of distribution. This is the example which it is proposed that we should now exhibit. And little did it enter into his (Mr. B.'s) imagination, about the time that message was written, that it should fall to his lot to plead for the defence of his country against the author of this report. He admired the grandeur of conception which the reports of the war office then displayed. He said he differed from the party with whom he then acted, in giving a general, though not a universal, support to the Secretary of War. He looked to him as one who, when mellowed by age and chastened by experience, might be among the most admired Presidents that ever filled the presidential chair. [Mr. B., by a *lapsus linguæ*, said throne, but corrected the expression on its echo from the galleries.]

"Mr. B. said there was an example which it was worthy to imitate: that of France; her coast defended by forts and batteries, behind which the rich city reposed in safety—the tranquil peasant cultivated his vine in security—while the proud navy of England sailed innoxious before them, a spectacle of amusement, not an object of terror. And there was an example to be avoided: the case of our own America during the late war; when the approach of a British squadron, upon any point of our extended coast, was the signal for flight, for terror, for consternation; when the hearts of the brave and the almost naked hands of heroes were the sole reliance for defence; and where those hearts and those hands could not come, the sacred soil of our country was invaded; the ruffian soldier and the rude sailor became the insolent masters of our citizens' houses; their footsteps marked by the desolation of fields, the conflagration of cities, the flight of virgins, the violation of matrons! the blood of fathers, husbands, sons! This is the example which we should avoid!

"But the amendment is to be temporary: it is only to last until 1842. What an idea!—a temporary alteration in a constitution made for endless ages! But let no one think it will be temporary, if once adopted. No! if the people once come to taste that blood; if they once bring themselves to the acceptance of money from the treasury they are gone for ever. They will take that money in all time to come; and he that promises most, receives most votes. The corruption of the Romans, the debauchment of the voters, the venality of elections, commenced with the Tribunitial distribution of corn out of the public granaries; it advanced to the distribution of the spoils of foreign nations, brought home to Rome by victorious generals and divided out among the people; it ended in bringing the spoils of the country into the canvass for the consulship, and in putting up the diadem of empire itself to be knocked down to the hammer of the auctioneer. In our America there can be no spoils of conquered nations to distribute. Her own treasury—her own lands—can alone furnish the fund. Begin at once, no matter how, or upon what—surplus revenue, the proceeds of the lands, or the lands themselves—no matter; the progress and the issue of the whole game is as inevitable as it is obvious. Candidates bid, the voters listen; and a plundered and pillaged country—the empty skin of an immolated victim—is the prize and the spoil of the last and the highest bidder."

The proposition to amend the constitution to admit of this distribution was never brought to a vote. In fact it was never mentioned again after the day of the above discussion. It seemed to have support from no source but that of its origin; and very soon events came to scatter the basis on which the whole stress and conclusion of the report lay. Instead of a surplus of nine millions to cover the period of two presidential elections, there was a deficit in the treasury in the period of the first one; and the government reduced to the humiliating resorts to obtain money to keep itself in motion—mendicant expeditions to Europe to borrow money,

returning without it—and paper money struck under the name of treasury notes. But this attempt to amend the constitution to permit a distribution, becomes a material point in the history of the working of our government, seeing that a distribution afterwards took place without the amendment to permit it.

129. Commencement Of Twenty-Fourth Congress—President's Message

The following was the list of the members:

SENATORS:

Maine—Ether Shepley, John Ruggles.

New Hampshire—Isaac Hill, Henry Hubbard.

Massachusetts—Daniel Webster, John Davis.

Rhode Island—Nehemiah R. Knight, Asher Robbins.

Connecticut—Gideon Tomlinson, Nathan Smith.

Vermont—Samuel Prentiss, Benjamin Swift.

New-York—Nathaniel P. Tallmadge, Silas Wright, jun.

New Jersey—Samuel L. Southard, Garret D. Wall.

Pennsylvania—James Buchanan, Samuel McKean.

Delaware—John M. Clayton, Arnold Naudain.

Maryland—Robert H. Goldsborough, Jos. Kent.

Virginia—Benjamin Watkins Leigh, John Tyler.

North Carolina—Bedford Brown, Willie P. Mangum.

South Carolina—J. C. Calhoun, William C. Preston.

Georgia—Alfred Cuthbert, John P. King.

Kentucky—Henry Clay, John J. Crittenden.

Tennessee—Felix Grundy, Hugh L. White.

Ohio—Thomas Ewing, Thomas Morris.

Louisiana—Alexander Porter, Robert C. Nicholas.

Indiana—Wm. Hendricks, John Tipton.

Mississippi—John Black, Robert J. Walker.

Illinois—Elias K. Kane, John M. Robinson.

Alabama—Wm. R. King, Gabriel P. Moore.

Missouri—Lewis F. Linn, Thomas H. Benton.

REPRESENTATIVES:

Maine—Jeremiah Bailey, George Evans, John Fairfield, Joseph Hall, Leonard Jarvis, Moses Mason, Gorham Parks, Francis O. J. Smith—8.

New Hampshire—Benning M. Bean, Robert Burns, Samuel Cushman, Franklin Pierce, Jos. Weeks—5.

Massachusetts—John Quincy Adams, Nathaniel B. Borden, George N. Briggs, William B. Calhoun, Caleb Cushing, George Grennell, jr., Samuel Hoar, William Jackson, Abbot Lawrence, Levi Lincoln, Stephen C. Phillips, John Reed—12.

Rhode Island—Dutee J. Pearce, W. Sprague—2.

Connecticut—Elisha Haley, Samuel Ingham, Andrew T. Judson, Lancelot Phelps, Isaac Toucey, Zalmon Wildman—6.

Vermont—Heman Allen, Horace Everett, Hiland Hall, Henry F. Janes, William Slade—5.

New-York—Samuel Barton, Saml. Beardsley, Abraham Bockee, Matthias J. Bovee, John W. Brown, C. C. Cambreleng, Graham H. Chapin, Timothy Childs, John Cramer, Ulysses F. Doubleday, Valentine Efner, Dudley Farlin, Philo C. Fuller, William K. Fuller, Ransom H. Gillet, Francis Granger, Gideon Hard, Abner Hazeltine, Hiram P. Hunt, Abel Huntington, Gerrit Y. Lansing, George W. Lay, Gideon Lee, Joshua Lee, Stephen B. Leonard, Thomas C. Love, Abijah Mann, jr., William Mason, John McKeon, Ely Moore, Sherman Page, Joseph Reynolds, David Russell, William Seymour, Nicholas Sickles, William Taylor, Joel Turrill, Aaron Vanderpoel, Aaron Ward, Daniel Wardwell—40.

New Jersey—Philemon Dickerson, Samuel Fowler, Thomas Lee, James Parker, Ferdinand S. Schenck, William N. Shinn—6.

Pennsylvania—Joseph B. Anthony, Michael W. Ash, John Banks, Andrew Beaumont, Andrew Buchanan, George Chambers, William P. Clark, Edward Darlington, Harmar Denny, Jacob Fry, jr., John Galbraith, James Harper, Samuel S. Harrison, Joseph Henderson, William Hiester, Edward B. Hubley, Joseph R. Ingersoll, John Klingensmith, jr., John Laporte, Henry Logan, Job Mann, Thomas M. T. McKennan, Jesse Miller, Matthias Morris, Henry A. Muhlenberg, David Potts, jr., Joel B. Sutherland, David D. Wagener.—28.

Delaware.—John J. Milligan.—1.

Maryland.—Benjamin C. Howard, Daniel Jenifer, Isaac McKim, James A. Pearce, John N. Steele, Francis Thomas, James Turner, George C. Washington.—8.

Virginia.—James M. H. Beale, James W. Bouldin, Nathaniel H. Claiborne, Walter Coles, Robert Craig, George C. Dromgoole, James Garland, G. W. Hopkins, Joseph Johnson, John W. Jones, George Loyall, Edward Lucas, John Y. Mason, William McComas, Charles F. Mercer, William S. Morgan, John M. Patton, John Roane, John Robertson, John Taliaferro, Henry A. Wise.—21.

North Carolina.—Jesse A. Bynum, Henry W. Connor, Edmund Deberry, James Graham, Micajah T. Hawkins, James J. McKay, William Montgomery, Ebenezer Pettigrew, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.—13.

South Carolina.—Robert B. Campbell, William J. Grayson, John K. Griffin, James H. Hammond, Richard J. Manning, Francis W. Pickens, Henry L. Pinckney, James Rogers, Waddy Thompson, jr.—9.

Georgia.—Jesse F. Cleveland, John Coffee, Thomas Glasscock, Seaton Grantland, Charles E. Haynes, Hopkins Holsey, Jabez Jackson, George W. Owens, George W. B. Towns.—9.

Alabama.—Reuben Chapman, Joab Lawler, Dixon H. Lewis, Francis S. Lyon, Joshua L. Martin.—5.

Mississippi.—David Dickson, J. F. H. Claiborne.—2.

Louisiana.—Rice Garland, Henry Johnson, Eleazer W. Ripley.—3.

Tennessee.—John Bell, Samuel Bunch, William B. Carter, William C. Dunlap, John B. Forester, Adam Huntsman, Cave Johnson, Luke Lea, Abram P. Maury, Balie Peyton, James K. Polk, E. J. Shields, James Standefer.—13.

Kentucky.—Chilton Allan, Lynn Boyd, John Calhoun, John Chambers, Richard French, Wm. J. Graves, Benjamin Hardin, James Harlan, Albert G. Hawes, Richard M. Johnson, Joseph R. Underwood, John White, Sherrod Williams.—13.

Missouri.—Wm. H. Ashley, Albert G. Harrison.—2.

Illinois.—Zadok Casey, William L. May, John Reynolds.—3.

Indiana.—Ratliff Boon, John Carr, John W. Davis, Edward A. Hannegan, George L. Kinnard, Amos Lane, Jonathan McCarty.—7.

Ohio.—William K. Bond, John Chaney, Thomas Corwin, Joseph H. Crane, Thomas L. Hamer, Elias Howell, Benjamin Jones, William Kennon, Daniel Kilgore, Sampson Mason, Jeremiah McLene, William Patterson, Jonathan Sloane, David Spangler, Bellamy Storer, John Thompson, Samuel F. Vinton, Taylor Webster, Elisha Whittlesey.—19.

DELEGATES.

Arkansas Territory.—Ambrose H. Sevier.

Florida Territory.—Joseph M. White.

Michigan Territory.—George W. Jones.

Mr. James K. Polk of Tennessee, was elected speaker of the House, and by a large majority over the late speaker, Mr. John Bell of the same State. The vote stood one hundred and thirty-two to eighty-four, and was considered a test of the administration strength, Mr. Polk being supported by that party, and Mr. Bell having become identified with those who, in siding with Mr. Hugh L. White as a candidate for the presidency, were considered as having divided from the democratic party. Among the eminent names missed from the list of the House of Representatives, were: Mr. Wayne of Georgia, appointed to the bench of the Supreme Court of the United States; and Mr. Edward Everett of Massachusetts, who declined a re-election.

The state of our relations with France, in the continued non-payment of the stipulated indemnity, was the prominent feature in the President's message; and the subject itself becoming more serious in the apparent indisposition in Congress to sustain his views, manifested in the loss of the fortification bill, through the disagreement of the two Houses. The obligation to pay was admitted, and the money even voted for that purpose; but offence was taken at the President's message, and payment refused until an apology should be made. The President had already shown, on its first intimation, that no offence was intended, nor any disrespect justly deducible from the language that he had used; and he was now peremptory in refusing to make the required apology; and had instructed the United States' *chargé d'affaires* to demand the money; and, if not paid, to leave France immediately. The ministers of both countries had previously withdrawn, and the last link in the chain of diplomatic communication was upon the point of being broken. The question having narrowed down to this small point, the President deemed it proper to give a retrospective view of it, to justify his determination, neither to apologize nor to negotiate further. He said:

"On entering upon the duties of my station, I found the United States an unsuccessful applicant to the justice of France, for the satisfaction of claims, the validity of which was never questionable, and has now been most solemnly admitted by France herself. The antiquity of these claims, their high justice, and the aggravating circumstances out of which they arose, are too familiar to the American people to require description. It is sufficient to

say, that, for a period of ten years and upwards, our commerce was, with but little interruption, the subject of constant aggressions, on the part of France—aggressions, the ordinary features of which were condemnations of vessels and cargoes, under arbitrary decrees, adopted in contravention, as well of the laws of nations as of treaty stipulations, burnings on the high seas, and seizures and confiscations, under special imperial rescripts, in the ports of other nations occupied by the armies, or under the control of France. Such, it is now conceded, is the character of the wrongs we suffered; wrongs, in many cases, so flagrant that even their authors never denied our right to reparation. Of the extent of these injuries, some conception may be formed from the fact that, after the burning of a large amount at sea, and the necessary deterioration in other cases, by long detention, the American property so seized and sacrificed at forced sales, excluding what was adjudged to privateers, before or without condemnation, brought into the French treasury upwards of twenty-four millions of francs, besides large custom-house duties.

"The subject had already been an affair of twenty years' uninterrupted negotiation, except for a short time, when France was overwhelmed by the military power of united Europe. During this period, whilst other nations were extorting from her payment of their claims at the point of the bayonet, the United States intermitted their demand for justice, out of respect to the oppressed condition of a gallant people, to whom they felt under obligations for fraternal assistance in their own days of suffering and of peril. The bad effects of these protracted and unavailing discussions, as well upon our relations with France as upon our national character, were obvious; and the line of duty was, to my mind, equally so. This was, either to insist upon the adjustment of our claims, within a reasonable period, or to abandon them altogether. I could not doubt that, by this course, the interest and honor of both countries would be best consulted. Instructions were, therefore, given in this spirit to the minister, who was sent out once more to demand reparation. Upon the meeting of Congress, in December, 1829, I felt it my duty to speak of these claims; and the delays of France, in terms calculated to call the serious attention of both countries to the subject. The then French Ministry took exception to the message, on the ground of its containing a menace, under which it was not agreeable to the French government to negotiate. The American minister, of his own accord, refuted the construction which was attempted to be put upon the message, and, at the same time, called to the recollection of the French ministry, that the President's message was a communication addressed, not to foreign governments, but to the Congress of the United States, in which it was enjoined upon him, by the constitution, to lay before that body information of the state of the Union, comprehending its foreign as well as its domestic relations; and that if, in the discharge of this duty, he felt it incumbent upon him to summon the attention of Congress in due time to what might be the possible consequences of existing difficulties with any foreign government, he might fairly be supposed to do so, under a sense of what was due from him in a frank communication with another branch of his own government, and not from any intention of holding a menace over a foreign power. The views taken by him received my approbation, the French government was satisfied, and the negotiation was continued. It terminated in the treaty of July 4, 1831, recognizing the justice of our claims, in part, and promising payment to the amount of twenty-five millions of francs, in six annual instalments.

"The ratifications of this treaty were exchanged at Washington, on the 2d of February, 1832; and, in five days thereafter, it was laid before Congress, who immediately passed the acts necessary, on our part, to secure to France the commercial advantages conceded to her in the compact. The treaty had previously been solemnly ratified by the King of the French, in terms which are certainly not mere matters of form, and of which the translation is as follows: 'We, approving the above convention, in all and each of the depositions which are contained

in it, do declare by ourselves, as well as by our heirs and successors, that it is accepted, approved, ratified, and confirmed; and by these presents, signed by our hand, we do accept, approve, ratify, and confirm it; promising, on the faith and word of a king, to observe it, and to cause it to be observed inviolably, without ever contravening it, or suffering it to be contravened, directly or indirectly, for any cause, or under any pretence whatsoever.'

"Official information of the exchange of ratifications in the United States reached Paris, whilst the Chambers were in session. The extraordinary, and, to us, injurious delays of the French government, in their action upon the subject of its fulfilment, have been heretofore stated to Congress, and I have no disposition to enlarge upon them here. It is sufficient to observe that the then pending session was allowed to expire, without even an effort to obtain the necessary appropriations—that the two succeeding ones were also suffered to pass away without any thing like a serious attempt to obtain a decision upon the subject; and that it was not until the fourth session—almost three years after the conclusion of the treaty, and more than two years after the exchange of ratifications—that the bill for the execution of the treaty was pressed to a vote, and rejected. In the mean time, the government of the United States, having full confidence that a treaty entered into and so solemnly ratified by the French king, would be executed in good faith, and not doubting that provision would be made for the payment of the first instalment, which was to become due on the second day of February, 1833, negotiated a draft for the amount through the Bank of the United States. When this draft was presented by the holder, with the credentials required by the treaty to authorize him to receive the money, the government of France allowed it to be protested. In addition to the injury in the non-payment of the money by France, conformably to her engagement, the United States were exposed to a heavy claim on the part of the bank, under pretence of damages, in satisfaction of which, that institution seized upon, and still retains, an equal amount of the public moneys. Congress was in session when the decision of the Chambers reached Washington; and an immediate communication of this apparently final decision of France not to fulfil the stipulations of the treaty, was the course naturally to be expected from the President. The deep tone of dissatisfaction which pervaded the public mind, and the correspondent excitement produced in Congress by only a general knowledge of the result, rendered it more than probable, that a resort to immediate measures of redress would be the consequence of calling the attention of that body to the subject. Sincerely desirous of preserving the pacific relations which had so long existed between the two countries, I was anxious to avoid this course if I could be satisfied that, by doing so, neither the interests nor the honor of my country would be compromitted. Without the fullest assurances upon that point, I could not hope to acquit myself of the responsibility to be incurred in suffering Congress to adjourn without laying the subject before them. Those received by me were believed to be of that character.

"The expectations justly founded upon the promises thus solemnly made to this government by that of France, were not realized. The French Chambers met on the 31st of July, 1834, soon after the election, and although our minister in Paris urged the French ministry to press the subject before them, they declined doing so. He next insisted that the Chambers, if prorogued without acting on the subject, should be reassembled at a period so early that their action on the treaty might be known in Washington prior to the meeting of Congress. This reasonable request was not only declined, but the Chambers were prorogued on the 29th of December; a day so late, that their decision, however urgently pressed, could not, in all probability, be obtained in time to reach Washington before the necessary adjournment of Congress by the constitution. The reasons given by the ministry for refusing to convoke the Chambers, at an earlier period, were afterwards shown not to be insuperable, by their actual convocation, on the first of December, under a special call for domestic purposes, which fact,

however, did not become known to this Government until after the commencement of the last session of Congress.

“Thus disappointed in our just expectations, it became my imperative duty to consult with Congress in regard to the expediency of a resort to retaliatory measures, in case the stipulations of the treaty should not be speedily complied with; and to recommend such as, in my judgment, the occasion called for. To this end, an unreserved communication of the case, in all its aspects, became indispensable. To have shrunk, in making it, from saying all that was necessary to its correct understanding, and that the truth would justify, for fear of giving offence to others, would have been unworthy of us. To have gone, on the other hand, a single step further, for the purpose of wounding the pride of a government and people with whom we had so many motives of cultivating relations of amity and reciprocal advantage, would have been unwise and improper. Admonished by the past of the difficulty of making even the simplest statement of our wrongs, without disturbing the sensibilities of those who had, by their position, become responsible for their redress, and earnestly desirous of preventing further obstacles from that source, I went out of my way to preclude a construction of the message, by which the recommendation that was made to Congress might be regarded as a menace to France, in not only disavowing such a design, but in declaring that her pride and her power were too well known to expect any thing from her fears. The message did not reach Paris until more than a month after the Chambers had been in session; and such was the insensibility of the ministry to our rightful claims and just expectations, that our minister had been informed that the matter, when introduced, would not be pressed as a cabinet measure.

“Although the message was not officially communicated to the French government, and notwithstanding the declaration to the contrary which it contained, the French ministry decided to consider the conditional recommendation of reprisals a menace and an insult, which the honor of the nation made it incumbent on them to resent. The measures resorted to by them to evince their sense of the supposed indignity were, the immediate recall of their minister at Washington, the offer of passports to the American minister at Paris, and a public notice to the legislative chambers that all diplomatic intercourse with the United States had been suspended.

“Having, in this manner, vindicated the dignity of France, they next proceeded to illustrate her justice. To this end a bill was immediately introduced into the Chamber of Deputies, proposing to make the appropriations necessary to carry into effect the treaty. As this bill subsequently passed into a law, the provisions of which now constitute the main subject of difficulty between the two nations, it becomes my duty, in order to place the subject before you in a clear light, to trace the history of its passage, and to refer, with some particularity, to the proceedings and discussions in regard to it. The Minister of Finance, in his opening speech, alluded to the measures which had been adopted to resent the supposed indignity, and recommended the execution of the treaty as a measure required by the honor and justice of France. He, as the organ of the ministry, declared the message, so long as it had not received the sanction of Congress, a mere expression of the personal opinion of the President, for which neither the government nor people of the United States were responsible; and that an engagement had been entered into, for the fulfilment of which the honor of France was pledged. Entertaining these views, the single condition which the French ministry proposed to annex to the payment of the money was, that it should not be made until it was ascertained that the government of the United States had done nothing to injure the interests of France; or, in other words, that no steps had been authorized by Congress of a hostile character towards France.

"What the disposition or action of Congress might be, was then unknown to the French Cabinet. But, on the 14th of January, the Senate resolved that it was, at that time inexpedient to adopt any legislative measures in regard to the state of affairs between the United States and France, and no action on the subject had occurred in the House of Representatives. These facts were known in Paris prior to the 28th of March, 1835, when the committee, to whom the bill of indemnification had been referred, reported it to the Chamber of Deputies. That committee substantially re-echoed the sentiments of the ministry, declared that Congress had set aside the proposition of the President, and recommended the passage of the bill, without any other restriction than that originally proposed. Thus was it known to the French ministry and chambers that if the position assumed by them, and which had been so frequently and solemnly announced as the only one compatible with the honor of France, was maintained, and the bill passed as originally proposed, the money would be paid, and there would be an end of this unfortunate controversy.

"But this cheering prospect was soon destroyed by an amendment introduced into the bill at the moment of its passage, providing that the money should not be paid until the French government had received satisfactory explanations of the President's message of the 2d December, 1834; and, what is still more extraordinary, the president of the council of ministers adopted this amendment, and consented to its incorporation in the bill. In regard to a supposed insult which had been formally resented by the recall of their minister, and the offer of passports to ours, they now, for the first time, proposed to ask explanations. Sentiments and propositions, which they had declared could not justly be imputed to the government or people of the United States, are set up as obstacles to the performance of an act of conceded justice to that government and people. They had declared that the honor of France required the fulfilment of the engagement into which the King had entered, unless Congress adopted the recommendations of the message. They ascertained that Congress did not adopt them, and yet that fulfilment is refused, unless they first obtain from the President explanations of an opinion characterized by themselves as personal and inoperative."

Having thus traced the controversy down to the point on which it hung—no payment without an apology first made—the President took up this condition as a new feature in the case—presenting national degradation on one side, and twenty-five millions of francs on the other—and declared his determination to submit to no dishonor, and repulsed the apology as a stain upon the national character; and concluded this head of his message with saying:

"In any event, however, the principle involved in the new aspect which has been given to the controversy is so vitally important to the independent administration of the government, that it can neither be surrendered nor compromitted without national degradation. I hope it is unnecessary for me to say that such a sacrifice will not be made through any agency of mine. The honor of my country shall never be stained by an apology from me for the statement of truth and the performance of duty; nor can I give any explanation of my official acts, except such as is due to integrity and justice, and consistent with the principles on which our institutions have been framed. This determination will, I am confident, be approved by my constituents. I have indeed studied their character to but little purpose, if the sum of twenty-five millions of francs will have the weight of a feather in the estimation of what appertains to their national independence: and if, unhappily, a different impression should at any time obtain, in any quarter, they will, I am sure, rally round the government of their choice with alacrity and unanimity, and silence for ever the degrading imputation."

The loss of the fortification bill at the previous session, had been a serious interruption to our system of defences, and an injury to the country in that point of view, independently of its effect upon our relations with France. A system of general and permanent fortification of the

coasts and harbors had been adopted at the close of the war of 1812; and throughout our extended frontier were many works in different degrees of completion, the stoppage of which involved loss and destruction, as well as delay, in this indispensable work. Looking at the loss of the bill in this point of view, the President said:

"Much loss and inconvenience have been experienced, in consequence of the failure of the bill containing the ordinary appropriations for fortifications which passed one branch of the national legislature at the last session, but was lost in the other. This failure was the more regretted, not only because it necessarily interrupted and delayed the progress of a system of national defence, projected immediately after the last war, and since steadily pursued, but also because it contained a contingent appropriation, inserted in accordance with the views of the Executive, in aid of this important object, and other branches of the national defence, some portions of which might have been most usefully applied during the past season. I invite your early attention to that part of the report of the Secretary of War which relates to this subject, and recommend an appropriation sufficiently liberal to accelerate the armament of the fortifications agreeably to the proposition submitted by him, and to place our whole Atlantic seaboard in a complete state of defence. A just regard to the permanent interests of the country evidently requires this measure. But there are also other reasons which at the present juncture give it peculiar force, and make it my duty to call the subject to your special consideration."

The plan for the removal of the Indians to the west of the Mississippi being now in successful progress and having well nigh reached its consummation, the President took the occasion, while communicating that gratifying fact, to make an authentic exposition of the humane policy which had governed the United States in adopting this policy. He showed that it was still more for the benefit of the Indians than that of the white population who were relieved of their presence—that besides being fully paid for all the lands they abandoned, and receiving annuities often amounting to thirty dollars a head, and being inducted into the arts of civilized life, they also received in every instance more land than they abandoned, of better quality, better situated for them from its frontier situation, and in the same parallels of latitude. This portion of his message will be read with particular gratification by all persons of humane dispositions, and especially so by all candid persons who had been deluded into the belief of injustice and oppression practised upon these people. He said:

"The plan of removing the aboriginal people who yet remain within the settled portions of the United States, to the country west of the Mississippi River, approaches its consummation. It was adopted on the most mature consideration of the condition of this race, and ought to be persisted in till the object is accomplished, and prosecuted with as much vigor as a just regard to their circumstances will permit, and as fast as their consent can be obtained. All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact, that they cannot live in contact with a civilized community and prosper. Ages of fruitless endeavors have, at length, brought us to a knowledge of this principle of intercommunication with them. The past we cannot recall, but the future we can provide for. Independently of the treaty stipulations into which we have entered with the various tribes, for the usufructuary rights they have ceded to us, no one can doubt the moral duty of the government of the United States to protect, and, if possible, to preserve and perpetuate, the scattered remnants of this race, which are left within our borders. In the discharge of this duty, an extensive region in the West has been assigned for their permanent residence. It has been divided into districts, and allotted among them. Many have already removed, and others are preparing to go; and with the exception of two small bands, living in Ohio and Indiana, not exceeding 1,500 persons, and of the Cherokees, all the tribes on the east side of the

Mississippi, and extending from Lake Michigan to Florida, have entered into engagements which will lead to their transplantation.

"The plan for their removal and re-establishment is founded upon the knowledge we have gained of their character and habits, and has been dictated by a spirit of enlarged liberality. A territory exceeding in extent that relinquished, has been granted to each tribe. Of its climate, fertility, and capacity to support an Indian population, the representations are highly favorable. To these districts the Indians are removed at the expense of the United States, and with certain supplies of clothing, arms, ammunition, and other indispensable articles, they are also furnished gratuitously with provisions for the period of a year after their arrival at their new homes. In that time, from the nature of the country, and of the products raised by them, they can subsist themselves by agricultural labor, if they choose to resort to that mode of life. If they do not, they are upon the skirts of the great prairies, where countless herds of buffalo roam, and a short time suffices to adapt their own habits to the changes which a change of the animals destined for their food may require. Ample arrangements have also been made for the support of schools. In some instances, council-houses and churches are to be erected, dwellings constructed for the chiefs, and mills for common use. Funds have been set apart for the maintenance of the poor. The most necessary mechanical arts have been introduced, and blacksmiths, gunsmiths, wheelwrights, millwrights, &c. are supported among them. Steel and iron, and sometimes salt, are purchased for them, and ploughs and other farming utensils, domestic animals, looms, spinning-wheels, cars, &c., are presented to them. And besides these beneficial arrangements, annuities are in all cases paid, amounting in some instances to more than thirty dollars for each individual of the tribe; and in all cases sufficiently great, if justly divided, and prudently expended, to enable them, in addition to their own exertions, to live comfortably. And as a stimulus for exertion, it is now provided by law, that, 'in all cases of the appointment of interpreters, or other persons employed for the benefit of the Indian, a preference shall be given to persons of Indian descent, if such can be found who are properly qualified for the discharge of the duties.'"

The effect of the revival of the gold currency was a subject of great congratulation with the President, and its influence was felt in every department of industry. Near twenty millions of dollars had entered the country—a sum far above the average circulation of the Bank of the United States in its best days, and a currency of a kind to diffuse itself over the country, and remain where there was a demand for it, and for which, different from a bank paper currency, no interest was paid for its use, and no danger incurred of its becoming useless. He thus referred to this gratifying circumstance:

"Connected with the condition of the finances, and the flourishing state of the country in all its branches of industry, it is pleasing to witness the advantages which have been already derived from the recent laws regulating the value of the gold coinage. These advantages will be more apparent in the course of the next year, when the branch mints authorized to be established in North Carolina, Georgia, and Louisiana, shall have gone into operation. Aided, as it is hoped they will be, by further reforms in the banking systems of the States, and by judicious regulations on the part of Congress in relation to the custody of the public moneys, it may be confidently anticipated that the use of gold and silver as a circulating medium will become general in the ordinary transactions connected with the labor of the country. The great desideratum, in modern times, is an efficient check upon the power of banks, preventing that excessive issue of paper whence arise those fluctuations in the standard of value which render uncertain the rewards of labor. It was supposed by those who established the Bank of the United States, that, from the credit given to it by the custody of the public moneys, and other privileges, and the precautions taken to guard against the evils which the country had suffered in the bankruptcy of many of the State institutions of that period, we should derive

from that institution all the security and benefits of a sound currency, and every good end that was attainable under that provision of the constitution which authorizes Congress alone to coin money and regulate the value thereof. But it is scarcely necessary now to say that these anticipations have not been realized. After the extensive embarrassment and distress recently produced by the Bank of the United States, from which the country is now recovering, aggravated as they were by pretensions to power which defied the public authority, and which, if acquiesced in by the people, would have changed the whole character of our government, every candid and intelligent individual must admit that, for the attainment of the great advantages of a sound currency, we must look to a course of legislation radically different from that which created such an institution."

Railroads were at this time still in their infancy in the United States; they were but few in number and comparatively feeble; but the nature of a monopoly is the same under all circumstances and the United States, in their post-office department, had begun to feel the effects of the extortion and overbearing of monopolizing companies, clothed with chartered privileges intended to be for the public as well as private advantage, but usually perverted to purposes of self-enrichment, and of oppression. The evil had already become so serious as to require the attention of Congress; and the President thus recommended the subject to its consideration:

"Particular attention is solicited to that portion of the report of the postmaster-general which relates to the carriage of the mails of the United States upon railroads constructed by private corporations under the authority of the several States. The reliance which the general government can place on those roads as a means of carrying on its operations, and the principles on which the use of them is to be obtained, cannot too soon be considered and settled. Already does the spirit of monopoly begin to exhibit its natural propensities in attempts to exact from the public, for services which it supposes cannot be obtained on other terms, the most extravagant compensation. If these claims be persisted in, the question may arise whether a combination of citizens, acting under charters of incorporation from the States, can, by a direct refusal or the demand of an exorbitant price, exclude the United States from the use of the established channels of communication between the different sections of the country; and whether the United States cannot, without transcending their constitutional powers, secure to the post-office department the use of those roads, by an act of Congress which shall provide within itself some equitable mode of adjusting the amount of compensation. To obviate, if possible, the necessity of considering this question, it is suggested whether it be not expedient to fix, by law, the amounts which shall be offered to railroad companies for the conveyance of the mails, graduated according to their average weight, to be ascertained and declared by the postmaster-general. It is probable that a liberal proposition of that sort would be accepted."

The subject of slavery took a new turn of disturbance between the North and South about this time. The particular form of annoyance which it now wore was that of the transmission into the slave States, through the United States mail, of incendiary publications, tending to excite servile insurrections. Societies, individuals and foreigners were engaged in this diabolical work—as injurious to the slaves by the further restrictions which it brought upon them, as to the owners whose lives and property were endangered. The President brought this practice to the notice of Congress, with a view to its remedy. He said:

"In connection with these provisions in relation to the post-office department, I must also invite your attention to the painful excitement produced in the South by attempts to circulate through the mails inflammatory appeals addressed to the passions of the slaves, in prints, and in various sorts of publications, calculated to stimulate them to insurrection, and to

produce all the horrors of a servile war. There is doubtless no respectable portion of our countrymen who can be so far misled, as to feel any other sentiment than that of indignant regret at conduct so destructive of the harmony and peace of the country, and so repugnant to the principles of our national compact and to the dictates of humanity and religion. Our happiness and prosperity essentially depend upon peace within our borders: and peace depends upon the maintenance, in good faith, of those compromises of the constitution upon which the Union is founded. It is fortunate for the country that the good sense, the generous feeling, and the deep-rooted attachment of the people of the non-slaveholding States, to the Union, and to their fellow-citizens of the same blood in the South, have given so strong and impressive a tone to the sentiments entertained against the proceedings of the misguided persons who have engaged in these unconstitutional and wicked attempts, and especially against the emissaries from foreign parts, who have dared to interfere in this matter, as to authorize the hope that those attempts will no longer be persisted in. But if these expressions of the public will, shall not be sufficient to effect so desirable a result, not a doubt can be entertained that the non-slaveholding States, so far from countenancing the slightest interference with the constitutional rights of the South, will be prompt to exercise their authority in suppressing, so far as in them lies, whatever is calculated to produce this evil. In leaving the care of other branches of this interesting subject to the State authorities, to whom they properly belong, it is nevertheless proper for Congress to take such measures as will prevent the post-office department, which was designed to foster an amicable intercourse and correspondence between all the members of the confederacy, from being used as an instrument of an opposite character. The general government, to which the great trust is confided of preserving inviolate the relations created among the States, by the constitution, is especially bound to avoid in its own action any thing that may disturb them. I would, therefore, call the special attention of Congress to the subject, and respectfully suggest the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the Southern States, through the mail, of incendiary publications intended to instigate the slaves to insurrection."

The President in this impressive paragraph makes a just distinction between the conduct of misguided men, and of wicked emissaries, engaged in disturbing the harmony of the Union, and the patriotic people of the non-slaveholding States who discountenance their work and repress their labors. The former receive the brand of reprobation, and are pointed out for criminal legislation: the latter receive the applause due to good citizens.

The President concludes this message, as he had done many others, with a recurrence to the necessity of reform in the mode of electing the two first officers of the Republic. His convictions must have been deep and strong thus to bring him back so many times to the fundamental point of direct elections by the people, and total suppression of all intermediate agencies. He says:

"I felt it to be my duty in the first message which I communicated to Congress, to urge upon its attention the propriety of amending that part of the constitution which provides for the election of the President and the Vice-President of the United States. The leading object which I had in view was the adoption of some new provision, which would secure to the people the performance of this high duty, without any intermediate agency. In my annual communications since, I have enforced the same views, from a sincere conviction that the best interests of the country would be promoted by their adoption. If the subject were an ordinary one, I should have regarded the failure of Congress to act upon it, as an indication of their judgment, that the disadvantages which belong to the present system were not so great as those which would result from any attainable substitute that had been submitted to their consideration. Recollecting, however, that propositions to introduce a new feature in our

fundamental laws cannot be too patiently examined, and ought not to be received with favor, until the great body of the people are thoroughly impressed with their necessity and value, as a remedy for real evils, I feel that in renewing the recommendation I have heretofore made on this subject, I am not transcending the bounds of a just deference to the sense of Congress, or to the disposition of the people. However much we may differ in the choice of the measures which should guide the administration of the government, there can be but little doubt in the minds of those who are really friendly to the republican features of our system, that one of its most important securities consists in the separation of the legislative and executive powers, at the same time that each is held responsible to the great source of authority, which is acknowledged to be supreme, in the will of the people constitutionally expressed. My reflection and experience satisfy me, that the framers of the constitution, although they were anxious to mark this feature as a settled and fixed principle in the structure of the government, did not adopt all the precautions that were necessary to secure its practical observance, and that we cannot be said to have carried into complete effect their intentions until the evils which arise from this organic defect are remedied. All history tells us that a free people should be watchful of delegated power, and should never acquiesce in a practice which will diminish their control over it. This obligation, so universal in its application to all the principles of a Republic, is peculiarly so in ours, where the formation of parties, founded on sectional interests, is so much fostered by the extent of our territory. These interests, represented by candidates for the Presidency, are constantly prone, in the zeal of party and selfish objects, to generate influences, unmindful of the general good, and forgetful of the restraints which the great body of the people would enforce, if they were, in no contingency, to lose the right of expressing their will. The experience of our country from the formation of the government to the present day, demonstrates that the people cannot too soon adopt some stronger safeguard for their right to elect the highest officers known to the constitution, than is contained in that sacred instrument as it now stands.”

130. Abolition Of Slavery In The District Of Columbia

Mr. Buchanan presented the memorial of the religious society of “Friends,” in the State of Pennsylvania, adopted at their Caln quarterly meeting, requesting Congress to abolish slavery and the slave trade, in the District of Columbia. He said the memorial did not emanate from fanatics, endeavoring to disturb the peace and security of society in the Southern States, by the distribution of incendiary publications, but from a society of Christians, whose object had always been to promote good-will and peace among men. It was entitled to respect from the character of the memorialists; but he dissented from the opinion which they expressed and the request which they made. The constitution recognized slavery; it existed here; was found here when the District was ceded to the United States; the slaves here were the property of the inhabitants; and he was opposed to the disturbance of their rights. Congress had no right to interfere with slavery in the States. That was determined in the first Congress that ever sat—in the Congress which commenced in 1789 and ended in 1791—and in the first session of that Congress. The Religious Society of Friends then petitioned Congress against slavery, and it was resolved, in answer to that petition, that Congress had no authority to interfere in the emancipation of slaves, or with their treatment, in any of the States: and that was the answer still to be given. He then adverted to the circumstances under which the memorial was presented. A number of fanatics, led on by foreign incendiaries, have been scattering firebrands through the Southern States—publications and pictures exciting the slaves to revolt, and to the destruction of their owners. Instead of benefiting the slaves by this conduct, they do them the greatest injury, causing the bonds to be drawn tighter upon them; and postponing emancipation even in those States which might eventually contemplate it. These were his opinions on slavery, and on the prayer of this memorial. He was opposed to granting the prayer, but was in favor of receiving the petition as the similar one had been received, in 1790, and giving it the same answer; and, he had no doubt, with the same happy effect of putting an end to such applications, and giving peace and quiet to the country. He could not vote for the motion of the senator from South Carolina, Mr. Calhoun, to reject it. He thought rejection would inflame the question: reception and condemnation would quiet it. Mr. Calhoun had moved to reject all petitions of the kind—not reject upon their merits, after consideration, but beforehand, when presented for reception. This was the starting point of a long and acrimonious contest in the two Houses of Congress, in which the right of petition was maintained on one side, and the good policy of quieting the question by reception and rejection: on the other side, it was held that the rights, the peace, and the dignity of the States required all anti-slavery petitions to be repulsed, at the first presentation, without reception or consideration. The author of this View aspired to no lead in conducting this question; he thought it was one to be settled by policy; that is to say, in the way that would soonest quiet it. He thought there was a clear line of distinction between mistaken philanthropists, and mischievous incendiaries—also between the free States themselves and the incendiary societies and individuals within them; and took an early moment to express these opinions in order to set up the line between what was mistake and what was crime—and between the acts of individuals, on one hand, and of States, on the other; and in that sense delivered the following speech:

“Mr. Benton rose to express his concurrence in the suggestion of the senator from Pennsylvania (Mr. Buchanan), that the consideration of this subject be postponed until Monday. It had come up suddenly and unexpectedly to-day, and the postponement would

give an opportunity for senators to reflect, and to confer together, and to conclude what was best to be done, where all were united in wishing the same end, namely, to allay, and not to produce, excitement. He had risen for this purpose; but, being on his feet he would say a few words on the general subject, which the presentation of these petitions had so suddenly and unexpectedly brought up. With respect to the petitioners, and those with whom they acted, he had no doubt but that many of them were good people, aiming at benevolent objects, and endeavoring to ameliorate the condition of one part of the human race, without inflicting calamities on another part; but they were mistaken in their mode of proceeding; and so far from accomplishing any part of their object, the whole effect of their interposition was to aggravate the condition of those in whose behalf they were interfering. But there was another part, and he meant to speak of the abolitionists, generally, as the body containing the part of which he spoke; there was another part whom he could not qualify as good people, seeking benevolent ends by mistaken means, but as incendiaries and agitators, with diabolical objects in view, to be accomplished by wicked and deplorable means. He did not go into the proofs now to establish the correctness of his opinion of this latter class, but he presumed it would be admitted that every attempt to work upon the passions of the slaves, and to excite them to murder their owners, was a wicked and diabolical attempt, and the work of a midnight incendiary. Pictures of slave degradation and misery, and of the white man's luxury and cruelty, were attempts of this kind; for they were appeals to the vengeance of slaves, and not to the intelligence or reason of those who legislated for them. He (Mr. B.) had had many pictures of this kind, as well as many diabolical publications, sent to him on this subject, during the last summer; the whole of which he had cast into the fire, and should not have thought of referring to the circumstance at this time, as displaying the character of the incendiary part of the abolitionists, had he not, within these few days past, and while abolition petitions were pouring into the other end of the Capitol, received one of these pictures, the design of which could be nothing but mischief of the blackest dye. It was a print from an engraving (and Mr. B. exhibited it, and handed it to senators near him), representing a large and spreading tree of liberty, beneath whose ample shade a slave owner was at one time luxuriously reposing, with slaves fanning him; at another, carried forth in a palanquin, to view the half-naked laborers in the cotton field, whom drivers, with whips, were scourging to the task. The print was evidently from the abolition mint, and came to him by some other conveyance than that of the mail, for there was no post-mark of any kind to identify its origin, and to indicate its line of march. For what purpose could such a picture be intended, unless to inflame the passions of slaves? And why engrave it, except to multiply copies for extensive distribution? But it was not pictures alone that operated upon the passions of the slaves, but speeches, publications, petitions presented in Congress, and the whole machinery of abolition societies. None of these things went to the understandings of the slaves, but to their passions, all imperfectly understood, and inspiring vague hopes, and stimulating abortive and fatal insurrections. Societies, especially, were the foundation of the greatest mischiefs. Whatever might be their objects, the slaves never did, and never can, understand them but in one way: as allies organized for action, and ready to march to their aid on the first signal of insurrection! It was thus that the massacre of San Domingo was made. The society in Paris, *Les Amis des Noirs*, Friends of the Blacks, with its affiliated societies throughout France and in London, made that massacre. And who composed that society? In the beginning, it comprised the extremes of virtue and of vice; it contained the best and the basest of human kind! Lafayette and the Abbé Gregoire, those purest of philanthropists; and Marat and Anacharsis Clootz, those imps of hell in human shape. In the end (for all such societies run the same career of degeneration), the good men, disgusted with their associates, retired from the scene; and the wicked ruled at pleasure. Declamations against slavery, publications in gazettes, pictures, petitions to the constituent assembly, were the mode of proceeding; and

the fish-women of Paris—he said it with humiliation, because American females had signed the petitions now before us—the fish-women of Paris, the very *poissardes* from the quays of the Seine, became the obstreperous champions of West India emancipation. The effect upon the French islands is known to the world; but what is not known to the world, or not sufficiently known to it, is that the same societies which wrapt in flames and drenched in blood the beautiful island, which was then a garden and is now a wilderness, were the means of exciting an insurrection upon our own continent: in Louisiana, where a French slave population existed, and where the language of *Les Amis des Noirs* could be understood, and where their emissaries could glide. The knowledge of this event (Mr. B. said) ought to be better known, both to show the danger of these societies, however distant, and though oceans may roll between them and their victims, and the fate of the slaves who may be excited to insurrection by them on any part of the American continent. He would read the notice of the event from the work of Mr. Charles Gayarre, lately elected by his native State to a seat on this floor, and whose resignation of that honor he sincerely regretted, and particularly for the cause which occasioned it, and which abstracted talent from a station that it would have adorned. Mr. B. read from the work, '*Essai Historique sur la Louisiane*:' 'The white population of Louisiana was not the only part of the population which was agitated by the French revolution. The blacks, encouraged without doubt by the success which their race had obtained in San Domingo, dreamed of liberty, and sought to shake off the yoke. The insurrection was planned at Pointe Coupeé, which was then an isolated parish, and in which the number of slaves was considerable. The conspiracy took birth on the plantation of Mr. Julien Poydras, a rich planter, who was then travelling in the United States, and spread itself rapidly throughout the parish. The death of all the whites was resolved. Happily the conspirators could not agree upon the day for the massacre; and from this disagreement resulted a quarrel, which led to the discovery of the plot. The militia of the parish immediately took arms, and the Baron de Carondelet caused them to be supported by the troops of the line. It was resolved to arrest, and to punish the principal conspirators. The slaves opposed it; but they were quickly dispersed, with the loss of twenty of their number killed on the spot. Fifty of the insurgents were condemned to death. Sixteen were executed in different parts of the parish; the rest were put on board a galley and hung at intervals, all along the river, as far as New Orleans (a distance of one hundred and fifty miles). The severity of the chastisement intimidated the blacks, and all returned to perfect order.'

"Resuming his remarks, Mr. B. said he had read this passage to show that our white population had a right to dread, nay, were bound to dread, the mischievous influence of these societies, even when an ocean intervened, and much more when they stood upon the same hemisphere, and within the bosom of the same country. He had also read it to show the miserable fate of their victims, and to warn all that were good and virtuous—all that were honest, but mistaken—in the three hundred and fifty affiliated societies, vaunted by the individuals who style themselves their executive committee, and who date, from the commercial emporium of this Union, their high manifesto against the President; to warn them at once to secede from associations which, whatever may be their designs, can have no other effect than to revive in the Southern States the tragedy, not of San Domingo, but of the parish of Pointe Coupeé.

"Mr. B. went on to say that these societies had already perpetrated more mischief than the joint remainder of all their lives spent in prayers of contrition, and in works of retribution, could ever atone for. They had thrown the state of the emancipation question fifty years back. They had subjected every traveller, and every emigrant, from the non-slaveholding States, to be received with coldness, and viewed with suspicion and jealousy, in the slaveholding States. They had occasioned many slaves to lose their lives. They had caused the deportation

of many ten thousands from the grain-growing to the planting States. They had caused the privileges of all slaves to be curtailed, and their bonds to be more tightly drawn. Nor was the mischief of their conduct confined to slaves; it reached the free colored people, and opened a sudden gulf of misery to that population. In all the slave States, this population has paid the forfeit of their intermediate position; and suffered proscription as the instruments, real or suspected, of the abolition societies. In all these States, their exodus had either been enforced or was impending. In Missouri there was a clause in the constitution which prohibited their emigration to the State; but that clause had remained a dead letter in the book until the agitation produced among the slaves by the distant rumbling of the abolition thunder, led to the knowledge in some instances, and to the belief in others, that these people were the antennæ of the abolitionists; and their medium for communicating with the slaves, and for exciting them to desertion first, and to insurrection eventually. Then ensued a painful scene. The people met, resolved, and prescribed thirty days for the exodus of the obnoxious caste. Under that decree a general emigration had to take place at the commencement of winter. Many worthy and industrious people had to quit their business and their homes, and to go forth under circumstances which rendered them objects of suspicion wherever they went, and sealed the door against the acquisition of new friends while depriving them of the protection of old ones. He (Mr. B.) had witnessed many instances of this kind, and had given certificates to several, to show that they were banished, not for their offences, but for their misfortunes; for the misfortune of being allied to the race which the abolition societies had made the object of their gratuitous philanthropy.

“Having said thus much of the abolition societies in the non-slaveholding States, Mr. B. turned, with pride and exultation, to a different theme—the conduct of the great body of the people in all these States. Before he saw that conduct, and while the black question, like a portentous cloud was gathering and darkening on the Northeastern horizon, he trembled, not for the South, but for the Union. He feared that he saw the fatal work of dissolution about to begin, and the bonds of this glorious confederacy about to snap; but the conduct of the great body of the people in all the non-slaveholding States quickly dispelled that fear, and in its place planted deep the strongest assurance of the harmony and indivisibility of the Union which he had felt for many years. Their conduct was above all praise, above all thanks, above all gratitude. They had chased off the foreign emissaries, silenced the gabbling tongues of female dupes, and dispersed the assemblages, whether fanatical, visionary, or incendiary, of all that congregated to preach against evils which afflicted others not them; and to propose remedies to aggravate the disease which they pretended to cure. They had acted with a noble spirit. They had exerted a vigor beyond all law. They had obeyed the enactments, not of the statute book, but of the heart; and while that spirit was in the heart, he cared nothing for laws written in a book. He would rely upon that spirit to complete the good work it has begun; to dry up these societies; to separate the mistaken philanthropist from the reckless fanatic and the wicked incendiary, and put an end to publications and petitions which, whatever may be their design, can have no other effect than to impede the object which they invoke, and to aggravate the evil which they deplore.

“Turning to the immediate question before the Senate, that of the rejection of the petitions, Mr. B. said his wish was to give that vote which would have the greatest effect in putting down these societies. He thought the vote to be given to be rather one of expediency than of constitutional obligation. The clause in the constitution so often quoted in favor of the right of petitioning for a redress of grievances would seem to him to apply rather to the grievances felt by ourselves than to those felt by others, and which others might think an advantage, what we thought a grievance. The petitioners from Ohio think it a grievance that the people of the District of Columbia should suffer the institution of slavery, and pray for the redress of

that grievance; the people of the District think the institution an advantage, and want no redress; now, which has the right of petitioning? Looking to the past action of the Senate, Mr. B. saw that, about thirty years ago, a petition against slavery, and that in the States, was presented to this body by the society of Quakers in Pennsylvania and New Jersey; and that the same question upon its reception was made, and decided by yeas and nays, 19 to 9, in favor of receiving it. He read the names, to show that the senators from the slave and non-slaveholding States voted some for and some against the reception, according to each one's opinion, and not according to the position or the character of the State from which he came. Mr. B. repeated that he thought this question to be one of expediency, and that it was expedient to give the vote which would go furthest towards quieting the public mind. The quieting the South depended upon quieting the North; for when the abolitionists were put down in the former place, the latter would be at ease. It seemed to him, then, that the gentlemen of the non-slaveholding States were the proper persons to speak first. They knew the temper of their own constituents best, and what might have a good or an ill effect upon them, either to increase the abolition fever, or to allay it. He knew that the feeling of the Senate was general; that all wished for the same end; and the senators of the North as cordially as those of the South."

131. Mail Circulation Of Incendiary Publications

Mr. Calhoun moved that so much of the President's message as related to the mail transmission of incendiary publications be referred to a select committee. Mr. King, of Alabama, opposed the motion, urging that the only way that Congress could interfere would be by a post-office regulation; and that all such regulation properly referred itself to the committee on post-offices and post-roads. He did not look to the particular construction of the committee, but had no doubt the members of that committee could see the evil of these incendiary transmissions through the mails, and would provide a remedy which they should deem constitutional, proper and adequate; and he expressed a fear that, by giving the subject too much importance, an excitement might be got up. Mr. Calhoun replied that the Senator from Alabama had mistaken his object—that it was not to produce any unnecessary excitement, but to adopt such a course as would secure a committee which would calmly and dispassionately go into an examination of the whole subject; which would investigate the character of those publications, to ascertain whether they were incendiary or not; and, if so, on that ground to put a check on their transmission through the mails. He could not but express his astonishment at the objection which had been taken to his motion, for he knew that the Senator from Alabama felt that deep interest in the subject which pervaded the feelings of every man in the South. He believed that the post-office committee would be fully occupied with the regular business which would be brought before them; and it was this consideration, and no party feeling, which had induced him to make his motion. Mr. Grundy, chairman of the committee on post-offices and post-roads, said that his position was such as to have imposed silence upon him, if that silence might not have been misunderstood. In reply to the objection that a majority of the committee were not from the slave States, that circumstance might be an advantage; it might give the greater weight to their action, which it was known would be favorable to the object of the motion. He would say that the federal government could do but little on this subject except through a post-office regulation, and thereby aiding the efficiency of the State laws. He did not desire to see any power exercised which would have the least tendency to interfere with the sovereignty of the States. Mr. Calhoun adhering to his desire for a select committee, and expressing his belief that a great constitutional question was to be settled, and that the crisis required calmness and firmness, and the action of a committee that came mainly from the endangered part of the Union—his request was granted; and a committee of five appointed, composed as he desired; namely, Mr. Calhoun chairman, Mr. King of Georgia, Mr. Mangum of North Carolina, Mr. Davis of Massachusetts, and Mr. Lewis F. Linn of Missouri. A bill and a report were soon brought in by the committee—a bill subjecting to penalties any post-master who should knowingly receive and put into the mail any publication, or picture touching the subject of slavery, to go into any State or territory in which the circulation of such publication, or picture, should be forbid by the State laws. When the report was read Mr. Mangum moved the printing of 5000 extra copies of it. This motion brought a majority of the committee to their feet, to disclaim their assent to parts of the report; and to absolve themselves from responsibility for its contents. A conversational debate ensued on this point, on which Mr. Davis, Messrs. King of Alabama and Georgia, Mr. Linn and Mr. Calhoun thus expressed themselves:

"Mr. Davis said that, as a motion had been made to print the paper purporting to be a report from the select committee of which he was a member, he would remark that the views contained in it did not entirely meet his approbation, though it contained many things which he approved of. He had risen for no other purpose than to make this statement, lest the

impression should go abroad with the report that he assented to those portions of it which did not meet his approbation."

"Mr. King, of Georgia, said that, lest the same misunderstanding should go forth with respect to his views, he must state that the report was not entirely assented to by himself. However, the gentleman from South Carolina (Mr. Calhoun), in making this report, had already stated that the majority of the committee did not agree to the whole of it, though many parts of it were concurred in by all."

"Mr. Davis said he would add further, that he might have taken the usual course, and made an additional report, containing all his views on the subject, but thought it hardly worth while, and he had contented himself with making the statement that he had just made."

"Mr. King, of Alabama, said this was a departure from the usual course—by it a minority might dissent; and yet, when the report was published, it would seem to be a report of the committee of the Senate, and not a report of two members of it. It was proper that the whole matter should go together with the bill, that the report submitted by the minority might be read with the bill, to show that the reading of the report was not in conflict with the principles of the bill reported. He thought the senator from North Carolina (Mr. Mangum) had better modify his motion, so as to have the report and bill published together."

"Mr. Linn remarked that, being a member of the committee, it was but proper for him to say that he had assented to several parts of the report, though he did not concur with it in all its parts. Should it become necessary, he would, when the subject again came before the Senate, explain in what particulars he had coincided with the views given in the report, and how far he had dissented from them. The bill, he said, had met with his approbation."

"Mr. Calhoun said he hoped his friend from North Carolina would modify his motion, so as to include the printing of the bill with the report. It would be seen, by comparing both together, that there was no *non sequitur* in the bill, coming as it did after this report."

"Mr. King, of Alabama, had only stated his impressions from hearing the report and bill read. It appeared to him unusual that a report should be made by a minority, and merely acquiesced in by the committee, and that the bill should be adverse to it."

"Mr. Davis said the report was, as he understood it to be read from the chair, the report of the committee. He had spoken for himself only, and for nobody else, lest the impression might go abroad that he concurred in all parts of the report, when he dissented from some of them."

"Mr. Calhoun said that a majority of the committee did not concur in the report, though there were two members of it, himself and the gentleman from North Carolina, who concurred throughout; three other gentlemen concurred with the greater part of the report, though they dissented from some parts of it; and two gentlemen concurred also with some parts of it. As to the bill, two of the committee would have preferred a different one, though they had rather have that than none at all; another gentleman was opposed to it altogether. The bill, however, was a natural consequence of the report, and the two did not disagree with each other."

The parts of the report which were chiefly exceptionable were two: 1. The part which related to the nature of the federal government, as being founded in "compact;" which was the corner-stone of the doctrine of nullification, and its corollary that the laws of nations were in full force between the several States, as sovereign and independent communities except as modified by the compact; 2. The part that argued, as upon a subsisting danger, the evils by an abolition of slavery in the slave States by interference from other States. On the first of these points the report said:

“That the States which form our Federal Union are sovereign and independent communities, bound together by a constitutional compact, and are possessed of all the powers belonging to distinct and separate States, excepting such as are delegated to be exercised by the general government, is assumed as unquestionable. The compact itself expressly provides that all powers not delegated are reserved to the States and the people. To ascertain, then, whether the power in question is delegated or reserved, it is only necessary to ascertain whether it is to be found among the enumerated powers or not. If it be not among them, it belongs, of course, to the reserved powers. On turning to the constitution, it will be seen that, while the power of defending the country against external danger is found among the enumerated, the instrument is wholly silent as to the power of defending the internal peace and security of the States; and of course, reserves to the States this important power, as it stood before the adoption of the constitution, with no other limitation, as has been stated, except such as are expressly prescribed by the instrument itself. From what has been stated, it may be inferred that the right of a State to defend itself against internal dangers is a part of the great, primary, and inherent right of self-defence, which, by the laws of nature, belongs to all communities; and so jealous were the States of this essential right, without which their independence could not be preserved, that it is expressly provided by the constitution, that the general government shall not assist a State, even in case of domestic violence, except on the application of the authorities of the State itself; thus excluding, by a necessary consequence, its interference in all other cases.

“Having now shown that it belongs to the slaveholding States, whose institutions are in danger, and not to Congress, as is supposed by the message, to determine what papers are incendiary and intended to excite insurrection among the slaves, it remains to inquire, in the next place, what are the corresponding duties of the general government, and the other States, from within whose limits and jurisdiction their institutions are attacked; a subject intimately connected with that with which the committee are immediately charged, and which, at the present juncture, ought to be fully understood by all the parties. The committee will begin with the first. It remains next to inquire into the duty of the States from within whose limits and jurisdiction the internal peace and security of the slaveholding States are endangered. In order to comprehend more fully the nature and extent of their duty, it will be necessary to make a few remarks on the relations which exist between the States of our Federal Union, with the rights and obligations reciprocally resulting from such relations. It has already been stated that the States which compose our Federal Union are sovereign and independent communities, united by a constitutional compact. Among its members the laws of nations are in full force and obligation, except as altered or modified by the compact; and, of course, the States possess, with that exception, all the rights, and are subject to all the duties, which separate and distinct communities possess, or to which they are subject. Among these are comprehended the obligation which all States are under to prevent their citizens from disturbing the peace or endangering the security of other States; and in case of being disturbed or endangered, the right of the latter to demand of the former to adopt such measures as will prevent their recurrence, and if refused or neglected, to resort to such measures as its protection may require. This right remains, of course, in force among the States of this Union, with such limitations as are imposed expressly by the constitution. Within their limits, the rights of the slaveholding States are as full to demand of the States within whose limits and jurisdiction their peace is assailed, to adopt the measures necessary to prevent the same, and if refused or neglected, to resort to means to protect themselves, as if they were separate and independent communities.”

This part of the report was that which, in founding the federal government in compact, as under the old articles of the confederation, and in bringing the law of nations to apply

between the States as independent and sovereign communities, except where limited by the compact, was supposed to contain the doctrine of nullification and secession; and the concluding part of the report is an argument in favor of the course recommended in the *Crisis* in the event that New-York, Massachusetts, and Pennsylvania did not suppress the abolition societies. The report continues:

"Their professed object is the emancipation of slaves in the Southern States, which they propose to accomplish through the agencies of organized societies, spread throughout the non-slaveholding States, and a powerful press, directed mainly to excite, in the other States, hatred and abhorrence against the institutions and citizens of the slaveholding States, by addresses, lectures, and pictorial representations, abounding in false and exaggerated statements. If the magnitude of the mischief affords, in any degree, the measure by which to judge of the criminality of a project, few have ever been devised to be compared with the present, whether the end be regarded, or the means by which it is proposed to be accomplished. The blindness of fanaticism is proverbial. With more zeal than understanding, it constantly misconceives the nature of the object at which it aims, and towards which it rushes with headlong violence, regardless of the means by which it is to be effected. Never was its character more fully exemplified than in the present instance. Setting out with the abstract principle that slavery is an evil, the fanatical zealots come at once to the conclusion that it is their duty to abolish it, regardless of all the disasters which must follow. Never was conclusion more false or dangerous. Admitting their assumption, there are innumerable things which, regarded in the abstract, are evils, but which it would be madness to attempt to abolish. Thus regarded, government itself is an evil, with most of its institutions intended to protect life and property, comprehending the civil as well as the criminal and military code, which are tolerated only because to abolish them would be to increase instead of diminishing the evil. The reason is equally applicable to the case under consideration, to illustrate which, a few remarks on slavery, as it actually exists in the Southern States, will be necessary.

"He who regards slavery in those States simply under the relation of master and slave, as important as that relation is, viewed merely as a question of property to the slaveholding section of the Union, has a very imperfect conception of the institution, and the impossibility of abolishing it without disasters unexampled in the history of the world. To understand its nature and importance fully, it must be borne in mind that slavery, as it exists in the Southern States (including under the Southern all the slaveholding States), involves not only the relation of master and slave, but, also, the social and political relations of two races, of nearly equal numbers, from different quarters of the globe, and the most opposite of all others in every particular that distinguishes one race of men from another. Emancipation would destroy these relations—would divest the masters of their property, and subvert the relation, social and political, that has existed between the races from almost the first settlement of the Southern States. It is not the intention of the committee to dwell on the pecuniary aspect of this vital subject, the vast amount of property involved, equal at least to $950,000,000; the ruin of families and individuals; the impoverishment and prostration of an entire section of the Union, and the fatal blow that would be given to the productions of the great agricultural staples, on which the commerce, the navigation, the manufactures, and the revenue of the country, almost entirely depend. As great as these disasters would be, they are nothing, compared to what must follow the subversion of the existing relation between the two races, to which the committee will confine their remarks. Under this relation, the two races have long lived in peace and prosperity, and if not disturbed, would long continue so to live. While the European race has rapidly increased in wealth and numbers, and at the same time has maintained an equality, at least, morally and intellectually, with their brethren of the non-slaveholding States; the African race has multiplied with not less rapidity, accompanied by

great improvement, physically and intellectually, and the enjoyment of a degree of comfort with which the laboring class in few countries can compare, and confessedly greatly superior to what the free people of the same race possess in the non-slaveholding States. It may, indeed, be safely asserted, that there is no example in history in which a savage people, such as their ancestors were when brought into the country, have ever advanced in the same period so rapidly in numbers and improvement. To destroy the existing relations would be to destroy this prosperity, and to place the two races in a state of conflict, which must end in the expulsion or extirpation of one or the other. No other can be substituted, compatible with their peace or security. The difficulty is in the diversity of the races. So strongly drawn is the line between the two, in consequence of it, and so strengthened by the force of habit, and education, that it is impossible for them to exist together in the same community, where their numbers are so nearly equal as in the slaveholding States, under any other relation than which now exists. Social and political equality between them is impossible. No power on earth can overcome the difficulty. The causes resisting lie too deep in the principles of our nature to be surmounted. But, without such equality, to change the present condition of the African race, were it possible, would be but to change the form of slavery. It would make them the slaves of the community, instead of the slaves of individuals, with less responsibility and interest in their welfare on the part of the community than is felt by their present masters; while it would destroy the security and independence of the European race, if the African should be permitted to continue in their changed condition within the limits of those States. They would look to the other States for support and protection, and would become, virtually, their allies and dependents; and would thus place in the hands of those States the most effectual instrument to destroy the influence and control the destiny of the rest of the Union. It is against this relation between the two races that the blind and criminal zeal of the abolitionists is directed—a relation that now preserves in quiet and security more than 6,500,000 of human beings, and which cannot he destroyed without destroying the peace and prosperity of nearly half the States of the Union, and involving their entire population in a deadly conflict, that must terminate either in the expulsion or extirpation of those who are the object of the misguided and false humanity of those who claim to be their friends. He must be blind, indeed, who does not perceive that the subversion of a relation which must be followed with such disastrous consequences can only be effected by convulsions that would devastate the country, burst asunder the bonds of Union, and ingulf in a sea of blood the institutions of the country. It is madness to suppose that the slaveholding States would quietly submit to be sacrificed. Every consideration—interest, duty, and humanity, the love of country, the sense of wrong, hatred of oppressors, and treacherous and faithless confederates, and finally despair—would impel them to the most daring and desperate resistance in defence of property, family, country, liberty, and existence. But wicked and cruel as is the end aimed at, it is fully equalled by the criminality of the means by which it is proposed to be accomplished. These, as has been stated, consist in organized societies and a powerful press, directed mainly with a view to excite the bitterest animosity and hatred of the people of the non-slaveholding States against the citizens and institutions of the slaveholding States. It is easy to see to what disastrous results such means must tend. Passing over the more obvious effects, their tendency to excite to insurrection and servile war, with all its horrors, and the necessity which such tendency must impose on the slaveholding States to resort to the most rigid discipline and severe police, to the great injury of the present condition of the slaves, there remains another, threatening incalculable mischief to the country. The inevitable tendency of the means to which the abolitionists have resorted to effect their object must, if persisted in, end in completely alienating the two great sections of the Union. The incessant action of hundreds of societies, and a vast printing establishment, throwing out daily thousands of artful and inflammatory publications, must make, in time, a deep impression on

the section of the Union where they freely circulate, and are mainly designed to have effect. Tho well-informed and thoughtful may hold them in contempt, but the young, the inexperienced, the ignorant, and thoughtless, will receive the poison. In process of time, when the number of proselytes is sufficiently multiplied, the artful and profligate, who are ever on the watch to seize on any means, however wicked and dangerous, will unite with the fanatics, and make their movements the basis of a powerful political party, that will seek advancement by diffusing, as widely as possible, hatred against the slaveholding States. But, as hatred begets hatred, and animosity animosity, these feelings would become reciprocal, till every vestige of attachment would cease to exist between the two sections, when the Union and the constitution, the offspring of mutual affection and confidence, would forever perish. Such is the danger to which the movements of the abolitionists expose the country. If the force of the obligation is in proportion to the magnitude of the danger, stronger cannot be imposed, than is at present, on the States within whose limits the danger originates, to arrest its further progress—a duty they owe, not only to the States whose institutions are assailed, but to the Union and constitution, as has been shown, and, it may be added, to themselves."

The insidiousness of this report was in the assumption of an actual impending danger of the abolition of slavery in all the slave States—the destruction of nine hundred and fifty millions of property—the ocean of blood to be shed—the war of extermination between two races—and the necessity for extraordinary means to prevent these dire calamities; when the fact was, that there was not one particle of any such danger. The assumption was contrary to fact: the report was inflammatory and disorganizing: and if there was any thing enigmatical in its conclusions, it was sufficiently interpreted in the contemporaneous publications in the Southern slave States, which were open in their declarations that a cause for separation had occurred, limited only by the conduct of the free States in suppressing within a given time the incendiary societies within their borders. This limitation would throw the responsibility of disunion upon the non-slaveholding States failing to suppress these societies: for disunion, in that case, was foreshadowed in another part of this report, and fully avowed in contemporary Southern publications. Thus the report said:

"Those States, on the other hand, are not only under all the obligations which independent communities would be, to adopt such measures, but also under the obligation which the constitution superadds, rendered more sacred, if possible, by the fact that, while the Union imposes restrictions on the right of the slaveholding States to defend themselves, it affords the medium through which their peace and security are assailed. It is not the intention of the committee to inquire what those restrictions are, and what are the means which, under the constitution, are left to the slaveholding States to protect themselves. The period has not yet come, and they trust never will, when it may be necessary to decide those questions; but come it must, unless the States whose duty it is to suppress the danger shall see in time its magnitude and the obligations which they are under to adopt speedy and effectual measures to arrest its further progress. That the full force of this obligation may be understood by all parties, the committee propose, in conclusion, to touch briefly on the movements of the abolitionists, with the view of showing the dangerous consequences to which they must lead if not arrested."

These were ominous intimations, to receive their full interpretation elsewhere, and indissolubly connecting themselves with the late disunion attitude of South Carolina—the basis of discontent only changed. Mr. King of Georgia said that positions had been assumed and principles insisted upon by Mr. Calhoun, not only inconsistent with the bill reported, but he thought inconsistent with the "existence of the Union itself, and which if established and carried into practice, must hastily end in its dissolution." Mr. Calhoun in his reply pretty well justified these conclusions of the Georgia senator. He made it a point that the non-

slaveholding States had done nothing yet to suppress the incendiary societies within their limits; and joining that non-action of these States with a refusal of Congress to pass this bill, he looked upon it as in vain to expect security or protection for the slaveholding States except from themselves—from State interposition, as authorized in the Virginia resolutions of 1798; and as recently carried out by South Carolina in her nullification proceedings; and declared that nothing was wanted but "concert" among themselves to place their domestic institutions, their peace and security under their own protection and beyond the reach of danger. All this was thus intelligibly, and ominously stated in his reply to Mr. King:

"Thus far (I say it with regret) our just hopes have not been realized. The legislatures of the South, backed by the voice their constituents expressed through innumerable meetings, have called upon the non-slaveholding States to repress the movements made within the jurisdiction of those States against their peace and security. Not a step has been taken; not a law has been passed, or even proposed; and I venture to assert that none will be; not but what there is a favorable disposition towards us in the North, but I clearly see the state of political parties there presents insuperable impediments to any legislation on the subject. I rest my opinion on the fact that the non-slaveholding States, from the elements of their population, are, and will continue to be, divided and distracted by parties of nearly equal strength; and that each will always be ready to seize on every movement of the other which may give them the superiority, without much regard to consequences, as affecting their own States, and much less, remote and distant sections. Nor have we been less disappointed as to the proceedings of Congress. Believing that the general government has no right or authority over the subject of slavery, we had just grounds to hope Congress would refuse all jurisdiction in reference to it, in whatever form it might be presented. The very opposite course has been pursued. Abolition petitions have not only been received in both Houses, but received on the most obnoxious and dangerous of all grounds—that we are bound to receive them; that is, to take jurisdiction of the question of slavery whenever the abolitionists may think proper to petition for its abolition, either here or in the States. Thus far, then, we of the slaveholding States have been grievously disappointed. One question still remains to be decided that is presented by this bill. To refuse to pass this bill would be virtually to co-operate with the abolitionists—would be to make the officers and agents of the post-office department in effect their agents and abettors in the circulation of their incendiary publications, in violation of the laws of the States. It is your unquestionable duty, as I have demonstrably proved, to abstain from their violation; and, by refusing or neglecting to discharge that duty, you would clearly enlist, in the existing controversy, on the side of the abolitionists against the Southern States. Should such be your decision, by refusing to pass this bill, I shall say to the people of the South, look to yourselves—you have nothing to hope from others. But I must tell the Senate, be your decision what it may, the South will never abandon the principles of this bill. If you refuse co-operation with our laws, and conflict should ensue between your and our law, the Southern States will never yield to the superiority of yours. We have a remedy in our hands, which, in such events, we shall not fail to apply. We have high authority for asserting that, in such cases, 'State interposition is the rightful remedy'—a doctrine first announced by Jefferson—adopted by the patriotic and republican State of Kentucky by a solemn resolution, in 1798, and finally carried out into successful practice on a recent occasion, ever to be remembered, by the gallant State which I, part, have the honor to represent. In this well-tested and efficient remedy, sustained by the principles developed in the report and asserted in this bill, the slaveholding States have an ample protection. Let it be fixed, let it be riveted in every Southern mind, that the laws of the slaveholding States for the protection of their domestic institutions are paramount to the laws of the general government in regulation of commerce and the mail, and that the latter must yield to the former in the event of conflict; and that, if the government should refuse to yield,

the States have a right to interpose, and we are safe. With these principles, nothing but concert would be wanting to bid defiance to the movements of the abolitionists, whether at home or abroad, and to place our domestic institutions, and, with them, our security and peace, under our own protection, and beyond the reach of danger."

These were very significant intimations. Congress itself was to become the ally of the abolitionists, and enlist in their cause, if it did not pass his bill, which was opposed by Southern senators and founded upon a minority report of a Southern committee selected by Mr. Calhoun himself. It was well known it was not to pass; and in view of that fact it was urged upon the South to nullify and secede.

Thus, within two short years after the "compromise" of 1833 had taken Mr. Calhoun out of the hands of the law, he publicly and avowedly relapsed into the same condition; recurring again to secession for a new grievance; and to be resorted to upon contingencies which he knew to be certain; and encouraged in this course by the success of the first trial of strength with the federal government. It has been told at the proper place—in the chapter which gave the secret history of the compromise of 1833—that Mr. Webster refused to go into that measure, saying that the time had come to try the strength of the constitution and of the government: and it now becomes proper to tell that Mr. Clay, after seeing the relapse of Mr. Calhoun, became doubtful of the correctness of his own policy in that affair; and often said to his friends that, "in looking back upon the whole case, he had seriously doubted the policy of his interference." Certainly it was a most deplorable interference, arresting the process of the law when it was on the point of settling every thing without hurting a hair of any man's head, and putting an end to nullification for ever; and giving it a victory, real or fancied, to encourage a new edition of the same proceedings in a far more dangerous and pervading form. But to return to the bill before the Senate.

"Mr. Webster addressed the Senate at length in opposition to the bill, commencing his argument against what he contended was its vagueness and obscurity, in not sufficiently defining what were the publications the circulation of which it intended to prohibit. The bill provided that it should not be lawful for any deputy postmaster, in any State, territory, or district of the United States, knowingly to deliver to any person whatever, any pamphlet, newspaper, handbill, or other printed paper or pictorial representation, touching the subject of slavery, where, by the laws of the said State, district, or territory, their circulation was prohibited. Under this provision, Mr. W. contended that it was impossible to say what publications might not be prohibited from circulation. No matter what was the publication, whether for or against slavery, if it touched the subject in any shape or form, it would fall under the prohibition. Even the constitution of the United States might be prohibited; and the person who was clothed with the power to judge in this delicate matter was one of the deputy postmasters, who, notwithstanding the difficulties with which he was encompassed in coming to a correct decision, must decide correctly, under pain of being removed from office. It would be necessary, also, he said, for the deputy postmasters referred to in this bill, to make themselves acquainted with all the various laws passed by the States, touching the subject of slavery, and to decide on them, no matter how variant they might be with each other. Mr. W. also contended that the bill conflicted with that provision in the constitution which prohibited Congress from passing any law to abridge the freedom of speech or of the press. What was the liberty of the press? he asked. It was the liberty of printing as well as the liberty of publishing, in all the ordinary modes of publication; and was not the circulation of papers through the mails an ordinary mode of publication? He was afraid that they were in some danger of taking a step in this matter that they might hereafter have cause to regret, by its being contended that whatever in this bill applies to publications touching slavery, applies to other publications that the States might think proper to prohibit; and Congress might, under

this example, be called upon to pass laws to suppress the circulation of political, religious, or any other description of publications which produced excitement in the States. Was this bill in accordance with the general force and temper of the constitution and its amendments? It was not in accordance with that provision of the instrument under which the freedom of speech and of the press was secured. Whatever laws the State legislatures might pass on the subject, Congress was restrained from legislating in any manner whatever, with regard to the press. It would be admitted, that if a newspaper came directed to him, he had a property in it; and how could any man, then, take that property and burn it without due form of law? and he did not know how this newspaper could be pronounced an unlawful publication, and having no property in it, without a legal trial. Mr. W. argued against the right to examine into the nature of publications sent to the post-office, and said that the right of an individual in his papers was secured to him in every free country in the world. In England, it was expressly provided that the papers of the subject shall be free from all unreasonable searches and seizures—language, he said, to be found in our constitution. This principle established in England, so essential to liberty, had been followed out in France, where the right of printing and publishing was secured in the fullest extent; the individual publishing being amenable to the laws for what he published; and every man printed and published what he pleased, at his peril. Mr. Webster went on, at some length, to show that the bill was contrary to that provision of the constitution which prohibits Congress to pass any law abridging the freedom of speech or of the press."

Mr. Clay spoke against the bill, saying:

"The evil complained of was the circulation of papers having a certain tendency. The papers, unless circulated, did no harm, and while in the post-office or in the mail, they were not circulated—it was the circulation solely which constituted the evil. It was the taking them out of the mail, and the use that was to be made of them, that constituted the mischief. Then it was perfectly competent to the State authorities to apply the remedy. The instant that a prohibited paper was handed out, whether to a citizen or sojourner, he was subject to the laws which might compel him either to surrender them or burn them. He considered the bill not only unnecessary, but as a law of a dangerous, if not a doubtful, authority. It was objected that it was vague and indefinite in its character; and how is that objection got over? The bill provided that it shall not be lawful for any deputy postmaster, in any State, territory, or district of the United States, knowingly to deliver to any person whatever, any pamphlet, newspaper, handbill, or other printed paper or pictorial representation, touching the subject of slavery, where, by the laws of the said State, territory, or district, their circulation is prohibited. Now, what could be more vague and indefinite than this description? Now, could it be decided, by this description, what publications should be withheld from distribution? The gentleman from Pennsylvania said that the laws of the States would supply the omission. He thought the senator was premature in saying that there would be precision in State laws, before he showed it by producing the law. He had seen no such law, and he did not know whether the description in the bill was applicable or not. There was another objection to this part of the bill; it applied not only to the present laws of the States, but to any future laws that might pass. Mr. C. denied that the bill applied to the slaveholding States only; and went on to argue that it could be applied to all the States, and to any publication touching the subject of slavery whatever, whether for or against it, if such publication was only prohibited by the laws of such State. Thus, for instance, a non-slaveholding State might prohibit publications in defence of the institution of slavery, and this bill would apply to it as well as to the laws of the slaveholding States; but the law would be inoperative: it declared that the deputy postmaster should not be amenable, unless he knowingly shall deliver, &c. Why, the postmaster might plead ignorance, and of course the law would be inoperative.

“But he wanted to know whence Congress derived the power to pass this law. It was said that it was to carry into effect the laws of the States. Where did they get such authority? He thought that their only authority to pass laws was in pursuance of the constitution; but to pass laws to carry into effect the laws of the States, was a most prolific authority, and there was no knowing where it was to stop; it would make the legislation of Congress dependent upon the legislation of twenty-four different sovereignties. He thought the bill was of a most dangerous tendency. The senator from Pennsylvania asked if the post-office power did not give them the right to regulate what should be carried in the mails. Why, there was no such power as that claimed in the bill; and if they passed such a law, it would be exercising a most dangerous power. Why, if such doctrine prevailed, the government might designate the persons, or parties, or classes, who should have the benefit of the mails, excluding all others.”

At last the voting came on; and, what looks sufficiently curious on the outside view, there were three tie votes successively—two on amendments, and one on the engrossment of the bill. The two ties on amendments stood fifteen to fifteen—the absentees being eighteen: one third of the Senate: the tie on engrossment was eighteen to eighteen—the absentees being twelve: one fourth of the Senate. It was Mr. Calhoun who called for the yeas and nays on each of these questions. It was evident that there was a design to throw the bill into the hands of the Vice-President—a New-Yorker, and the prominent candidate for the presidency. In committee of the whole he did not vote in the case of a tie; but it was necessary to establish an equilibrium of votes there to be ready for the immediate vote in Senate on the engrossment; and when the committee tie was deranged by the accession of three votes on one side, the equilibrium was immediately re-established by three on the other. Mr. Van Buren, at the moment of this vote (on the engrossment) was out of the chair, and walking behind the colonnade back of the presiding officer’s chair. My eyes were wide open to what was to take place. Mr. Calhoun, not seeing him, eagerly and loudly asked where was the Vice-President? and told the Sergeant-at-arms to look for him. But he needed no looking for. He was within hearing of all that passed, and ready for the contingency: and immediately stepping up to his chair, and standing up, promptly gave the casting vote in favor of the engrossment. I deemed it a political vote, that is to say, given from policy; and I deemed it justifiable under the circumstances. Mr. Calhoun had made the rejection of the bill a test of alliance with Northern abolitionists, and a cause for the secession of the Southern States: and if the bill had been rejected by Van Buren’s vote, the whole responsibility of its loss would have been thrown upon him and the North; and the South inflamed against those States and himself—the more so as Mr. White, of Tennessee, the opposing democratic candidate for the presidency, gave his votes for the bill. Mr. Wright also, as I believe, voted politically, and on all the votes both in the committee and the Senate. He was the political and the personal friend of the Vice-President, most confidential with him, and believed to be the best index to his opinions. He was perfectly sensible of his position, and in every vote on the subject voted with Mr. Calhoun. Several other senators voted politically, and without compunction, although it was a bad bill, as it was known it would not pass. The author of this View would not so vote. He was tired of the eternal cry of dissolving the Union—did not believe in it—and would not give a repugnant vote to avoid the trial. The tie vote having been effected, and failed of its expected result, the Senate afterwards voted quite fully on the final passage of the bill, and rejected it—twenty-five to nineteen: only four absent. The yeas were: Messrs. Black, Bedford, Brown, Buchanan, Calhoun, Cuthbert of Georgia, Grundy, King of Alabama, King of Georgia, Mangum, Moore, Nicholas of Louisiana, Alexander Porter, Preston of South Carolina, Rives, Robinson, Tallmadge, Walker of Mississippi, White of Tennessee, Silas Wright. The nays were: Messrs. Benton, Clay, Crittenden, Davis of Massachusetts, Ewing of Illinois, Ewing of Ohio, Goldsborough of Maryland, Hendricks, Hubbard, Kent, Knight, Leigh, McKean of Pennsylvania, Thomas Morris of Ohio, Naudain of Delaware, Niles of

Connecticut, Prentiss, Ruggles, Shepley, Southard, Swift, Tipton, Tomlinson, Wall of New Jersey, Webster: majority six against the bill; and seven of them, if the solecism may be allowed, from the slave States. And thus was accomplished one of the contingencies in which "State interposition" was again to be applied—the "rightful remedy of nullification" again resorted to—and the "domestic institutions" of the Southern States, by "concert" among themselves, "to be placed beyond the reach of danger."

132. French Affairs—Approach Of A French Squadron—Apology Required

In his annual message at the commencement of the session the President gave a general statement of our affairs with France, and promised a special communication on the subject at an early day. That communication was soon made, and showed a continued refusal on the part of France to pay the indemnity, unless an apology was first made; and also showed that a French fleet was preparing for the American seas, under circumstances which implied a design either to overawe the American government, or to be ready for expected hostilities. On the subject of the apology, the message said:

"Whilst, however, the government of the United States was awaiting the movements of the French government, in perfect confidence that the difficulty was at an end, the Secretary of State received a call from the French chargé d'affaires in Washington, who desired to read to him a letter he had received from the French minister of foreign affairs. He was asked whether he was instructed or directed to make any official communication, and replied that he was only authorized to read the letter, and furnish a copy if requested. It was an attempt to make known to the government of the United States, privately, in what manner it could make explanations, apparently voluntary, but really dictated by France, acceptable to her, and thus obtain payment of the twenty-five millions of francs. No exception was taken to this mode of communication, which is often used to prepare the way for official intercourse; but the suggestions made in it were, in their substance, wholly inadmissible. Not being in the shape of an official communication to this government, it did not admit of reply or official notice; nor could it safely be made the basis of any action by the Executive or the legislature; and the Secretary of State did not think proper to ask a copy, because he could have no use for it."

One cannot but be struck with the extreme moderation with which the President gives the history of this private attempt to obtain a dictated apology from him. He recounts it soberly and quietly, without a single expression of irritated feeling; and seems to have met and put aside the attempt in the same quiet manner, it was a proof of his extreme indisposition to have any collision with France, and of his perfect determination to keep himself on the right side in the controversy, whatever aspect it might assume. But that was not the only trial to which his temper was put. The attempt to obtain the apology being civilly repulsed, and the proffered copy of the dictated terms refused to be taken, an attempt was made to get that copy placed upon the archives of the government, with the view to its getting to Congress, and through Congress to the people; to become a point of attack upon the President for not giving the apology, and thereby getting the money from France, and returning to friendly relations with her. Of this attempt to get a refused paper upon our archives, and to make it operate as an appeal to the people against their own government, the President (still preserving all his moderation), gives this account:

"Copies of papers, marked Nos. 9, 10, and 11 show an attempt on the part of the French chargé d'affaires, many weeks afterwards, to place a copy of this paper among the archives of this government, which for obvious reasons, was not allowed to be done; but the assurance before given was repeated, that any official communication which he might be authorized to make in the accustomed form would receive a prompt and just consideration. The indiscretion of this attempt was made more manifest by the subsequent avowal of the French chargé d'affaires, that the object was to bring the letter before Congress and the American people. If foreign agents, on a subject of disagreement between their government and this, wish to

prefer an appeal to the American people, they will hereafter, it is hoped, better appreciate their own rights, and the respect due to others, than to attempt to use the Executive as the passive organ of their communications. It is due to the character of our institutions that the diplomatic intercourse of this government should be conducted with the utmost directness and simplicity, and that, in all cases of importance, the communications received or made by the Executive should assume the accustomed official form. It is only by insisting on this form that foreign powers can be held to full responsibility; that their communications can be officially replied to; or that the advice or interference of the legislature can, with propriety, be invited by the President. This course is also best calculated, on the one hand, to shield that officer from unjust suspicions; and, on the other, to subject this portion of his acts to public scrutiny, and, if occasion shall require it, to constitutional animadversion. It was the more necessary to adhere to these principles in the instance in question, inasmuch as, in addition to other important interests, it very intimately concerned the national honor; a matter, in my judgment, much too sacred to be made the subject of private and unofficial negotiation."

Having shown the state of the question, the President next gave his opinion of what ought to be done by Congress; which was, the interdiction of our ports to the entry of French vessels and French products:—a milder remedy than that of reprisals which he had recommended at the previous session. He said:

"It is time that this unequal position of affairs should cease, and that legislative action should be brought to sustain Executive exertion in such measures as the case requires. While France persists in her refusal to comply with the terms of a treaty, the object of which was, by removing all causes of mutual complaint, to renew ancient feelings of friendship, and to unite the two nations in the bonds of amity, and of a mutually beneficial commerce, she cannot justly complain if we adopt such peaceful remedies as the law of nations and the circumstances of the case may authorize and demand. Of the nature of these remedies I have heretofore had occasion to speak; and, in reference to a particular contingency, to express my conviction that reprisals would be best adapted to the emergency then contemplated. Since that period, France, by all the departments of her government, has acknowledged the validity of our claims and the obligations of the treaty, and has appropriated the moneys which are necessary to its execution; and though payment is withheld on grounds vitally important to our existence as an independent nation, it is not to be believed that she can have determined permanently to retain a position so utterly indefensible. In the altered state of the questions in controversy, and under all existing circumstances, it appears to me that, until such a determination shall have become evident, it will be proper and sufficient to retaliate her present refusal to comply with her engagements by prohibiting the introduction of French products and the entry of French vessels into our ports. Between this and the interdiction of all commercial intercourse, or other remedies, you, as the representatives of the people, must determine. I recommend the former, in the present posture of our affairs, as being the least injurious to our commerce, and as attended with the least difficulty of returning to the usual state of friendly intercourse, if the government of France shall render us the justice that is due; and also as a proper preliminary step to stronger measures, should their adoption be rendered necessary by subsequent events."

This interdiction of the commerce of France, though a milder measure than that of reprisals, would still have been a severe one—severe at any time, and particularly so since the formation of this treaty, the execution of which was so much delayed by France; for that was a treaty of two parts—something to be done on each side. On the part of France to pay us indemnities: on our side to reduce the duties on French wines: and this reduction had been immediately made by Congress, to take effect from the date of the ratification of the treaty; and the benefit of that reduction had now been enjoyed by French commerce for near four

years. But that was not the only benefit which this treaty brought to France from the good feeling it produced in America: it procured a discrimination in favor of silks imported from this side of the Cape of Good Hope—a discrimination inuring, and intended to inure, to the benefit of France. The author of this View was much instrumental in procuring that discrimination, and did it upon conversations with the then resident French minister at Washington, and founding his argument upon data derived from him. The data were to show that the discrimination would be beneficial to the trade of both countries; but the inducing cause was good-will to France, and a desire to bury all recollection of past differences in our emulation of good works. This view of the treaty, and a statement of the advantages which France had obtained from it, was well shown by Mr. Buchanan in his speech in support of the message on French affairs; in which be said:

"The government of the United States proceeded immediately to execute their part of the treaty. By the act of the 13th July, 1832, the duties on French wines were reduced according to its terms, to take effect from the day of the exchange of ratifications. At the same session, the Congress of the United States, impelled, no doubt, by their kindly feelings towards France, which had been roused into action by what they believed to be a final and equitable settlement of all our disputes, voluntarily reduced the duty upon silks coming from this side of the Cape of Good Hope, to five per cent., whilst those from beyond were fixed at ten per cent. And at the next session, on the 2d of March, 1833, this duty of five per cent. was taken off altogether; and ever since, French silks have been admitted into our country free of duty. There is now, in fact, a discriminating duty of ten per cent. in their favor, over silks from beyond the Cape of Good Hope.

"What has France gained by these measures in duties on her wines and her silks, which she would otherwise have been bound to pay? I have called upon the Secretary of the Treasury, for the purpose of ascertaining the amount. I now hold in my hand a tabular statement, prepared at my request, which shows, that had the duties remained what they were, at the date of the ratification of the treaty, these articles, since that time would have paid into the Treasury, on the 30th September, 1834, the sum of $3,061,525. Judging from the large importations which have since been made, I feel no hesitation in declaring it as my opinion, that, at the present moment, these duties would amount to more than the whole indemnity which France has engaged to pay to our fellow-citizens. Before the conclusion of the ten years mentioned in the treaty, she will have been freed from the payment of duties to an amount considerably above twelve millions of dollars."

It is almost incomprehensible that there should have been such delay in complying with a treaty on the part of France bringing her such advantages; and it is due to the King, Louis Philippe to say, that he constantly referred the delay to the difficulty of getting the appropriation through the French legislative chambers. He often applied for the appropriation, but could not venture to make it an administration question; and the offensive demand for the apology came from that quarter, in the shape of an unprecedented proviso to the law (when it did pass), that the money was not to be paid until there had been an apology. The only objection to the King's conduct was that he did not make the appropriation a cabinet measure, and try issues with the chambers; but that objection has become less since; and in fact totally disappeared, from seeing a few years afterwards, the ease with which the King was expelled from his throne, and how unable he was to try issues with the chambers. The elder branch of the Bourbons, and all their adherents, were unfriendly to the United States, considering the American revolution as the cause of the French revolution; and consequently the source of all their twenty-five years of exile, suffering and death. The republicans were also inimical to him, and sided with the legitimists.

The President concluded his message with stating that a large French naval armament was under orders for our seas; and said:

“Of the cause and intent of these armaments I have no authentic information, nor any other means of judging, except such as are common to yourselves and to the public; but whatever may be their object, we are not at liberty to regard them as unconnected with the measures which hostile movements on the part of France may compel us to pursue. They at least deserve to be met by adequate preparations on our part, and I therefore strongly urge large and speedy appropriations for the increase of the navy, and the completion of our coast defences.

“If this array of military force be really designed to affect the action of the government and people of the United States on the questions now pending between the two nations, then indeed would it be dishonorable to pause a moment on the alternative which such a state of things would present to us. Come what may, the explanation which France demands can never be accorded; and no armament, however powerful and imposing, at a distance, or on our coast, will, I trust, deter us from discharging the high duties which we owe to our constituents, to our national character, and to the world.”

Mr. Buchanan sustained the message in a careful and well-considered review of this whole French question, showing that the demand of an apology was an insult in aggravation of the injury, and could not be given without national degradation; joining the President in his call for measures for preserving the rights and honor of the country; declaring that if hostilities came they were preferable to disgrace, and that the whole world would put the blame on France. Mr. Calhoun took a different view of it, declaring that the state of our affairs with France was the effect of the President’s mismanagement, and that if war came it would be entirely his fault; and affirmed his deliberate belief that it was the President’s design to have war with France. He said:

“I fear that the condition in which the country is now placed has been the result of a deliberate and systematic policy. I am bound to speak my sentiments freely. It is due to my constituents and the country, to act with perfect candor and truth on a question in which their interests is so deeply involved. I will not assert that the Executive has deliberately aimed at war from the commencement; but I will say that, from the beginning of the controversy to the present moment, the course which the President has pursued is precisely the one calculated to terminate in a conflict between the two nations. It has been in his power, at every period, to give the controversy a direction by which the peace of the country might be preserved, without the least sacrifice of reputation or honor; but he has preferred the opposite. I feel (said Mr. C.) how painful it is to make these declarations; how unpleasant it is to occupy a position which might, by any possibility, be construed in opposition to our country’s cause; but, in my conception, the honor and the interests of the country can only be maintained by pursuing the course that truth and justice may dictate. Acting under this impression, I do not hesitate to assert, after a careful examination of the documents connected with this unhappy controversy, that, if war must come, we are the authors—we are the responsible party. Standing, as I fear we do, on the eve of a conflict, it would to me have been a source of pride and pleasure to make an opposite declaration; but that sacred regard to truth and justice, which, I trust, will ever be my guide under the most difficult circumstances, would not permit.”

Mr. Benton maintained that it was the conduct of the Senate at the last session which had given to the French question its present and hostile aspect: that the belief of divided counsels, and of a majority against the President, and that we looked to money and not to honor, had

encouraged the French chambers to insult us by demanding an apology, and to attempt to intimidate us by sending a fleet upon our coasts. He said:

"It was in March last that the three millions and the fortification bill were lost; since then the whole aspect of the French question is changed. The money is withheld, and explanation is demanded, an apology is prescribed, and a French fleet approaches. Our government, charged with insulting France, when no insult was intended by us, and none can be detected in our words by her, is itself openly and vehemently insulted. The apology is to degrade us; the fleet to intimidate us; and the two together constitute an insult of the gravest character. There in no parallel to it, except in the history of France herself; but not France of the 19th century, nor even of the 18th, but in the remote and ill-regulated times of the 17th century, and in the days of the proudest of the French Kings, and towards one of the smallest Italian republics. I allude, sir, to what happened between Louis XIV. and the Doge of Genoa, and will read the account of it from the pen of Voltaire, in his Age of Louis XIV.

"'The Genoese had built four galleys for the service of Spain; the King (of France) forbade them, by his envoy, St. Olon, one of his gentlemen in ordinary, to launch those galleys. The Genoese, incensed at this violation of their liberties, and depending too much on the support of Spain, refused to obey the order. Immediately fourteen men of war, twenty galleys, ten bomb-ketches, with several frigates, set sail from the port of Toulon. They arrived before Genoa, and the ten bomb-ketches discharged 14,000 shells into the town, which reduced to ashes a principal part of those marble edifices which had entitled this city to the name of Genoa the Proud. Four thousand men were then landed, who marched up to the gates, and burnt the suburb of St. Peter, of Arena. It was now thought prudent to submit, in order to prevent the total destruction of the city. The King exacted that the Doge of Genoa, with four of the principal senators, should come and implore his clemency in the palace of Versailles; and, lest the Genoese should elude the making this satisfaction, and lessen in any manner the pomp of it, he insisted further that the Doge, who was to perform this embassy, should be continued in his magistracy, notwithstanding the perpetual law of Genoa, which deprives the Doge of his dignity who is absent but a moment from the city. Imperialo Lercaro, Doge of Genoa, attended by the senators Lomellino, Garibaldi, Durazzo, and Salvago, repaired to Versailles, to submit to what was required of him. The Doge appeared in his robes of state, his head covered with a bonnet of red velvet, which he often took off during his speech; made his apology, the very words and demeanor of which were dictated and prescribed to him by Seignelai,' (the French Secretary of State for Foreign Affairs).

"Thus, said Mr. B., was the city of Genoa, and its Doge, treated by Louis XIV. But it was not the Doge who was degraded by this indignity, but the republic of which he was chief magistrate, and all the republics of Italy, besides, which felt themselves all humbled by the outrage which a king had inflicted upon one of their number. So of the apology demanded, and of the fleet sent upon us, and in presence of which President Jackson, according to the *Constitutionnel*, is to make his decision, and to remit it to the Tuileries. It is not President Jackson that is outraged, but the republic of which he is President; and all existing republics, wheresoever situated. Our whole country is insulted, and that is the feeling of the whole country; and this feeling pours in upon us every day, in every manner in which public sentiment can be manifested, and especially in the noble resolves of the States whose legislatures are in session, and who hasten to declare their adherence to the policy of the special message. True, President Jackson is not required to repair to the Tuileries, with four of his most obnoxious senators, and there recite, in person, to the King of the French, the apology which he had first rehearsed to the Duke de Broglie; true, the bomb-ketches of Admiral Mackau have not yet fired 14,000 shells on one of our cities; but the mere demand for an apology, the mere dictation of its terms, and the mere advance of a fleet, in the present

state of the world, and in the difference of parties, is a greater outrage to us than the actual perpetration of the enormities were to the Genoese. This is not the seventeenth century. President Jackson is not the Doge of a trading city. We are not Italians, to be trampled upon by European kings; but Americans, the descendants of that Anglo-Saxon race, which, for a thousand years, has known how to command respect, and to preserve its place at the head of nations. We are young, but old enough to prove that the theory of the Frenchman, the Abbé Raynal, is as false in its application to the people of this hemisphere as it is to the other productions of nature; and that the belittling tendencies of the New World are no more exemplified in the human race than they are in the exhibition of her rivers and her mountains, and in the indigenous races of the mammoth and the mastodon. The Duke de Broglie has made a mistake, the less excusable, because he might find in his own country, and perhaps in his own family, examples of the extreme criticalness of attempting to overawe a community of freemen. There was a Marshal Broglie, who was Minister at War, at the commencement of the French Revolution, and who advised the formation of a camp of 20,000 men to overawe Paris. The camp was formed. Paris revolted; captured the Bastile; marched to Versailles; stormed the Tuileries; overset the monarchy; and established the Revolution. So much for attempting to intimidate a city. And yet, here is a nation of freemen to be intimidated: a republic of fourteen millions of people, and descendants of that Anglo-Saxon race which, from the days of Agincourt and Cressy, of Blenheim and Ramillies, down to the days of Salamanca and Waterloo, have always known perfectly well how to deal with the impetuous and fiery courage of the French."

Mr. Benton also showed that there was a party in the French Chambers, working to separate the President of the United States from the people of the United States, and to make him responsible for the hostile attitude of the two countries. In this sense acted the deputy, Mons. Henry de Chabaulon, who spoke thus:

"The insult of President Jackson comes from himself only. This is more evident, from the refusal of the American Congress to concur with him in it. The French Chamber, by interfering, would render the affair more serious, and make its arrangement more difficult, and even dangerous. Let us put the case to ourselves. Suppose the United States had taken part with General Jackson, we should have had to demand satisfaction, not from him, but from the United States; and, instead of now talking about negotiation, we should have had to make appropriations for a war, and to intrust to our heroes of Navarino and Algiers the task of teaching the Americans that France knows the way to Washington as well as England."

This language was received with applause in the Chamber, by the extremes. It was the language held six weeks after the rise of Congress, and when the loss of the three millions asked by the President for contingent preparation, and after the loss of the fortification bill, were fully known in Paris. Another speaker in the Chamber, Mons. Rancé, was so elated by these losses as to allow himself to discourse thus:

"Gentlemen, we should put on one side of the tribune the twenty-five millions, on the other the sword of France. When the Americans see this good long sword, this very long sword, gentlemen (for it struck down every thing from Lisbon to Moscow), they will perhaps recollect what it did for the independence of their country; they will, perhaps, too, reflect upon what it could do to support and avenge the honor and dignity of France, when outraged by an ungrateful people. [Cries of 'well said!'] Believe me, gentlemen, they would sooner touch your money than dare to touch your sword; and for your twenty-five millions they will bring you back the satisfactory receipt, which it is your duty to exact."

And this also was received with great approbation, in the Chamber, by the two extremes and was promptly followed by two royal ordinances, published in the *Moniteur*, under which the

Admiral Mackau was to take command of a "squadron of observation," and proceed to the West Indies. The *Constitutionnel*, the demi-official paper of the government, stated that this measure was warranted by the actual state of the relations between France and the United States—that the United States had no force to oppose to it—and applauded the government for its foresight and energy. Mr. Benton thus commented upon the approach of this French squadron:

"A French fleet of sixty vessels of war, to be followed by sixty more, now in commission, approaches our coast; and approaches it for the avowed purpose of observing our conduct, in relation to France. It is styled, in the French papers, a squadron of observation; and we are sufficiently acquainted with the military vocabulary of France to know what that phrase means. In the days of the great Emperor, we were accustomed to see the armies which demolished empires at a blow, wear that pacific title up to the moment that the blow was ready to be struck. These grand armies assembled on the frontiers of empires, gave emphasis to negotiation, and crushed what resisted. A squadron of observation, then, is a squadron of intimidation first, and of attack eventually; and nothing could be more palpable than that such was the character of the squadron in question. It leaves the French coast contemporaneously with the departure of our diplomatic agent, and the assembling of our Congress; it arrives upon our coast at the very moment that we shall have to vote upon French affairs; and it takes a position upon our Southern border—that border, above all others, on which we are, at this time, peculiarly sensitive to hostile approach.

"What have we done, continued Mr. B., to draw this squadron upon us? We have done no wrong to France; we are making no preparations against her; and not even ordinary preparations for general and permanent security. We have treaties, and are executing them, even the treaty that she does not execute. We have been executing that treaty for four years, and may say that we have paid France as much under it as we have in vain demanded from her, as the first instalment of the indemnity; not, in fact, by taking money out of our treasury and delivering to her, but, what is better for her, namely, leaving her own money in her own hands, in the shape of diminished duties upon her wines, as provided for in this same treaty, which we execute, and which she does not. In this way, France has gained one or two millions of dollars from us, besides the encouragement to her wine trade. On the article of silks, she is also gaining money from us in the same way, not by treaty, but by law. Our discriminating duties in favor of silks, from this side the Cape of Good Hope, operate almost entirely in her favor. Our great supplies of silks are from France, England, and China. In four years, and under the operation of this discriminating duty, our imports of French silks have risen from two millions of dollars per annum to six millions and a half; from England, they have risen from a quarter of a million to three quarters; from China, they have sunk from three millions and a quarter to one million and a quarter. This discriminating duty has left between one and two millions of dollars in the pockets of Frenchmen, besides the encouragement to the silk manufacture and trade. Why, then, has she sent this squadron, to observe us first, and to strike us eventually? She knows our pacific disposition towards her not only from our own words and actions, but from the official report of her own officers: from the very officer sent out last spring, in a brig, to carry back the recalled minister."

Mr. Benton then went on to charge the present state of our affairs with France distinctly and emphatically upon the conduct of the Senate, in their refusal to attend to the national defences—in their opposition to the President—and in the disposition manifested rather to pull down the President, in a party contest, than to sustain him against France—rather to plunder their own country than to defend it, by taking the public money for distribution instead of defence. To this effect, he said:

“He had never spoken unkindly of the French nation, neither in his place here, as a senator, nor in his private capacity elsewhere. Born since the American Revolution, bred up in habitual affection for the French name, coming upon the stage of life when the glories of the republic and of the empire were filling the world and dazzling the imagination, politically connected with the party which, a few years ago, was called French, his bosom had glowed with admiration for that people; and youthful affection had ripened into manly friendship. He would not now permit himself to speak unkindly, much less to use epithets; but he could not avoid fixing his attention upon the reason assigned in the *Constitutionnel* for the present advance of the French squadron upon us. That reason is this: ‘America will have no force capable of being opposed to it.’ This is the reason. Our nakedness, our destitution, has drawn upon us the honor of this visit; and we are now to speak, and vote, and so to demean ourselves, as men standing in the presence of a force which they cannot resist, and which had taught the lesson of submission to the Turk and the Arab! And here I change the theme: I turn from French intimidation to American legislation; and I ask how it comes that we have no force to oppose to this squadron which comes here to take a position upon our borders, and to show us that it knows the way to Washington as well as the English? This is my future theme; and I have to present the American Senate as the responsible party for leaving our country in this wretched condition. First, there is the three million appropriation which was lost by the opposition of the Senate, and which carried down with it the whole fortification bill, to which it was attached. That bill, besides the three millions, contained thirteen specific appropriations for works of defence, part originating in the House of Representatives, and part in the Senate, and appropriating $900,000 to the completion and armament of forts.

“All these specific appropriations, continued Mr. B., were lost in the bill which was sunk by the opposition of the Senate to the three millions, which were attached to it by the House of Representatives. He (Mr. B.) was not a member of the conference committee which had the disagreement of the two Houses committed to its charge, and could go into no detail as to what happened in that conference; he took his stand upon the palpable ground that the opposition which the Senate made to the three million appropriation, the speeches which denounced it, and the prolonged invectives against the President, which inflamed the passions and consumed the precious time at the last moment of the session, were the true causes of the loss of that bill; and so leaves the responsibility for the loss on the shoulders of the Senate.

“Mr. B. recalled attention to the reason demi-officially assigned in the *Constitutionnel*, for the approach of the French fleet of observation, and to show that it came because ‘America had no force capable of being opposed to it.’ It was a subsidiary argument, and a fair illustration of the dangers and humiliations of a defenceless position. It should stimulate us to instant and vigorous action; to the concentration of all our money, and all our hands, to the sacred task of national defence. For himself, he did not believe there would be war, because he knew that there ought not to be war; but that belief would have no effect upon his conduct. He went for national defence, because that policy was right in itself, without regard to times and circumstances. He went for it now, because it was the response, and the only response, which American honor could give to the visit of Admiral Mackau. Above all, he went for it because it was the way, and the only manly way, of letting France know that she had committed a mistake in sending this fleet upon us. In conclusion, he would call for the yeas and nays, and remark that our votes would have to be given under the guns of France, and under the eyes of Europe.”

The reproach cast by Mr. Benton on the conduct of the Senate, in causing the loss of the defence bills, and the consequent insult from France, brought several members to their feet in defence of themselves and the body to which they belonged.

“Mr. Webster said his duty was to take care that neither in nor out of the Senate there should be any mistake, the effect of which should be to produce an impression unfavorable or reproachful to the character and patriotism of the American people. He remembered the progress of that bill (the bill alluded to by Mr. Benton), the incidents of its history, and the real cause of its loss. And he would satisfy any man that the loss of it was not attributable to any member or officer of the Senate. He would not, however, do so until the Senate should again have been in session on executive business. As soon as that took place, he should undertake to show that it was not to any dereliction of duty on the part of the Senate that the loss of that bill was to be attributed.

“Mr. Preston of South Carolina said every senator had concurred in general appropriations to put the navy and army in a state of defence. This undefined appropriation was not the only exception. The gentleman from Missouri (Mr. Benton) had said this appropriation was intended to operate as a permanent defence. The senator from Missouri (Mr. Benton) had preferred a general indictment against the Senate before the people of the United States. It was strange the gentleman should ask the departments for calculations to enable us to know how much was necessary to appropriate, when the information was not given to us when we rejected the undefined appropriations. I rejoice, said Mr. P., that the gentleman has said even to my fears there will be no French war. France was not going to squabble with America on a little point of honor, that might do for duellists to quarrel about, but not for nations. There was no reason why blood should be poured out like water in righting this point of honor. If this matter was placed on its proper basis, his hopes would be lit up into a blaze of confidence. The President had recommended making reprisals, if France refused payment. France had refused, but the remedy was not pursued. It may be, said he, that this fleet is merely coming to protect the commerce of France. If the President of the United States, at the last session of Congress, had suggested the necessity of making this appropriation, we would have poured out the treasury; we would have filled his hands for all necessary purposes. There was one hundred thousand dollars appropriated that had not been called for. He did not know whether he was permitted to go any further and say to what extent any of the departments were disposed to go in this matter.

“Mr. Clayton of Delaware was surprised at the suggestion of an idea that the American Senate was not disposed to make the necessary appropriations for the defence of the country; that they had endeavored to prevent the passage of a bill, the object of which was to make provision for large appropriations for our defence. The senator from Missouri had gone into a liberal attack of the Senate. He (Mr. C.) was not disposed to say any thing further of the events of the last night of the session. He took occasion to say there were other matters in connection with this appropriation. Before any department or any friend of the administration had named an appropriation for defence, he made the motion to appropriate five hundred thousand dollars. It was on his motion that the Committee on Military Affairs made the appropriation to increase the fortifications. Actuated by the very same motives which induced him to move that appropriation, he had moved an additional appropriation to Fort Delaware. The motion was to increase the seventy-five thousand to one hundred and fifty thousand, and elicited a protracted debate. The next question was, whether, in the general bill, five hundred thousand dollars should be appropriated. He recollected the honorable chairman of the Committee on Finance told them there was an amendment before that committee of similar tenor. As chairman of the Committee on Military Affairs, he felt disinclined to give it up. The amendment fell on the single ground, by one vote, that the Committee on Finance had before it the identical proposition made by the Committee on Military Affairs. He appealed to the country whether, under those circumstances, they were to be arraigned before the people of the country on a charge of a want of patriotism. He had always felt deeply affected when

those general remarks were made impugning the motives of patriotism of the senators. He was willing to go as far as he who goes farthest in making appropriations for the national protection. Nay, he would be in advance of the administration."

Mr. Benton returned to his charge that the defence bills of the last session were lost through the conduct of the Senate. It was the Senate which disagreed to the House amendment of three millions to the fortification bill (which itself contained appropriations to the amount of $900,000); and it was the Senate which moved to "adhere" to its disagreement, thereby adopting the harsh measure which so much endangers legislation. And, in support of his views, he said:

"The bill died under lapse of time. It died because not acted upon before midnight of the last day of the session. Right or wrong, the session was over before the report of the conferees could be acted on. The House of Representatives was without a quorum, and the Senate was about in the same condition. Two attempts in the Senate to get a vote on some printing moved by his colleague (Mr. Linn), were both lost for want of a quorum. The session then was at an end, for want of quorums, whether the legal right to sit had ceased or not. The bill was not rejected either in the House of Representatives or in the Senate, but it died for want of action upon it; and that action was prevented by want of time. Now, whose fault was it that there was no time left for acting on the report of the conferees? That was the true question, and the answer to it would show where the fault lay. This answer is as clear as mid-day, though the transaction took place in the darkness of midnight. It was this Senate! The bill came to the Senate in full time to have been acted upon, if it had been treated as all bills must be treated that are intended to be passed in the last hours of the session. It is no time for speaking. All speaking is then fatal to bills, and equally fatal, whether for or against them. Yet, what was the conduct of the Senate with respect to this bill? Members commenced speaking upon it with vehemence and perseverance, and continued at it, one after another. These speeches were fatal to the bill. They were numerous, and consumed much time to deliver them. They were criminative, and provoked replies. They denounced the President without measure; and, by implication, the House of Representatives, which sustained him. They were intemperate, and destroyed the temper of others. In this way the precious time was consumed in which the bill might have been acted upon; and, for want of which time, it is lost. Every one that made a speech helped to destroy it; and nearly the whole body of the opposition spoke, and most of them at much length, and with unusual warmth and animation. So certain was he of the ruinous effect of this speaking, that he himself never opened his mouth nor uttered one word upon it. Then came the fatal motion to adhere, the effect of which was to make bad worse, and to destroy the last chance, unless the House of Representatives had humbled itself to ask a conference from the Senate. The fatal effect of this motion to adhere, Mr. B. would show from Jefferson's Manual; and read as follows: 'The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement; the term of insisting may be repeated as often as they choose to keep the question open; but the first adherence by either renders it necessary for the other to recede or to adhere also; when the matter is usually suffered to fall. (10 Grey, 148.) Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. (3 Hatsell, 268, 270.) The term of insisting, we are told by Sir John Trevor, was then (1678) newly introduced into parliamentary usage by the Lords. (7 Grey, 94.) It was certainly a happy innovation, as it multiplies the opportunities of trying modifications, which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance. (10 Grey, 146.) But it is not respectful to the

other. In the ordinary parliamentary course, there are two free conferences at least before an adherence. (10 Grey, 147.)'

"This is the regular progression in the case of amendments, and there are five steps in it. 1. To agree. 2. To disagree. 3. To recede. 4. To insist. 5. To adhere. Of these five steps adherence is the last, and yet it was the first adopted by the Senate. The effect of its adoption was, in parliamentary usage, to put an end to the matter. It was, by the law of Parliament, a disrespect to the House. No conference was even asked by the Senate after the adherence, although, by the parliamentary law, there ought to have been two free conferences at least before the adherence was voted. All this was fully stated to the Senate that night, and before the question to adhere was put. It was fully stated by you, sir (said Mr. B., addressing himself to Mr. King, of Alabama, who was then in the Vice-President's chair). This vote to adhere, coupled with the violent speeches, denouncing the President, and, by implication, censuring the House of Representatives, and coupled with the total omission of the Senate to ask for a conference, seemed to indicate a fatal purpose to destroy the bill; and lost it would have been upon the spot, if the House of Representatives, forgetting the disrespect with which it had been treated, and passing over the censure impliedly cast upon it, had not humbled itself to come and ask for a conference. The House humbled itself; but it was a patriotic and noble humiliation; it was to serve their country. The conference was granted, and an amendment was agreed upon by the conferees, by which the amount was reduced, and the sum divided, and $300,000 allowed to the military, and $500,000 to the naval service. This was done at last, and after all the irritating speeches and irritating conduct of the Senate; but the precious time was gone. The hour of midnight was not only come, but members were dispersed; quorums were unattainable; and the bill died for want of action. And now (said Mr. B.) I return to my question. I resume, and maintain my position upon it. I ask how it came to pass, if want of specification was really the objection—how it came to pass that the Senate did not do at first what it did at last? Why did it not amend, by the easy, natural, obvious, and parliamentary process of disagreeing, insisting, and asking for a committee of conference?

"Mr. B. would say but a word on the new calendar, which would make the day begin in the middle. It was sufficient to state such a conception to expose it to ridicule. A farmer would be sadly put out if his laborers should refuse to come until mid-day. The thing was rather too fanciful for grave deliberation. Suffice it to say there are no fractions of days in any calendar. There is no three and one fourth, three and one half, and three and three fourths of March, or any other month. When one day ends, another begins, and midnight is the turning point both in law and in practice. All our laws of the last day are dated the 3d of March; and, in point of fact, Congress, for every beneficial purpose, is dissolved at midnight. Many members will not act, and go away; and such was the practice of the venerable Mr. Macon, of North Carolina, who always acted precisely as President Jackson did. He put on his hat and went away at midnight; he went away when his own watch told him it was midnight; after which he believed he had no authority to act as a legislator, nor the Senate to make him act as such. This was President Jackson's course. He stayed in the Capitol until a quarter after one, to sign all the bills which Congress should pass before midnight. He stayed until a majority of Congress was gone, and quorums unattainable. He stayed in the Capitol, in a room convenient to the Senate, to act upon every thing that was sent to him, and did not have to be waked up, as Washington was, to sign after midnight; a most unfortunate reference to Washington, who, by going to bed at midnight, showed that he considered the business of the day ended; and by getting up and putting on his night gown, and signing a bill at two o'clock in the morning of the 4th, showed that he would sign at that hour what had passed before midnight; and does not that act bear date the 3d of March?"

Mr. Webster earnestly defended the Senate's conduct and his own; and said:

“This proposition, sir, was thus unexpectedly and suddenly put to us, at eight o’clock in the evening of the last day of the session. Unusual, unprecedented, extraordinary, as it obviously is, on the face of it, the manner of presenting it was still more extraordinary. The President had asked for no such grant of money; no department had recommended it; no estimate had suggested it; no reason whatever was given for it. No emergency had happened, and nothing new had occurred; every thing known to the administration at that hour, respecting our foreign relations, had certainly been known to it for days and for weeks before.

“With what propriety, then, could the Senate be called on to sanction a proceeding so entirely irregular and anomalous? Sir, I recollect the occurrences of the moment very well, and I remember the impression which this vote of the House seemed to make all around the Senate. We had just come out of executive session; the doors were but just opened; and I hardly remember whether there was a single spectator in the hall or the galleries. I had been at the clerk’s table, and had not reached my seat when the message was read. All the senators were in the chamber. I heard the message certainly with great surprise and astonishment; and I immediately moved the Senate to disagree to this vote of the House. My relation to the subject, in consequence of my connection with the Committee on Finance, made it my duty to propose some course, and I had not a moment’s doubt or hesitation what that course ought to be. I took upon myself, then, sir, the responsibility of moving that the Senate should disagree to this vote, and I now acknowledge that responsibility. It might be presumptuous to say that I took a leading part, but I certainly took an early part, a decided part, and an earnest part, in rejecting this broad grant of three millions of dollars, without limitation of purpose or specification of object; called for by no recommendation, founded on no estimate, made necessary by no state of things which was made known to us. Certainly, sir, I took a part in its rejection; and I stand here, in my place in the Senate, to-day, ready to defend the part so taken by me; or rather, sir. I disclaim all defence, and all occasion of defence, and I assert it as meritorious to have been among those who arrested, at the earliest moment, this extraordinary departure from all settled usage, and, as I think, from plain constitutional injunction—this indefinite voting of a vast sum of money to mere executive discretion, without limit assigned, without object specified, without reason given, and without the least control under heaven.

“Sir, I am told that, in opposing this grant, I spoke with warmth, and I suppose I may have done so. If I did, it was a warmth springing from as honest a conviction of duty as ever influenced a public man. It was spontaneous, unaffected, sincere. There had been among us, sir, no consultation, no concert. There could have been none. Between the reading of the message and my motion to disagree there was not time enough for any two members of the Senate to exchange five words on the subject. The proposition was sudden and perfectly unexpected. I resisted it, as irregular, as dangerous in itself, and dangerous in its precedent, as wholly unnecessary, and as violating the plain intention, if not the express words, of the constitution. Before the Senate I then avowed, and before the country I now avow, my part in this opposition. Whatsoever is to fall on those who sanctioned it, of that let me have my full share.

“The Senate, sir, rejected this grant by a vote of twenty-nine against nineteen. Those twenty-nine names are on the journal; and whensoever the expunging process may commence, or how far soever it may be carried, I pray it, in mercy, not to erase mine from that record. I beseech it, in its sparing goodness, to leave me that proof of attachment to duty and to principle. It may draw around it, over it, or through it, black lines, or red lines, or any lines; it may mark it in any way which either the most prostrate and fantastical spirit of man-worship, or the most ingenious and elaborate study of self-degradation may devise, if only it will leave it so that those who inherit my blood, or who may hereafter care for my reputation, shall be able to behold it where it now stands.

“The House, sir, insisted on this amendment. The Senate adhered to its disagreement. The House asked a conference, to which request the Senate immediately acceded. The committees of conference met, and, in a short time, came to an agreement. They agreed to recommend to their respective Houses, as a substitute for the vote proposed by the House, the following:

“‘As an additional appropriation for arming the fortifications of the United States, three hundred thousand dollars.’

“As an additional appropriation for the repair and equipment of ships of war of the United States, five hundred thousand dollars.’

“I immediately reported this agreement of the committees of conference to the Senate; but, inasmuch as the bill was in the House of Representatives, the Senate could not act further on the matter until the House should first have considered the report of the committees, decided thereon, and sent us the bill. I did not myself take any note of the particular hour of this part of the transaction. The honorable member from Virginia (Mr. Leigh) says he consulted his watch at the time, and he knows that I had come from the conference, and was in my seat, at a quarter past eleven. I have no reason to think that he is under any mistake in this particular. He says it so happened that he had occasion to take notice of the hour, and well remembers it. It could not well have been later than this, as any one will be satisfied who will look at our journals, public and executive, and see what a mass of business was dispatched after I came from the committees, and before the adjournment of the Senate. Having made the report, sir, I had no doubt that both Houses would concur in the result of the conference, and looked every moment for the officer of the House bringing the bill. He did not come, however, and I pretty soon learned that there was doubt whether the committee on the part of the House would report to the House the agreement of the conferees. At first I did not at all credit this; but it was confirmed by one communication after another, until I was obliged to think it true. Seeing that the bill was thus in danger of being lost, and intending, at any rate, that no blame should justly attach to the Senate, I immediately moved the following resolution:

“‘*Resolved*, That a message be sent to the honorable the House of Representatives, respectfully to remind the House of the report of the committee of conference appointed on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill respecting the fortifications of the United States.’

“You recollect this resolution, sir, having, as I well remember, taken some part on the occasion.

“This resolution was promptly passed; the Secretary carried it to the House, and delivered it. What was done in the House on the receipt of this message now appears from the printed journal. I have no wish to comment on the proceedings there recorded—all may read them, and each be able to form his own opinion. Suffice it to say, that the House of Representatives, having then possession of the bill, chose to retain that possession, and never acted on the report of the committee. The bill, therefore, was lost. It was lost in the House of Representatives. It died there, and there its remains are to be found. No opportunity was given to the members of the House to decide whether they would agree to the report of the two committees or not. From a quarter past eleven, when the report was agreed to by the committees, until two or three o’clock in the morning, the House remained in session. If at any time there was not a quorum of members present, the attendance of a quorum, we are to presume, might have been commanded, as there was undoubtedly a great majority of the members still in the city.

“But now, sir, there is one other transaction of the evening which I feel bound to state, because I think it quite important, on several accounts, that it should be known.

"A nomination was pending before the Senate, for a judge of the Supreme Court. In the course of the sitting, that nomination was called up, and, on motion, was indefinitely postponed. In other words, it was rejected; for an indefinite postponement is a rejection. The office, of course, remained vacant, and the nomination of another person to fill it became necessary. The President of the United States was then in the capitol, as is usual on the evening of the last day of the session, in the chamber assigned to him, and with the heads of departments around him. When nominations are rejected under these circumstances, it has been usual for the President immediately to transmit a new nomination to the Senate; otherwise the office must remain vacant till the next session, as the vacancy in such case has not happened in the recess of Congress. The vote of the Senate, indefinitely postponing this nomination, was carried to the President's room by the Secretary of the Senate. The President told the Secretary that it was more than an hour past twelve o'clock, and that he could receive no further communications from the Senate, and immediately after, as I have understood, left the capitol. The Secretary brought back the paper containing the certified copy of the vote of the Senate, and indorsed thereon the substance of the President's answer, and also added that, according to his own watch, it was a quarter past one o'clock."

This was the argument of Mr. Webster in defence of the Senate and himself; but it could not alter the facts of the case—that the Senate disagreed to the House appropriation—that it adhered harshly—that it consumed the time in elaborate speeches against the President—and that the bill was lost upon lapse of time, the existence of the Congress itself expiring while this contention, began by the Senate, was going on.

Mr. Webster dissented from the new doctrine of counting years by fractions of a day, as a thing having no place in the constitution, in law, or in practice;—and which was besides impracticable, and said:

"There is no clause of the constitution, nor is there any law, which declares that the term of office of members of the House of Representatives shall expire at twelve o'clock at night on the 3d of March. They are to hold for two years, but the precise hour for the commencement of that term of two years is nowhere fixed by constitutional or legal provision. It has been established by usage and by inference, and very properly established, that, since the first Congress commenced its existence on the first Wednesday in March, 1789, which happened to be the 4th day of that month, therefore, the 4th of March is the day of the commencement of each successive term, but no hour is fixed by law or practice. The true rule is, as I think, most undoubtedly, that the session holden on the last day, constitutes the last day, for all legislative and legal purposes. While the session commenced on that day continues, the day itself continues, according to the established practice both of legislative and judicial bodies. This could not well be otherwise. If the precise moment of actual time were to settle such a matter, it would be material to ask, who shall settle the time? Shall it be done by public authority; or shall every man observe the tick of his own watch? If absolute time is to furnish a precise rule, the excess of a minute, it is obvious, would be as fatal as the excess of an hour. Sir, no bodies, judicial or legislative, have ever been so hypercritical, so astute to no purpose, so much more nice than wise, as to govern themselves by any such ideas. The session for the day, at whatever hour it commences, or at whatever hour it breaks up, is the legislative day. Every thing has reference to the commencement of that diurnal session. For instance, this is the 14th day of January; we assembled here to day at twelve o'clock; our journal is dated January 14th, and if we should remain until five o'clock to-morrow morning (and the Senate has sometimes sat so late) our proceedings would still all bear date of the 14th of January; they would be so stated upon the journal, and the journal is a record, and is a conclusive record, so far as respects the proceedings of the body."

But he adduced practice to the contrary, and showed that the expiring Congress had often sat after midnight, on the day of the 3d of March, in the years when that day was the end of the Congress; and in speaking of what had often occurred, he was right. I have often seen it myself; but in such cases there was usually an acknowledgment of the wrong by stopping the Senate clock, or setting it back; and I have also seen the hour called and marked on the journal after twelve, and the bills sent to the President, noted as passed at such an hour of the morning of the fourth; when they remained untouched by the President; and all bills and acts sent to him on the morning of the fourth are dated of the third; and that date legalizes them, although erroneous in point of fact. But, many of the elder members, such as Mr. Macon, would have nothing to do with these contrivances, and left the chamber at midnight, saying that the Congress was constitutionally extinct, and that they had no longer any power to sit and act as a Senate. Upon this point Mr. Grundy, of Tennessee, a distinguished jurist as well as statesman, delivered his opinion, and in consonance with the best authorities. He said:

"A serious question seems now to be made, as to what time Congress constitutionally terminates. Until lately, I have not heard it seriously urged that twelve o'clock, on the 3d of March, at night, is not the true period. It is now insisted, however, that at twelve o'clock on the 4th of March is the true time; and the argument in support of this is, that the first Congress met at twelve o'clock, on the 4th of March. This is not placing the question on the true ground; it is not when the Congress did meet, or when the President was qualified by taking the oath of office, but when did they have the constitutional right to meet? This certainly was, and is, in all future cases, on the 4th of March; and if the day commence, according to the universal acceptation and understanding of the country, at the first moment after twelve o'clock at night on the 3d of March, the constitutional right or power of the new Congress commences at that time; and if called by the Chief Magistrate to meet at that time, they might then qualify and open their session. There would be no use in arguing away the common understanding of the country, and it would seem as reasonable to maintain that the 4th of March ended when the first Congress adjourned, as it is to say that it began when they met. From twelve o'clock at night until twelve o'clock at night is the mode of computing a day by the people of the United States, and I do not feel authorized to establish a different mode of computation for Congress. At what hour does Christmas commence? When does the first day of the year, or the first of January, commence? Is it at midnight or at noon? If the first day of a year or month begins and ends at midnight, does not every other day? Congress has always acted upon the impression that the 3d of March ended at midnight; hence that setting back of clocks which we have witnessed on the 3d of March, at the termination of the short session.

"In using this argument, I do not wish to be understood as censuring those who have transacted the public business here after twelve o'clock on the 3d of March. From this error, if it be one, I claim no exemption. With a single exception, I believe, I have always remained until the final adjournment of both Houses. As to the President of the United States, he remained until after one o'clock on the 4th of March. This was making a full and fair allowance for the difference that might exist in different instruments for keeping time; and he then retired from his chamber in the Capitol. The fortification bill never passed Congress; it never was offered to him for his signature; he, therefore, can be in no fault. It was argued that many acts of Congress passed on the 4th of March, at the short session, are upon our statute books, and that these acts are valid and binding. It should be remembered that they all bear date on the 3d of March; and so high is the authenticity of our records, that, according to the rules of evidence, no testimony can be received to contradict any thing which appears upon the face of our acts."

To show the practice of the Senate, when its attention was called to the true hour, and to the fact that the fourth day of March was upon them, the author of this View, in the course of this debate, showed the history of the actual termination of the last session—the one at which the fortification bill was lost. Mr. Hill, of New Hampshire, was speaking of certain enormous printing jobs which were pressed upon the Senate in its expiring moments, and defeated after midnight; Mr. Benton asked leave to tell the secret history of this defeat; which being granted, he stood up, and said:

"He defeated these printing jobs after midnight, and by speaking against time. He had avowed his determination to speak out the session; and after speaking a long time against time, he found that time stood still; that the hands of our clock obstinately refused to pass the hour of twelve; and thereupon addressed the presiding officer (Mr. Tyler, the President *pro tem.*), to call to his attention the refractory disposition of the clock; which, in fact, had been set back by the officers of the House, according to common usage on the last night, to hide from ourselves the fact that our time was at an end. The presiding officer (Mr. B. said) directed an officer of the House to put forward the clock to the right time; which was done; and not another vote was taken that night, except the vote to adjourn."

This was a case, as the lawyers say, in point. It was the refusal of the Senate the very night in question, to do any thing except to give the adjourning vote after the attention of the Senate was called to the hour.

In reply to Mr. Calhoun's argument against American arming, and that such arming would be war on our side, Mr. Grundy replied:

"But it is said by the gentleman from South Carolina (Mr. Calhoun), that, if we arm, we instantly make war: it is war. If this be so, we are placed in a most humiliating situation. Since this controversy commenced, the French nation has armed; they have increased their vessels of war; they have equipped them; they have enlisted or pressed additional seamen into the public service; they have appointed to the command of this large naval force one of their most experienced and renowned naval officers; and this squadron, thus prepared, and for what particular purpose we know not, is now actually in the neighborhood of the American coast. I admit the proceeding on the part of the French government is neither war, nor just cause of war on our part; but, seeing this, shall we be told, if we do similar acts, designed to defend our own country, we are making war? As I understand the public law, every nation has the right to judge for itself of the extent of its own military and naval armaments, and no other nation has a right to complain or call it in question. It appears to me that, although the preparations and armaments of the French government are matters not to be excepted to, still they should admonish us to place our country in a condition in which it could be defended in the event the present difficulties between the two nations should lead to hostilities."

In the course of the debate the greater part of the opposition senators declared their intention to sustain measures of defence; on which Mr. Benton congratulated the country, and said:

"A good consequence had resulted from an unpleasant debate. All parties had disclaimed the merit of sinking the fortification bill of the last session, and a majority had evinced a determination to repair the evil by voting adequate appropriations now. This was good. It bespoke better results in time to come, and would dispel that illusion of divided counsels on which the French government had so largely calculated. The rejection of the three millions, and the loss of the fortification bill, had deceived France; it had led her into the mistake of supposing that we viewed every question in a mercantile point of view; that the question of profit and loss was the only rule we had to go by; that national honor was no object; and that, to obtain these miserable twenty-five millions of francs, we should be ready to submit to any

quantity of indignity, and to wade through any depth of national humiliation. The debate which has taken place will dispel that illusion; and the first dispatch which the young Admiral Mackau will have to send to his government will be to inform it that there has been a mistake in this business—that these Americans wrangle among themselves, but unite against foreigners; and that many opposition senators are ready to vote double the amount of the twenty-five millions to put the country in a condition to sustain that noble sentiment of President Jackson, that the honor of his country shall never be stained by his making an apology for speaking truth in the performance of duty."

133. French Indemnities: British Mediation: Indemnities Paid

The message of the President in relation to French affairs had been referred to the Senate's committee on foreign relations, and before any report had been received from that committee a further message was received from the President informing the Senate that Great Britain had offered her friendly mediation between the United States and France—that it had been accepted by the governments both of France and the United States; and recommending a suspension of all retaliatory measures against France; but a vigorous prosecution of the national works of general and permanent defence. The message also stated that the mediation had been accepted on the part of the United States with a careful reservation of the points in the controversy which involved the honor of the country, and which admitted of no compromise—a reservation which, in the vocabulary of General Jackson, was equivalent to saying that the indemnities must be paid, and no apologies made. And such in fact was the case. Within a month from the date of that message the four instalments of the indemnities then due, wore fully paid and without waiting for any action on the part of the mediator. In communicating the offer of the British mediation the President expressed his high appreciation of the "elevated and disinterested motives of that offer." The motives were, in fact, both elevated and disinterested; and presents one of those noble spectacles in the conduct of nations on which history loves to dwell. France and the United States had fought together against Great Britain; now Great Britain steps between France and the United States to prevent them from fighting each other. George the Third received the combined attacks of French and Americans; his son, William the Fourth, interposes to prevent their arms from being turned against each other. It was a noble intervention, and a just return for the good work of the Emperor Alexander in offering his mediation between the United States and Great Britain—good works these peace mediations, and as nearly divine as humanity can reach;—worthy of all praise, of long remembrance, and continual imitation;—the more so in this case of the British mediation when the event to be prevented would have been so favorable to British interests—would have thrown the commerce of the United States and of France into her hands, and enriched her at the expense of both. Happily the progress of the age which, in cultivating good will among nations, elevates great powers above all selfishness, and permits no unfriendly recollection—no selfish calculation—to balk the impulsions of a noble philanthropy.

I have made a copious chapter upon the subject of this episodical controversy with France—more full, it might seem, than the subject required, seeing its speedy and happy termination: but not without object. Instructive lessons result from this history; both from the French and American side of it. The wrong to the United States came from the French chamber of deputies—from the opposition part of it, composed of the two extremes of republicans and legitimists, deadly hostile to each other, but combined in any attempt to embarrass a king whom both wished to destroy: and this French opposition inflamed the question there. In the United States there was also an opposition, composed of two, lately hostile parties (the modern whigs and the southern dissatisfied democracy); and this opposition, dominant in the Senate, and frustrating the President's measures, gave encouragement to the French opposition: and the two together, brought their respective countries to the brink of war. The two oppositions are responsible for the hostile attitude to which the two countries were brought. That this is not a harsh opinion, nor without foundation, may be seen by the history which is given of the case in the chapter dedicated to it; and if more is wanting, it may be

found in the recorded debates of the day; in which things were said which were afterwards regretted; and which, being regretted, the author of this View has no desire to repeat:—the instructive lesson of history which he wishes to inculcate, being complete without the exhumation of what ought to remain buried. Nor can the steadiness and firmness of President Jackson be overlooked in this reflective view. In all the aspects of the French question he remained inflexible in his demand for justice, and in his determination, so far as it depended upon him to have it. In his final message, communicating to congress the conclusion of the affair, he gracefully associated congress with himself in their joy at the restoration of the ancient cordial relations between two countries, of ancient friendship, which misconceptions had temporarily alienated from each other.

134. President Jackson’s Foreign Diplomacy

A view of President Jackson’s foreign diplomacy has been reserved for the last year of his administration, and to the conclusion of his longest, latest, and most difficult negotiation; and is now presented in a single chapter, giving the history of his intercourse with foreign nations. From no part of his administration was more harm apprehended, by those who dreaded the election of General Jackson, than from this source. From his military character they feared embroilments; from his want of experience as a diplomatist, they feared mistakes and blunders in our foreign intercourse. These apprehensions were very sincerely entertained by a large proportion of our citizens; but, as the event proved, entirely without foundation. No part of his administration, successful, beneficial, and honorable as it was at home, was more successful, beneficial and honorable than that of his foreign diplomacy. He obtained indemnities for all outrages committed on our commerce before his time, and none were committed during his time. He made good commercial treaties with some nations from which they could not be obtained before—settled some long-standing and vexatious questions; and left the whole world at peace with his country, and engaged in the good offices of trade and hospitality. A brief detail of actual occurrences will justify this general and agreeable statement,

1. The Direct Trade with the British West Indies.—I have already shown, in a separate chapter, the recovery, in the first year of his administration, of this valuable branch of our commerce, so desirable to us from the nearness of those islands to our shore, the domestic productions which they took from us, the employment it gave to our navigation, the actual large amount of the trade, the acceptable articles it gave in return, and its satisfactory establishment on a durable basis after fifty years of interrupted, and precarious, and restricted enjoyment: and I add nothing more on that head. I proceed to new cases of indemnities obtained, or of new treaties formed.

2. At the head of these stands the French Indemnity Treaty.—The commerce of the United States had suffered greatly under the decrees of the Emperor Napoleon, and redress had been sought by every administration, and in vain, from that of Mr. Madison to that of Mr. John Quincy Adams, inclusively. President Jackson determined from the first moment of his administration to prosecute the claims on France with vigor; and that not only as a matter of right, but of policy. There were other secondary powers, such as Naples and Spain, subject to the same kind of reclamation, and which had sheltered their refusal behind that of France; and with some show of reason, as France, besides having committed the largest depredation, was the origin of the system under which they acted, and the inducing cause of their conduct. France was the strong power in this class of wrong-doers, and as such was the one first to be dealt with. In his first annual message to the two Houses of Congress, President Jackson brought this subject before that body, and disclosed his own policy in relation to it. He took up the question as one of undeniable wrong which had already given rise to much unpleasant discussion, and which might lead to possible collision between the two governments; and expressed a confident hope that the injurious delays of the past would find a redress in the equity of the future. This was pretty clear language, and stood for something in the message of a President whose maxim of foreign policy was, to “ask nothing but what was right, and to submit to nothing that was wrong.” At the same time, Mr. William C. Rives, of Virginia, was sent to Paris as minister plenipotentiary and envoy extraordinary, and especially charged with this reclamation. His mission was successful; and at the commencement of the session 1831-’32, the President had the gratification to communicate to both Houses of Congress and to

submit to the Senate for its approbation, the treaty which closed up this long-standing head of complaint against an ancient ally. The French government agreed to pay twenty-five millions of francs to American citizens "for (such was the language of the treaty) unlawful seizures, captures, sequestrations, confiscations or destruction of their vessels, cargoes or other property;" subject to a deduction of one million and a half of francs for claims of French citizens, or the royal treasury, for "ancient supplies or accounts," or for reclamations on account of commercial injury. Thus all American claims for spoliation in the time of the Emperor Napoleon were acknowledged and agreed to be satisfied, and the acknowledgment and agreement for satisfaction made in terms which admitted the illegality and injustice of the acts in which they originated. At the same time all the French claims upon the United States, from the time of our revolution, of which two (those of the heirs of Beaumarchais and of the Count Rochambeau) had been a subject of reclamation for forty years, were satisfied. The treaty was signed July 4th, 1831, one year after the accession of Louis Phillippe to the French throne—and to the natural desire of the new king (under the circumstances of his elevation) to be on good terms with the United States; and to the good offices of General Lafayette, then once more influential in the councils of France, as well as to the zealous exertions of our minister, the auspicious conclusion of this business is to be much attributed. The indemnity payable in six annual equal instalments, was satisfactory to government and to the claimants; and in communicating information of the treaty to Congress, President Jackson, after a just congratulation on putting an end to a subject of irritation which for many years had, in some degree, alienated two nations from each other, which, from interest as well as from early recollections, ought to cherish the most friendly relations—and (as if feeling all the further consequential advantages of this success) went on to state, as some of the good effects to result from it, that it gave encouragement to persevere in demands for justice from other nations; that it would be an admonition that just claims would be prosecuted to satisfactory conclusions, and give assurance to our own citizens that their own government will exert all its constitutional power to obtain redress for all their foreign wrongs. This latter declaration was afterwards put to the proof, in relation to the execution of the treaty itself, and was kept to the whole extent of its letter and spirit, and with good results both to France and the United States. It so happened that the French legislative chambers refused to vote appropriations necessary to carry the treaty into effect. An acrimonious correspondence between the two governments took place, becoming complicated with resentment on the part of France for some expressions, which she found to be disrespectful, in a message of President Jackson. The French minister was recalled from the United States; the American minister received his passport; and reprisals were recommended to Congress by the President. But there was no necessity for them. The intent to give offence, or to be disrespectful, was disclaimed; the instalments in arrear were paid; the two nations returned to their accustomed good feeling; and no visible trace remains of the brief and transient cloud which for a while overshadowed them. So finished, in the time of Jackson, with entire satisfaction to ourselves, and with honor to both parties, the question of reclamations from France for injuries done our citizens in the time of the Great Emperor; and which the administrations of Jefferson, Madison, Monroe and John Quincy Adams had been unable to enforce.

3. Danish Treaty.—This was a convention for indemnity for spoliations on American commerce, committed twenty years before the time of General Jackson's administration. They had been committed during the years 1808, 1809, 1810, and 1811, that is to say, during the last year of Mr. Jefferson's administration and the three first years of Mr. Madison's. They consisted of illegal seizures and illegal condemnations or confiscations of American vessels and their cargoes in Danish ports, during the time when the British orders in council and the French imperial decrees were devastating the commerce of neutral nations, and subjecting the weaker powers of Europe to the course of policy which the two great

belligerent powers had adopted. The termination of the great European contest, and the return of nations to the accustomed paths of commercial intercourse and just and friendly relations, furnished a suitable opportunity for the United States, whose citizens had suffered so much, to demand indemnity for these injuries. The demand had been made; and had been followed up with zeal during each succeeding administration, but without effect, until the administration of Mr. John Quincy Adams. During that administration, and in the hands of the American Chargé d'Affaires (Mr. Henry Wheaton), the negotiation made encouraging progress. General Jackson did not change the negotiator—did not incur double expense, a year's delay, and substitute a raw for a ripe minister—and the negotiation went on to a speedy and prosperous conclusion. The treaty was concluded in March, 1830, and extended to a complete settlement of all questions of reclamation on both sides. The Danish government renounced all pretension to the claims which it had preferred, and agreed to pay the sum of six hundred and fifty thousand dollars to the government of the United States, to be by it distributed among the American claimants. This convention, which received the immediate ratification of the President and Senate, terminated all differences with a friendly power, with whom the United States never had any but kind relations (these spoliations excepted), and whose trade to her West India islands, lying at our door, and taking much of our domestic productions, was so desirable to us.

4. Neapolitan Indemnity Treaty.—When Murat was King of Naples, and acting upon the system of his brother-in-law, the Emperor Napoleon, he seized and confiscated many vessels and their cargoes, belonging to citizens of the United States. The years 1809, 1810, 1811 and 1812 were the periods of these wrongs. Efforts had been made under each administration, from Mr. Madison to Mr. John Quincy Adams, to obtain redress, but in vain. Among others, the special mission of Mr. William Pinkney, the eminent orator and jurist, was instituted in the last year of Mr. Madison's administration, exclusively charged, at that court, with soliciting indemnity for the Murat spoliations. A Bourbon was then upon the throne, and this 'legitimate,' considering Murat as an usurper who had taken the kingdom from its proper owners, and done more harm to them than to any body else, was naturally averse to making compensation to other nations for his injurious acts. This repugnance had found an excuse in the fact that France, the great original wrongdoer in all these spoliations, and under whose lead and protection they were all committed, had not yet been brought to acknowledge the wrong and to make satisfaction. The indemnity treaty with France, in July 1831, put an end to this excuse; and the fact of the depredations being clear, and the law of nations indisputably in our favor, a further and more earnest appeal was made to the Neapolitan government. Mr. John Nelson, of Maryland, was appointed United States Chargé to Naples, and concluded a convention for the payment of the claims. The sum of two millions one hundred and fifteen thousand Neapolitan ducats was stipulated to be paid to the United States government, to be by it distributed among the claimants; and, being entirely satisfactory, the convention immediately received the American ratification. Thus, another head of injury to our citizens, and of twenty years' standing, was settled by General Jackson, and in a case in which the strongest prejudice and the most revolting repugnance had to be overcome. Murat had been shot by order of the Neapolitan king, for attempting to recover the kingdom; he was deemed a usurper while he had it; the exiled royal family thought themselves sufficiently wronged by him in their own persons, without being made responsible for his wrongs to others; and although bound by the law of nations to answer for his conduct while king in point of fact, yet for almost twenty years—from their restoration in 1814 to 1832—they had resisted and repulsed the incessant and just demands of the United States. Considering the sacrifice of pride, as well as the large compensation, which this branch of the Bourbons had to make in paying a bill of damages against an intrusive king of the Bonaparte dynasty, and this indemnity obtained from Naples in the third year of General Jackson's first presidential term,

which had been refused to his three predecessors—Messrs. Madison, Monroe and John Quincy Adams—may be looked upon as one of the most remarkable of his diplomatic successes.

Spanish Indemnity Treaty.—The treaty of 1819 with Spain, by which we gained Florida and lost Texas, and paid five millions of dollars to our own citizens for Spanish spoliations, settled up all demands upon that power up to that time; but fresh causes of complaint soon grew up. All the Spanish-American states had become independent—had established their own forms of government—and commenced political and commercial communications with all the world. Spanish policy revolted at this escape of colonies from its hands; and although unable to subdue the new governments, was able to refuse to acknowledge their independence—able to issue paper blockades, and to seize and confiscate the American merchant vessels trading to the new states. In this way much damage had been done to American commerce, even in the brief interval between the date of the treaty of 1819 and General Jackson's election to the presidency, ten years thereafter. A new list of claims for spoliations had grown up; and one of the early acts of the new President was to institute a mission to demand indemnity. Mr. Cornelius Van Ness, of New-York, was the minister appointed; and having been refused in his first application, and given an account of the refusal to his government, President Jackson dispatched a special messenger to the American minister at Madrid, with instructions, "once more" to bring the subject to the consideration of the Spanish government; informing Congress at the same time, that he had made his last demand; and that, if justice was not done, he would bring the case before that body, "as the constitutional judge of what was proper to be done when negotiation fails to obtain redress for wrongs." But it was not found necessary to bring the case before Congress. On a closer examination of the claims presented and for the enforcement of which the power of the government had been invoked, it was found that there had occurred in this case what often takes place in reclamation upon foreign powers; that claims were preferred which were not founded in justice, and which were not entitled to the national interference. Faithful to his principle to ask nothing but what was right, General Jackson ordered these unfounded claims to be dropped, and the just claims only to be insisted upon; and in communicating this fact to Congress, he declared his policy characteristically with regard to foreign nations, and in terms which deserve to be remembered. He said: "Faithful to the principle of asking nothing but what was clearly right, additional instructions have been sent to modify our demands, so as to embrace those only on which, according to the laws of nations, we had a strict right to insist upon." Under these modified instructions a treaty of indemnity was concluded (February, 1834), and the sum of twelve millions of reals vellon stipulated to be paid to the government of the United States, for distribution among the claimants. Thus, another instance of spoliation upon our foreign commerce, and the last that remained unredressed, was closed up and satisfied under the administration of General Jackson; and this last of the revolutionary men had the gratification to restore unmixed cordial intercourse with a power which had been our ally in the war of the Revolution; which had ceded to us the Floridas, to round off with a natural boundary our Southern territory; which was our neighbor, conterminous in dominions, from the Atlantic to the Pacific; and which, notwithstanding the jars and collisions to which bordering nations are always subject, had never committed an act of hostility upon the United States. The conclusion of this affair was grateful to all the rememberers of our revolutionary history, and equally honorable to both parties: to General Jackson, who renounced unfounded claims, and to the Spanish government, which paid the good as soon as separated from the bad.

6. Russian Commercial Treaty.—Our relations with Russia had been peculiar—politically, always friendly; commercially, always liberal—yet, no treaty of amity, commerce, and

navigation, to assure these advantages and guarantee their continuance. The United States had often sought such a treaty. Many special missions, and of the most eminent citizens, and at various times, and under different administrations, and under the Congress of the confederation before there was any administration, had been instituted for that purpose—that of Mr. Francis Dana of Massachusetts (under whom the young John Quincy Adams, at the age of sixteen, served his diplomatic apprenticeship as private secretary), in 1784, under the old Congress; that of Mr. Rufus King, under the first Mr. Adams; that of Mr. John Quincy Adams, Mr. Albert Gallatin, Mr. James A. Bayard, and Mr. William Pinkney, under Mr. Monroe; that of Mr. George Washington Campbell, and Mr. Henry Middleton, under Mr. Monroe (the latter continued under Mr. John Quincy Adams); and all in vain. For some cause, never publicly explained, the guaranty of a treaty had been constantly declined, while the actual advantages of the most favorable one had been constantly extended to us. A convention with us for the definition of boundaries on the northwest coast of America, and to stipulate for mutual freedom of fishing and navigation in the North Pacific Ocean, had been readily agreed upon by the Emperor Alexander, and wisely, as by separating his claims, he avoided such controversies as afterwards grew up between the United States and Great Britain, on account of their joint occupation; but no commercial treaty. Every thing else was all that our interest could ask, or her friendship extend. Reciprocity of diplomatic intercourse was fully established; ministers regularly appointed to reside with us—and those of my time (I speak only of those who came within my Thirty Years' View), the Chevalier de Politica, the Baron Thuyl, the Baron Krudener, and especially the one that has remained longest among us, and has married an American lady, M. Alexandre de Bodisco—all of a personal character and deportment to be most agreeable to our government and citizens, well fitted to represent the feelings of the most friendly sovereigns, and to promote and maintain the most courteous and amicable intercourse between the two countries. The Emperor Alexander had signally displayed his good will in offering his mediation to terminate the war with Great Britain; and still further, in consenting to become arbitrator between the United States and Great Britain in settling their difference in the construction of the Ghent treaty, in the article relating to fugitive and deported slaves. We enjoyed in Russian ports all the commercial privileges of the most favored nation; but it was by an unfixed tenure—at the will of the reigning sovereign; and the interests of commerce required a more stable guaranty. Still, up to the commencement of General Jackson's administration, there was no American treaty of amity, commerce, and navigation with that great power. The attention of President Jackson was early directed to this anomalous point; and Mr. John Randolph of Roanoke, then retired from Congress, was induced, by the earnest persuasions of the President, and his Secretary of State, Mr. Van Buren, to accept the place of envoy extraordinary and minister plenipotentiary to the Court of St. Petersburg—to renew the applications for the treaty which had so long been made in vain. Repairing to that post, Mr. Randolph found that the rigors of a Russian climate were too severe for the texture of his fragile constitution; and was soon recalled at his own request. Mr. James Buchanan, of Pennsylvania, was then appointed in his place; and by him the long-desired treaty was concluded, December, 1832—the Count Nesselrode the Russian negotiator, and the Emperor Nicholas the reigning sovereign. It was a treaty of great moment to the United States; for, although it added nothing to the commercial privileges actually enjoyed, yet it gave stability to their enjoyment; and so imparted confidence to the enterprise of merchants. It was limited to seven years' duration, but with a clause of indefinite continuance, subject to termination upon one year's notice from either party. Near twenty years have elapsed: no notice for its termination has ever been given; and the commerce between the two countries feels all the advantages resulting from stability and national guaranties. And thus was obtained, in the first term of General Jackson's

administration, an important treaty with a great power, which all previous administrations and the Congress of the Confederation had been unable to obtain.

7. Portuguese Indemnity.—During the years 1829 and ‘30, during the blockade of Terceira, several illegal seizures were made of American vessels, by Portuguese men-of-war, for alleged violations of the blockade. The United States *chargé d’affairs* at Lisbon, Mr. Thomas L. Brent, was charged with the necessary reclamations, and had no difficulty in coming to an amicable adjustment. Indemnity in the four cases of seizure was agreed upon in March, 1832, and payment in instalments stipulated to be made. There was default in all the instalments after the first—not from bad faith, but from total inability—although the instalments were, in a national point of view, of small amount. It deserves to be recorded, as an instance of the want to which a kingdom, whose very name had been once the synonym of gold regions and diamond mines, may be reduced by wretched government, that in one of the interviews of the American *chargé* (then Mr. Edward Kavanagh), with the Portuguese Minister of Finance, the minister told him “that no persons in the employment of the government, except the military, had been paid any part of their salaries for a long time; and that, on that day, there was not one hundred dollars in the treasury.” In this total inability to pay, and with the fact of having settled fairly, further time was given until the first day of July, 1837; when full and final payment was made, to the satisfaction of the claimants.

Indemnity was made to the claimants by allowing interest on the delayed payments, and an advantage was granted to an article of American commerce by admitting rice of the United States in Portuguese ports at a reduced duty. The whole amount paid was about $140,000, which included damages to some other vessels, and compensation to the seamen of the captured vessels for imprisonment and loss of clothes—the sum of about $1,600 for these latter items—so carefully and minutely were the rights of American citizens guarded in Jackson’s time. Some other claims on Portugal, considered as doubtful, among them the case of the brave Captain Reid, of the privateer General Armstrong, were left open for future prosecution, without prejudice from being omitted in the settlement of the Terceira claims, which were a separate class.

8. Treaty with the Ottoman Empire.—At the commencement of the annual session of Congress of 1830-’31, President Jackson had the gratification to lay before the Senate a treaty of friendship and commerce between the United States and the Turkish emperor—the Sultan Mahmoud, noted for his liberal foreign views, his domestic reforms, his protection of Christians, and his energetic suppression of the janissaries—those formidable barbarian cohorts, worse than prætorian, which had so long dominated the Turkish throne. It was the first American treaty made with that power, and so declared in the preamble (and in terms which implied a personal compliment from the Porte in doing now what it had always refused to do before), and was eminently desirable to us for commercial, political and social reasons. The Turkish dominions include what was once nearly the one half of the Roman world, and countries which had celebrity before Rome was founded. Sacred and profane history had given these dominions a venerable interest in our eyes. They covered the seat which was the birth-place of the human race, the cradle of the Christian religion; the early theatre of the arts and sciences; and contained the city which was founded by the first Roman Christian emperor. Under good government it had always been the seat of rich commerce and of great wealth. Under every aspect it was desirable to the United States to have its social, political and commercial intercourse with these dominions placed on a safe and stable footing under the guaranty of treaty stipulations; and this object was now accomplished. These were the general considerations; particular and recent circumstances gave them additional weight.

Exclusion of our commerce from the Black Sea, and the advantages which some nations had lately gained by the treaty of Adrianople, called for renewed exertions on our part; and they were made by General Jackson. A commissioner was appointed (Mr. Charles Rhind) to open negotiations with the Sublime Porte; and with him were associated the United States naval commander in the Mediterranean (Commodore Biddle), and the United States consul at Smyrna (Mr. David Offley). Mr. Rhind completed the negotiation, though the other gentlemen joined in the signature of the treaty. By the provisions of this treaty, our trade with the Turkish dominions was placed on the footing of the most favored nation; and being without limitation as to time, may be considered as perpetual, subject only to be abrogated by war, in itself improbable, or by other events not to be expected. The right of passing the Dardanelles and of navigating the Black Sea was secured to our merchant ships, in ballast or with cargo, and to carry the products of the United States and of the Ottoman empire, except the prohibited articles. The flag of the United States was to be respected. Factors, or commercial brokers, of any religion were allowed to be employed by our merchants. Consuls were placed on a footing of security, and travelling with passports was protected. Fairness and justice in suits and litigations were provided for. In questions between a citizen of the United States and a subject of the Sublime Porte, the parties were not to be heard, nor judgment pronounced, unless the American interpreter (dragoman) was present. In questions between American citizens the trial was to be before the United States minister or consul. "Even when they (the American citizens, so runs the fourth article), shall have committed some offence, they shall not be arrested and put in prison by the local authorities, but shall be tried by the minister or consul, and punished according to the offence." By this treaty all that was granted to other nations by the treaty of Adrianople is also granted to the United States, with the additional stipulation, to be always placed on the footing of the most favored nation—a stipulation wholly independent of the treaty exacted by Russia at Adrianople as the fruit of victories, and of itself equivalent to a full and liberal treaty; and the whole guaranteed by a particular treaty with ourselves, which makes us independent of the general treaty of Adrianople. A spirit of justice, liberality and kindness runs through it. Assistance and protection is to be given throughout the Turkish dominions to American wrecked vessels and their crews; and all property recovered from a wreck is to be delivered up to the American consul of the nearest port, for the benefit of the owners. Ships of war of the two countries are to exhibit towards each other friendly and courteous conduct, and Turkish ships of war are to treat American merchant vessels with kindness and respect. This treaty has now been in force near twenty years, observed with perfect good faith by each, and attended by all the good consequences expected from it. The valuable commerce of the Black Sea, and of all the Turkish ports of Asia Minor, Europe and Africa (once the finest part of the Roman world), travelling, residence, and the pursuit of business throughout the Turkish dominions, are made as safe to our citizens as in any of the European countries; and thus the United States, though amongst the youngest in the family of nations, besides securing particular advantages to her own citizens, has done her part in bringing those ancient countries into the system of modern European commercial policy, and in harmonizing people long estranged from each other.

9. Renewal of the treaty with Morocco.—A treaty had been made with this power in the time of the old Congress under the Confederation; and it is honorable to Morocco to see in that treaty, at the time when all other powers on the Barbary coast deemed the property of a Christian, lawful prey, and his person a proper subject for captivity, entering into such stipulations as these following, with a nation so young as the United States: "Neither party to take commissions from an enemy; persons and property captured in an enemy's vessel to be released; American citizens and effects to be restored; stranded vessels to be protected;

vessels engaged in gunshot of forts to be protected; enemies' vessels not allowed to follow out of port for twenty-four hours; American commerce to be on the most favored footing; exchange of prisoners in time of war; no compulsion in buying or selling goods; no examination of goods on board, except contraband was proved; no detention of vessels; disputes between Americans to be settled by their consuls, and the consul assisted when necessary; killing punished by the law of the country; the effects of persons dying intestate to be taken care of, and delivered to the consul, and, if no consul, to be deposited with some person of trust; no appeal to arms unless refusal of friendly arrangements; in case of war, nine months to be allowed to citizens of each power residing in the dominions of the other to settle their affairs and remove." This treaty, made in 1787, was the work of Benjamin Franklin (though absent at the signature), John Adams, at London, and Thomas Jefferson, at Paris, acting through the agent, Thomas Barclay, at Fez; and was written with a plainness, simplicity and beauty, which I have not seen equalled in any treaty, between any nations, before or since. It was extended to fifty years, and renewed by General Jackson, in the last year of his administration, for fifty years more; and afterwards until twelve months' notice of a desire to abridge it should be given by one of the parties. The resident American consul at Tangier, Mr. James R. Leib, negotiated the renewal; and all the parties concerned had the good taste to preserve the style and language of the original throughout. It will stand, both for the matter and the style, a monument to the honor of our early statesmen.

10. Treaty of amity and commerce with Siam.—This was concluded in March, 1833, Mr. Edmund Roberts the negotiator on the part of the United States, and contained the provisions in behalf of American citizens and commerce which had been agreed upon in the treaty with the Sublime Porte, which was itself principally framed upon that with Morocco in 1787; and which may well become the model of all that may be made, in all time to come, with all the Oriental nations.

11. The same with the Sultan of Muscat.

Such were the fruits of the foreign diplomacy of President Jackson. There were other treaties negotiated under his administration—with Austria, Mexico, Chili, Peru, Bolivia, Venezuela—but being in the ordinary course of foreign intercourse, do not come within the scope of this View, which confines itself to a notice of such treaties as were new or difficult—which were unattainable by previous administrations; and those which brought indemnity to our citizens for spoliations committed upon them in the time of General Jackson's predecessors. In this point of view, the list of treaties presented, is grand and impressive; the bare recital of which, in the most subdued language of historical narrative, places the foreign diplomacy of General Jackson on a level with the most splendid which the history of any nation has presented. First, the direct trade with the British West Indies, which had baffled the skill and power of all administrations, from Washington to John Quincy Adams inclusive, recovered, established, and placed on a permanent and satisfactory footing. Then indemnities from France, Spain, Denmark, Naples, Portugal, for injuries committed on our commerce in the time of the great Napoleon. Then original treaties of commerce and friendship with great powers from which they never could be obtained before—Russia, Austria, the Sublime Porte. Then leaving his country at peace with all the world, after going through an administration of eight years which brought him, as a legacy from his predecessors, the accumulated questions of half an age to settle with the great powers. This is the eulogy of FACTS, worth enough, in the plainest language, to dispense with eulogium of WORDS.

135. Slavery Agitation

“It is painful to see the unceasing efforts to alarm the South by imputations against the North of unconstitutional designs on the subject of slavery. You are right, I have no doubt, in believing that no such intermeddling disposition exists in the body of our Northern brethren. Their good faith is sufficiently guaranteed by the interest they have as merchants, as ship owners, and as manufacturers, in preserving a Union with the slaveholding States. On the other hand what madness in the South to look for greater safety in disunion. It would be worse than jumping into the fire for fear of the frying pan. The danger from the alarms is, that the pride and resentment exerted by them may be an overmatch for the dictates of prudence; and favor the project of a Southern convention, insidiously revived, as promising by its councils, the best securities against grievances of every sort from the North.”—So wrote Mr. Madison to Mr. Clay, in June 1833. It is a writing every word of which is matter for grave reflection, and the date at the head of all. It is dated just three months after the tariff “compromise” of 1833, which, in arranging the tariff question for nine years, was supposed to have quieted the South—put an end to agitation, and to the idea of a Southern convention—and given peace and harmony to the whole Union. Not so the fact—at least not so the fact in South Carolina. Agitation did not cease there on one point, before it began on another: the idea of a Southern convention for one cause, was hardly abandoned before it was “insidiously revived” upon another. I use the language of Mr. Madison in qualifying this revival with a term of odious import: for no man was a better master of our language than he was—no one more scrupulously just in all his judgments upon men and things—and no one occupying a position either personally, politically, or locally, to speak more advisedly on the subject of which he spoke. He was pained to see the efforts to alarm the South on the subject of slavery, and the revival of the project for a Southern convention; and he feared the effect which these alarms should have on the pride and resentment of Southern people. His letter was not to a neighbor, or to a citizen in private life, but to a public man on the theatre of national action, and one who had acted a part in composing national difficulties. It was evidently written for a purpose. It was in answer to Mr. Clay’s expressed belief, that no design hostile to Southern slavery existed in the body of the Northern people—to concur with him in that belief—and to give him warning that the danger was in another quarter—in the South itself: and that it looked to a dissolution of the Union. It was to warn an eminent public man of a new source of national danger, more alarming than the one he had just been composing.

About the same time, and to an old and confidential friend (Edward Coles, Esq., who had been his private secretary when President), Mr. Madison also wrote: “On the other hand what more dangerous than nullification, or more evident than the progress it continues to make, either in its original shape or in the disguises it assumes? Nullification has the effect of putting powder under the constitution and the Union, and a match in the hand of every party to blow them up at pleasure. And for its progress, hearken to the tone in which it is now preached: cast your eyes on its increasing minorities in the most of the Southern States, without a decrease in any of them. Look at Virginia herself, and read in the gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago. It is not probable that this offspring of the discontents of South Carolina will ever approach success in a majority of the States: but a susceptibility of the contagion in the Southern States is visible: and the danger not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may

put it in the power of popular leaders, aspiring to the highest stations, to unite the South on some critical occasion, in a course that will end in creating a new theatre of great though inferior interest. In pursuing this course, the first and most obvious step is nullification, the next secession, and the last a farewell separation."

In this view of the dangers of nullification in its new "disguise"—the susceptibility of the South to its contagious influence—its fatal action upon an "inculcated incompatibility of interests" between the North and the South—its increase in the slave States—its progress, first to secession, and then to "farewell separation:" in this view of the old danger under its new disguise, Mr. Madison, then eighty-four years old, writes with the wisdom of age, the foresight of experience; the spirit of patriotism, and the "pain" of heart which a contemplation of the division of those States excited which it had been the pride, the glory, and the labor of his life to unite. The slavery turn which was given to the Southern agitation was the aspect of the danger which filled his mind with sorrow and misgiving:—and not without reason. A paper published in Washington City, and in the interest of Mr. Calhoun, was incessant in propagating the slavery alarm—in denouncing the North—in exhorting the Southern States to unity of feeling and concert of action as the only means of saving their domestic institutions. The language had become current in some parts of the South, that it was impossible to unite the Southern States upon the tariff question: that the sugar interest in Louisiana would prevent her from joining: that it was a mistake to have made that issue: that the slavery question was the right one. And coincident with this current language were many publications, urging a Southern convention, and concert of action. Passing by all these, which might be deemed mere newspaper articles, there was one which bore the impress of thought and authenticity—which assumed the convention to be a certainty, the time only remaining to be fixed, and the cause for it to be in full operation in the Northern States. It was published in the Charleston Mercury in 1835,—was entitled the "Crisis"—and had the formality of a manifesto; and after dilating upon the aggressions and encroachments of the North, proceeded thus:

"The proper time for a convention of the slaveholding States will be when the legislatures of Pennsylvania, Massachusetts and New-York shall have adjourned without passing laws for the suppression of the abolition societies. Should either of these States pass such laws, it would be well to wait till their efficacy should be tested. The adjournment of the legislatures of the Northern States without adopting any measures effectually to put down Garrison, Tappan and their associates, will present an issue which must be met by the South, or it will be vain for us ever after to attempt any thing further than for the State to provide for her own safety by defensive measures of her own. If the issue presented is to be met, it can only be done by a convention of the aggrieved States; the proceedings of which, to be of any value, must embody and make known the sentiments of the whole South, and contain the distinct annunciation of our fixed and unaltered determination to obtain the redress of our grievances, be the consequences what they may. We must have it clearly understood that, in framing a constitutional union with our Northern brethren, the slaveholding States consider themselves as no more liable to any more interference with their domestic concerns than if they had remained entirely independent of the other States, and that, as such interference would, among independent nations, be a just cause of war, so among members of such a confederacy as ours, it must place the several States in the relation towards each other of open enemies. To sum up in a few words the whole argument on this subject, we would say that the abolitionists can only be put down by legislation in the States in which they exist, and this can only be brought about by the embodied opinion of the whole South, acting upon public opinion at the North, which can only be effected through the instrumentality of a condition of the slaveholding States."

It is impossible to read this paragraph from the "Crisis," without seeing that it is identical with Mr. Calhoun's report and speech upon incendiary publications transmitted through the mail. The same complaint against the North; the same exaction of the suppression of abolition societies; the same penalty for omitting to suppress them; that penalty always the same—a Southern convention, and secession—and the same idea of the contingent foreign relation to each other of the respective States, always treated as a confederacy, under a compact. Upon his arrival at Washington at the commencement of the session 1835-'36, all his conduct was conformable to the programme laid down in the "Crisis," and the whole of it calculated to produce the event therein hypothetically announced; and, unfortunately, a double set of movements was then in the process of being carried on by the abolitionists, which favored his purposes. One of these was the mail transmission into the slave States of incendiary publications; and it has been seen in what manner he availed himself of that wickedness to predicate upon it a right of Southern secession; the other was the annoyance of Congress with a profusion of petitions for the abolition of slavery in the District of Columbia; and his conduct with respect to these petitions, remains to be shown. Mr. Morris, of Ohio, presented two from that State, himself opposed to touching the subject of slavery in the States, but deeming it his duty to present those which applied to the District of Columbia. Mr. Calhoun demanded that they be read; which being done,—

"He demanded the question on receiving them, which, he said, was a preliminary question, which any member had a right to make. He demanded it on behalf of the State which he represented; he demanded it, because the petitions were in themselves a foul slander on nearly one half of the States of the Union; he demanded it, because the question involved was one over which neither this nor the House had any power whatever; and a stop might be put to that agitation which prevailed in so large a section of the country, and which, unless checked, would endanger the existence of the Union. That the petitions just read contained a gross, false, and malicious slander, on eleven States represented on this floor, there was no man who in his heart could deny. This was, in itself, not only good, but the highest cause why these petitions should not be received. Had it not been the practice of the Senate to reject petitions which reflected on any individual member of their body; and should they who were the representatives of sovereign States permit petitions to be brought there, wilfully, maliciously, almost wickedly, slandering so many sovereign States of this Union? Were the States to be less protected than individual members on that floor? He demanded the question on receiving the petitions, because they asked for what was a violation of the constitution. The question of emancipation exclusively belonged to the several States. Congress had no jurisdiction on the subject, no more in this District than the State of South Carolina: it was a question for the individual State to determine, and not to be touched by Congress. He himself well understood, and the people of his State should understand, that this was an emancipation movement. Those who have moved in it regard this District as the weak point through which the first movement should be made upon the States. We (said Mr. C.), of the South, are bound to resist it. We will meet this question as firmly as if it were the direct question of emancipation in the States. It is a movement which ought to, which must be, arrested, *in limine*, or the guards of the constitution will give way and be destroyed. He demanded the question on receiving the petitions, because of the agitation which would result from discussing the subject. The danger to be apprehended was from the agitation of the question on that floor. He did not fear those incendiary publications which were circulated abroad, and which could easily be counteracted. But he dreaded the agitation which would rise out of the discussion in Congress on the subject. Every man knew that there existed a body of men in the Northern States who were ready to second any insurrectionary movement of the blacks; and that these men would be on the alert to turn these discussions to their advantage. He dreaded the discussion in another sense. It would have a tendency to break asunder this

Union. What effect could be brought about by the interference of these petitioners? Could they expect to produce a change of mind in the Southern people? No; the effect would be directly the opposite. The more they were assailed on this point, the more closely would they cling to their institutions. And what would be the effect on the rising generation, but to inspire it with odium against those whose mistaken views and misdirected zeal menaced the peace and security of the Southern States. The effect must be to bring our institutions into odium. As a lover of the Union, he dreaded this discussion; and asked for some decided measure to arrest the course of the evil. There must, there shall be some decided step, or the Southern people never will submit. And how are we to treat the subject? By receiving these petitions one after another, and thus tampering, trifling, sporting with the feelings of the South? No, no, no! The abolitionists well understand the effect of such a course of proceeding. It will give importance to their movements, and accelerate the ends they propose. Nothing can, nothing will stop these petitions but a prompt and stern rejection of them. We must turn them away from our doors, regardless of what may be done or said. If the issue must be, let it come, and let us meet it, as, I hope, we shall be prepared to do."

This was new and extreme ground taken by Mr. Calhoun. To put the District of Columbia and the States on the same footing with respect to slavery legislation, was entirely contrary to the constitution itself, and to the whole doctrine of Congress upon it. The constitution gave to Congress exclusive jurisdiction over the District of Columbia, without limitation of subjects; but it had always refused, though often petitioned, to interfere with the subject of slavery in the District of Columbia so long as it existed in the two States (Maryland and Virginia) which ceded that District to the federal government. The doctrine of Mr. Calhoun was, therefore, new; his inference that slavery was to be attacked in the States through the opening in the District, was gratuitous; his "demand" (for that was the word he constantly used), that these petitions should be refused a reception, was a harsh motion, made in a harsh manner; his assumption that the existence of the Union was at stake, was without evidence and contrary to evidence; his remedy, in State resistance, was disunion; his eagerness to catch at an "issue," showed that he was on the watch for "issues," and ready to seize any one that would get up a contest; his language was all inflammatory, and calculated to rouse an alarm in the slaveholding States:—for the whole of which he constantly assumed to speak. Mr. Morris thus replied to him:

"In presenting these petitions he would say, on the part of the State of Ohio, that she went to the entire extent of the opinions of the senator from South Carolina on one point. We deny, said he, the power of Congress to legislate concerning local institutions, or to meddle in any way with slavery in any of the States; but we have always entertained the opinion that Congress has primary and exclusive legislation over this District; under this impression, these petitioners have come to the Senate to present their petitions. The doctrine that Congress have no power over the subject of slavery in this District is to me a new one; and it is one that will not meet with credence in the State in which I reside. I believe these petitioners have the right to present themselves here, placing their feet on the constitution of their country, when they come to ask of Congress to exercise those powers which they can legitimately exercise. I believe they have a right to be heard in their petitions, and that Congress may afterwards dispose of these petitions as in their wisdom they may think proper. Under these impressions, these petitioners come to be heard, and they have a right to be heard. Is not the right of petition a fundamental right? I believe it is a sacred and fundamental right, belonging to the people, to petition Congress for the redress of their grievances. While this right is secured by the constitution, it is incompetent to any legislative body to prescribe how the right is to be exercised, or when, or on what subject; or else this right becomes a mere mockery. If you are to tell the people that they are only to petition on this or that subject, or in this or that manner,

the right of petition is but a mockery. It is true we have a right to say that no petition which is couched in disrespectful language shall be received; but I presume there is a sufficient check provided against this in the responsibility under which every senator presents a petition. Any petition conveyed in such language would always meet with his decided disapprobation. But if we deny the right of the people to petition in this instance, I would ask how far they have the right. While they believe they possess the right, no denial of it by Congress will prevent them from exercising it."

Mr. Bedford Brown, of North Carolina, entirely dissented from the views presented by Mr. Calhoun, and considered the course he proposed, and the language which he used, exactly calculated to produce the agitation which he professed to deprecate. He said:

"He felt himself constrained, by a sense of duty to the State from which he came, deeply and vitally interested as she was in every thing connected with the agitating question which had unexpectedly been brought into discussion that morning, to present, in a few words, his views as to the proper direction which should be given to that and all other petitions relating to slavery in the District of Columbia. He felt himself more especially called on to do so from the aspect which the question had assumed, in consequence of the motion of the gentleman from South Carolina [Mr. Calhoun], to refuse to receive the petition. He had believed from the first time he had reflected on this subject, and subsequent events had but strengthened that conviction, that the most proper disposition of all such petitions was to lay them on the table, without printing. This course, while it indicated to the fanatics that Congress will yield no countenance to their designs, at the same time marks them with decided reprobation by a refusal to print. But, in his estimation, another reason gave to the motion to lay them on the table a decided preference over any other proceedings by which they should be met. The peculiar merit of this motion, as applicable to this question, is, that it precludes all debate, and would thus prevent the agitation of a subject in Congress which all should deprecate as fraught with mischief to every portion of this happy and flourishing confederacy. Mr. B. said that honorable gentlemen who advocated this motion had disclaimed all intention to produce agitation on this question. He did not pretend to question the sincerity of their declarations, and, while willing to do every justice to their motives, he must be allowed to say that no method could be devised better calculated, in his judgment, to produce such a result. He (Mr. B.) most sincerely believed that the best interests of the Southern States would be most consulted by pursuing such a course here as would harmonize the feelings of every section, and avoid opening for discussion so dangerous and delicate a question. He believed all the senators who were present a few days since, when a petition of similar character had been presented by an honorable senator, had, by their votes to lay it on the table, sanctioned the course which he now suggested. [Mr. Calhoun, in explanation, said that himself and his colleague were absent from the Senate on the occasion alluded to.] Mr. B. resumed his remarks, and said that he had made no reference to the votes of any particular members of that body, but what he had said was, that a similar petition had been laid on the table without objection from any one, and consequently by a unanimous vote of the senators present. Here, then, was a most emphatic declaration, by gentlemen representing the Northern States as well as those from other parts of the Union, by this vote, that they will entertain no attempt at legislation on the question of slavery in the District of Columbia. Why, then, asked Mr. B., should we now adopt a mode of proceeding calculated to disturb the harmonious action of the Senate, which had been produced by the former vote? Why (he would respectfully ask of honorable gentlemen who press the motion to refuse to receive the petition) and for what beneficial purpose do they press it? By persisting in such a course it would, beyond all doubt, open a wide range of discussion, it would not fail to call forth a great diversity of opinion in relation to the extent of the right to petition under the constitution. Nor would it be confined

to that question alone, judging from an expression which had fallen from an honorable gentleman from Virginia [Mr. Tyler], in the course of this debate. That gentleman had declared his preference for a direct negative vote by the Senate, as to the constitutional power of Congress to emancipate slaves in the District of Columbia. He, for one, protested, politically speaking, against opening this Pandora's box in the halls of Congress. For all beneficial and practical purposes, an overwhelming majority of the members representing the Northern States were, with the South, in opposition to any interference with slavery in the District of Columbia. If there was half a dozen in both branches of Congress who did not stand in entire opposition to any interference with slavery, in this District or elsewhere, he had yet to learn it. Was it wise, was it prudent, was it magnanimous, in gentlemen representing the Southern States, to urge this matter still further, and say to our Northern friends in Congress, 'Gentlemen, we all agree in the general conclusion, that Congress should not interfere in this question, but we wish to know your reasons for arriving at this conclusion; we wish you to declare, by your votes, whether you arrive at this result because you think it unconstitutional or not?' Mr. B. said that he would yield to none in zeal in sustaining and supporting, to the extent of his ability, what he believed to be the true interest of the South; but he should take leave to say that, when the almost united will of both branches of Congress, for all practical purposes, was with us, against all interference on this subject, he should not hazard the peace and quiet of the country by going on a Quixotic expedition in pursuit of abstract constitutional questions."

Mr. King, of Georgia, was still more pointed than Mr. Brown in deprecating the course Mr. Calhoun pursued, and charging upon it the effect of increasing the slavery agitation, and giving the abolitionists ground to stand upon in giving them the right of petition to defend. He said:

"This being among the Southern members a mere difference of form in the manner of disposing of the subject, I regret exceedingly that the senator from Carolina has thought it his duty (as he doubtless has) to press the subject upon the consideration of the Senate in such form as not only to permit, but in some measure to create, a necessity for the continued agitation of the subject. For he believed, with others, that nothing was better calculated to increase agitation and excitement than such motions as that of the senator from South Carolina. What was the object of the motion? Senators said, and no doubt sincerely, that their object was to quiet the agitation of the subject. Well, (said Mr. K.,) my object is precisely the same. We differ, then, only in the means of securing a common end; and he could tell the Senators that the value of the motion as a means would likely be estimated by its tendency to secure the end desired. Would even an affirmative vote on the motion quiet the agitation of the subject? He thought, on the contrary, it would much increase it. How would it stop the agitation? What would be decided? Nothing, except it be that the Senate would not receive the particular memorial before it. Would that prevent the presentation of others? Not at all; it would only increase the number, by making a new issue for debate, which was all the abolitionists wanted; or, at any rate, the most they now expected. These petitions had been coming here without intermission ever since the foundation of the government, and he could tell the senator that if they were each to be honored by a lengthy discussion on presentment, an honor not heretofore granted to them, they would not only continue to come here, but they would thicken upon us so long as the government remained in existence. We may seek occasions (said Mr. K.) to rave about our rights; we may appeal to the guaranties of the constitution, which are denied; we may speak of the strength of the South, and pour out unmeasured denunciations against the North; we may threaten vengeance against the abolitionists, and menace a dissolution of the Union, and all that; and thus exhausting ourselves mentally and physically, and setting down to applaud the spirit of our own efforts,

Arthur Tappan and his pious fraternity would very coolly remark: 'Well, that is precisely what I wanted; I wanted agitation in the South; I wished to provoke the "aristocratic slaveholder" to make extravagant demands on the North, which the North could not consistently surrender them. I wished them, under the pretext of securing their own rights, to encroach upon the rights of all the American people. In short, I wish to change the issue; upon the present issue we are dead. Every movement, every demonstration of feeling among our own people, shows that upon the present issue the great body of the people is against us. The issue must be changed, or the prospects of abolition are at an end.' This language (Mr. K. said) was not conjectured, but there was much evidence of its truth. Sir (said Mr. K.), if Southern senators were actually in the pay of the abolition directory on Nassau-street they could not more effectually co-operate in the views and administer to the wishes of these enemies to the peace and quiet of our country."

Mr. Calhoun was dissatisfied at the speeches of Mr. Brown and Mr. King, and considered them as dividing and distracting the South in their opposition to his motion, while his own course was to keep them united in a case where union was so important, and in which they stood but a handful in the midst of an overwhelming majority. He said:

"I have heard with deep mortification and regret the speech of the senator from Georgia; not that I suppose that his arguments can have much impression in the South, but because of their tendency to divide and distract the Southern delegation on this, to us, all-momentous question. We are here but a handful in the midst of an overwhelming majority. It is the duty of every member from the South, on this great and vital question, where union is so important to those whom we represent, to avoid every thing calculated to divide or distract our ranks. I (said Mr. C.), the Senate will bear witness, have, in all that I have said on this subject, been careful to respect the feelings of Southern members who have differed from me in the policy to be pursued. Having thus acted, on my part, I must express my surprise at the harsh expressions, to say the least, in which the senator from Georgia has indulged."

The declaration of this overwhelming majority against the South brought a great number of the non-slaveholding senators to their feet, to declare the concurrence of their *States* with the South upon the subject of slavery, and to depreciate the abolitionists as few in number in any of the Northern States; and discountenanced, reprobated and repulsed wherever they were found. Among these, Mr. Isaac Hill of New Hampshire, thus spoke:

"I do not (said he) object to many of the positions taken by senators on the abstract question of Northern interference with slavery in the South. But I do protest against the excitement that is attempted on the floor of Congress, to be kept up against the North. I do protest against the array that is made here of the acts of a few misguided fanatics as the acts of the whole or of a large portion of the people of the North. I do protest against the countenance that is here given to the idea that the people of the North generally are interfering with the rights and property of the people of the South.

"There is no course that will better suit the few Northern fanatics than the agitation of the question of slavery in the halls of Congress—nothing will please them better than the discussions which are taking place, and a solemn vote of either branch denying them the right to prefer petitions here, praying that slavery may be abolished in the District of Columbia. A denial of that right at once enables them, and not without color of truth, to cry out that the contest going on is 'a struggle between power and liberty.'

"Believing the intentions of those who have moved simultaneously to get up these petitions at this time, to be mischief, I was glad to see the first petition that came in here laid on the table without discussion, and without reference to any committee. The motion to lay on the table

precludes all debate; and, if decided affirmatively, prevents agitation. It was with the view of preventing agitation of this subject that I moved to lay the second set of petitions on the table. A senator from the South (Mr. Calhoun) has chosen a different course; he has interposed a motion which opens a debate that may be continued for months. He has chosen to agitate this question; and he has presented that question, the decision of which, let senators vote as they may, will best please the agitators who are urging the fanatics forward.

"I have said the people of the North were more united in their opposition to the plans of the advocates of antislavery, than on any other subject. This opposition is confined to no political party; it pervades every class of the community. They deprecate all interference with the subject of slavery, because they believe such interference may involve the existence and welfare of the Union itself, and because they understand the obligations which the non-slaveholding States owe to the slaveholding States by the compact of confederation. It is the strong desire to perpetuate the Union; it is the determination which every patriotic and virtuous citizen has made, in no event to abandon the 'ark of our safety,' that now impels the united North to take its stand against the agitators of the antislavery project. So effectually has the strong public sentiment put down that agitation in New England, that it is now kept alive only by the power of money, which the agitators have collected, and apply in the hiring of agents, and in issues from presses that are kept in their employ.

"The antislavery movement, which brings in petitions from various parts of the country asking Congress to abolish slavery in the District of Columbia, originates with a few persons, who have been in the habit of making charitable religious institutions subservient to political purposes, and who have even controlled some of those charitable associations. The petitions are set on foot by men who have had, and who continue to have, influence with ministers and religious teachers of different denominations. They have issued and sent out their circulars calling for a united effort to press on Congress the abolition of slavery in this District. Many of the clergymen who have been instruments of the agitators, have done so from no bad motive. Some of them, discovering the purpose of the agitators—discovering that their labors were calculated to make the condition of the slave worse, and to create animosity between the people of the North and the South, have paused in their course, and desisted from the further application of a mistaken philanthropy. Others, having enlisted deeply their feelings, still pursue the unprofitable labor. They present here the names of inconsiderate men and women, many of whom do not know, when they subscribe their papers, what they are asking; and others of whom, placing implicit faith in their religious teacher, are taught to believe they are thereby doing a work of disinterested benevolence, which will be requited by rewards in a future life.

"Now, sir, as much as I abhor the doings of weak or wicked men who are moving this abolition question at the North, I yet have not as bad an opinion of them as I have of some others who are attempting to make of these puerile proceedings an object of alarm to the whole South.

"Of all the vehicles, tracts, pamphlets, and newspapers, printed and circulated by the abolitionists, there is no ten or twenty of them that have contributed so much to the excitement as a single newspaper printed in this city. I need not name this paper when I inform you that, for the last five years, it has been laboring to produce a Northern and Southern party—to fan the flame of sectional prejudice—to open wider the breach, to drive harder the wedge, which shall divide the North from the South. It is the newspaper which, in 1831-'2, strove to create that state of things, in relation to the tariff, which would produce inevitable collision between the two sections of the country, and which urged to that crisis in South Carolina, terminating in her deep disgrace——

"[Mr. Calhoun here interrupted Mr. Hill, and called him to order. Mr. H. took his seat, and Mr. Hubbard (being in the chair) decided that the remarks of Mr. H. did not impugn the motives of any man—they were only descriptive of the effects of certain proceedings upon the State of South Carolina, and that he was not out of order.]

"Mr. H. resumed: It is the newspaper which condemns or ridicules the well-meant efforts of an officer of the government to stop the circulation of incendiary publications in the slaveholding States, and which designedly magnifies the number and the efforts of the Northern abolitionists. It is the newspaper which libels the whole North by representing the almost united people of that region to be insincere in their efforts to prevent the mischief of a few fanatical and misguided persons who are engaged in the abolition cause.

"I have before me a copy of this newspaper (the *United States Telegraph*), filled to the brim with the exciting subject. It contains, among other things, a speech of an honorable senator (Mr. Leigh of Virginia), which I shall not be surprised soon to learn has been issued by thousands and tens of thousands from the abolition mint at New-York, for circulation in the South. Surely the honorable senator's speech, containing that part of the Channing pamphlet, is most likely to move the Southern slaves to a servile war, at the same time the Channing extracts and the speech itself are most admirably calculated to awaken the fears or arouse the indignation of their masters. The circulation of such a speech will effect the object of the abolitionists without trenching upon their funds. Let the agitation be kept up in Congress, and let this newspaper be extensively circulated in the South, filled with such speeches and such extracts as this exhibits, and little will be left for the Northern abolitionists to do. They need do no more than send in their petitions: the late printer of the Senate and his friends in Congress, will create enough of excitement to effect every object of those who direct the movements of the abolitionists."

At the same moment that these petitions were presented in the Senate, their counterparts were presented in the House, with the same declarations from Northern representatives in favor of the rights of the South, and in depreciation of the number and importance of the abolitionists in the North. Among these, Mr. Franklin Pierce, of New Hampshire, was one of the most emphatic on both points. He said:

"This was not the last memorial of the same character which would be sent here. It was perfectly apparent that the question must be met now, or at some future time, fully and explicitly, and such an expression of this House given as could leave no possible room to doubt as to the opinions and sentiments entertained by its members. He (Mr. P.), indeed, considered the overwhelming vote of the House, the other day, laying a memorial of similar tenor, and, he believed, the same in terms, upon the table, as fixing upon it the stamp of reprobation. He supposed that all sections of the country would be satisfied with that expression; but gentlemen seemed now to consider the vote as equivocal and evasive. He was unwilling that any imputation should rest upon the North, in consequence of the misguided and fanatical zeal of a few—comparatively very few—who, however honest might have been their purposes, he believed had done incalculable mischief, and whose movements, he knew, received no more sanction among the great mass of the people of the North, than they did at the South. For one, he (Mr. P.), while he would be the last to infringe upon any of the sacred reserved rights of the people, was prepared to stamp with disapprobation, in the most express and unequivocal terms, the whole movement upon this subject. Mr. P. said he would not resume his seat without tendering to the gentleman from Virginia (Mr. Mason), just and generous as he always was, his acknowledgments for the admission frankly made in the opening of his remarks. He had said that, during the period that he had occupied a seat in this House (as Mr. P. understood him), he had never known six men seriously disposed to

interfere with the rights of the slaveholders at the South. Sir, said Mr. P., gentlemen may be assured there was no such disposition as a general sentiment prevailing among the people; at least he felt confidence in asserting that, among the people of the State which he had the honor in part to represent, there was not one in a hundred who did not entertain the most sacred regard for the rights of their Southern brethren—nay, not one in five hundred who would not have those rights protected at any and every hazard. There was not the slightest disposition to interfere with any rights secured by the constitution, which binds together, and which he humbly hoped ever would bind together, this great and glorious confederacy as one family. Mr. P. had only to say that, to some sweeping charges of improper interference, the action of the people of the North at home, during the last year, and the vote of their representatives here the other day, was a sufficient and conclusive answer."

The newspaper named by Mr. Hill was entirely in the interest of Mr. Calhoun, and the course which it followed, and upon system, and incessantly to get up a slavery quarrel between the North and the South, was undeniable—every daily number of the paper containing the proof of its incendiary work. Mr. Calhoun would not reply to Mr. Hill, but would send a paper to the Secretary's table to be read in contradiction of his statements. Mr. Calhoun then handed to the Secretary a newspaper containing an article impugning the statement made by Mr. Pierce, in the House of Representatives, as to the small number of the abolitionists in the State of New Hampshire; which was read, and which contained scurrilous reflections on Mr. Pierce, and severe strictures on the state of slavery in the South. Mr. Hill asked for the title of the newspaper; and it was given, "*The Herald of Freedom*." Mr. Hill said it was an abolition paper, printed, but not circulated, at Concord, New Hampshire. He said the same paper had been sent to him, and he saw in it one of Mr. Calhoun's speeches; which was republished as good food for the abolitionists; and said he thought the Senate was well employed in listening to the reading of disgusting extracts from an hireling abolition paper, for the purpose of impugning the statements of a member of the House of Representatives, defending the South there, and who could not be here to defend himself. It was also a breach of parliamentary law for a member in one House to attack what was said by a member in another. Mr. Pierce's statement had been heard with great satisfaction by all except Mr. Calhoun; but to him it was so repugnant, as invalidating his assertion of a great abolition party in the North, that he could not refrain from this mode of contradicting it. It was felt by all as disorderly and improper, and the presiding officer then in the chair (Mr. Hubbard, from New Hampshire) felt himself called upon to excuse his own conduct in not having checked the reading of the article. He said:

"He felt as if an apology was due from him to the Senate, for not having checked the reading of the paragraphs from the newspaper which had just been read by the Secretary. He was wholly ignorant of the contents of the paper, and could not have anticipated the purport of the article which the senator from South Carolina had requested the Secretary to read. He understood the senator to say that he wished the paper to be read, to show that the statement made by the senator from New Hampshire, as to the feelings and sentiments of the people of that State upon the subject of the abolition of slavery, was not correct. It certainly would have been out of order, for any senator to have alluded to the remarks made by a member of the House of Representatives, in debate; and, in his judgment, it was equally out of order to permit paragraphs from a newspaper to be read in the Senate, which went to impugn the course of any member of the other House; and he should not have permitted the paper to have been read, without the direction of the Senate, if he had been aware of the character of the article."

Mr. Calhoun said he was entitled to the floor and did not like to be interrupted by the chair: he meant no disrespect to Mr. Pierce, "but wished the real state of things to be known"—as if

an abolition newspaper was better authority than a statement from a member in his place in the House. It happened that Mr. Pierce was coming into the Senate Chamber as this reading scene was going on; and, being greatly surprised, and feeling much aggrieved, and having no right to speak for himself, he spoke to the author of this View to maintain the truth of his statement against the scurrilous contradiction of it which had been read. Mr. Benton, therefore, stood up—

"To say a word on the subject of Mr. Pierce, the member of the House of Representatives, from New Hampshire, whose statements in the House of Representatives had been contradicted in the newspaper article read at the Secretary's table. He had the pleasure of an intimate acquaintance with that gentleman, and the highest respect for him, both on his own account and that of his venerable and patriotic father, who was lately Governor of New Hampshire. It had so happened (said Mr. B.) that, in the very moment of the reading of this article, the member of the House of Representatives, whose statement it contradicted, was coming into the Senate Chamber, and his whitening countenance showed the deep emotion excited in his bosom. The statement which that gentleman had made in the House was in the highest degree consolatory and agreeable to the people of the slaveholding States. He had said that not one in five hundred in his State was in favor of the abolitionists: an expression understood by every body, not as an arithmetical proposition worked out by figures, but as a strong mode of declaring that these abolitionists were few in number. In that sense it was understood, and was a most welcome and agreeable piece of information to the people of the slaveholding States. The newspaper article contradicts him, and vaunts the number of the abolitionists, and the numerous signers to their petition. Now (said Mr. B.), the member of the House of Representatives (Mr. Pierce) has this moment informed me that he knows nothing of these petitions, and knows nothing to change his opinion as to the small number of abolitionists in his State. Mr. B. thought, therefore, that his statement ought not to be considered as discredited by the newspaper publication; and he, for one, should still give faith to his opinion."

In his eagerness to invalidate the statement of Mr. Pierce, Mr. Calhoun had overlooked a solecism of action in which it involved him. His bill to suppress the mail transmission of incendiary publications was still before the Senate, not yet decided; and here was matter read in the Senate, and to go forth as part of its proceedings, the most incendiary and diabolical that had yet been seen. This oversight was perceived by the author of this View, who, after vindicating the statement of Mr. Pierce, went on to expose this solecism, and—

"Took up the bill reported by the select committee on incendiary publications, and read the section which forbade their transmission by mail, and subjected the postmasters to fine and loss of office, who would put them up for transmission; and wished to know whether this incendiary publication, which had been read at the Secretary's table, would be included in the prohibition, after being so read, and thus becoming a part of our debates? As a publication in New Hampshire, it was clearly forbid; as part of our congressional proceedings would it still be forbid? There was a difficulty in this, he said, take it either away. If it could still be inculcated from this floor, then the prohibition in the bill was mere child's play; if it could not, and all the city papers which contained it were to be stopped, then the other congressional proceedings in the same paper would be stopped also; and thus the people would be prevented from knowing what their representatives were doing. It seemed to him to be but lame work to stop incendiary publications in the villages where they were printed, and then to circulate them from this chamber among the proceedings of Congress; and that, issuing from this centre, and spreading to all the points of the circumference of this extended Union, one reading here would give it ten thousand times more notoriety and diffusion than the printing of it in the village could do. He concluded with expressing his wish that the

reporters would not copy into their account of debate the paper that was read. It was too offensive to the member of the House [Mr. Pierce], and would be too disagreeable to the people of the slaveholding States, to be entitled to a place in our debates, and to become a part of our congressional history, to be diffused over the country in gazettes, and transmitted to posterity in the volumes of debates. He hoped they would all omit it."

The reporters complied with this request, and the Congress debates were spared the pollution of this infusion of scurrility, and the permanent record of this abusive assault upon a member of the House because he was a friend to the South. But it made a deep impression upon senators; and Mr. King, of Georgia, adverted to it a few days afterwards to show the strangeness of the scene—Southern senators attacking their Northern friends because they defended the South. He said:

"It was known that there was a talented, patriotic, and highly influential member of the other House, from New Hampshire [Mr. Pierce], to whose diligence and determined efforts he had heard attributed, in a great degree, the present prostrate condition of the abolitionists in that State. He had been the open and active friend of the South from the beginning, and had encountered the hostility of the abolitionists in every form. He had made a statement of the strength and prospects of the abolitionists in his State, near the commencement of the session, that was very gratifying to the people of the South. This statement was corroborated by one of the senators from that State a few days after, and the senator from Carolina rose, and, without due reflection, he was very sure, drew from his pocket a dirty sheet, an abolition paper, containing a scurrilous article against the member from New Hampshire, which pronounced him an impostor and a liar. The same thing in effect had just been repeated by the senator from Mississippi against one of the best friends of the South, Governor Marcy, of New-York. [Here Mr. Calhoun rose to explain, and said he had intended, by the introduction of the paper, no disrespect to the member from New Hampshire; and Mr. Black also rose to say he only wished to show the course the abolitionists were pursuing, and their future views.] Mr. King said he had been interrupted by the senators, but corrected by neither of them. He was not attacking their motives, but only exposing their mistakes. The article read by his friend from Carolina was abusive of the member from New Hampshire, and contradicted his statements. The article read by his friend from Mississippi against Governor Marcy was of a similar character. It abused, menaced, and contradicted him. These abusive productions would seem to be credited and adopted by those who used them as evidence, and incorporated them in their speeches. Here, then, was a contest in the North between the most open and avowed friends of the South and the abolitionists; and we had the strange exhibition of Southern gentlemen apparently espousing the cause of the latter, who were continually furnishing them evidence with which to aid them in the contest. Did gentlemen call this backing their friends? What encouragement did such treatment afford to our friends at the North to step forth in our behalf?"

Mr. King did not limit himself to the defence of Mr. Pierce, but went on to deny the increase of abolitionism at the North, and to show that it was dying out there until revived by agitation here. He said:

"A great deal had been stated in one form or other, and in one quarter or other, as to the numbers and increase of these disturbers of the peace; and he did not undertake to say what was the fact. He learned, and thought it probable, that they had increased since the commencement of the session, and had heard also the increase attributed to the manner in which the subject had been treated here. However this might be, what he insisted on was, that those base productions were no evidence of the fact, or of any fact; and especially should not

be used by Southern men, in opposition to the statements of high-minded, honorable men at the North, who were the active and efficient friends of the South."

As an evidence of the manner in which the English emissary, George Thompson, had been treated in the North, upon whose labors so much stress had been laid in the South, Mr. King read from an English newspaper (the Leeds Mercury), Thompson's own account of his mission as written to his English employers; thus:

"Letters of a most distressing nature have been received from Mr. George Thompson, the zealous and devoted missionary of slave emancipation, who has gone from this country to the United States, and who writes from Boston. He says that 'the North (that is, New England, where slavery does not exist), has universally sympathized with the South,' in opposition to the abolitionists; that 'the North has let fall the mask;' that 'merchants and mechanics, priests and politicians, have alike stood forth the defenders of Southern despots, and the furious denouncers of Northern philanthropy;' that all parties of politics, especially the supporters of the two rivals for the presidential office (Van Buren and Webster), vie with each other in denouncing the abolitionists; and that even religious men shun them, except when the abolitionists can fairly gain a hearing from them. With regard to himself, he speaks as follows: 'Rewards are offered for my abduction and assassination; and in every direction I meet with those who believe they would be doing God and their country service by depriving me of life. I have appeared in public, and some of my escapes from the hands of my foes have been truly providential. On Friday last, I narrowly escaped losing my life in Concord, New Hampshire.' 'Boston, September 11.—This morning a short gallows was found standing opposite the door of my house, 23 Bay-street, in this city, now occupied by Garrison. Two halters hung from the beam, with the words above them, By order of Judge Lynch!'"

Mr. Hill corroborated the account which this emissary gave of his disastrous mission, and added that he had escaped from Concord in the night, and in woman's clothes: and then said:

"The present agitation in the North is kept up by the application of money; it is a state of things altogether forced. Agents are hired, disguised in the character of ministers of the Gospel, to preach abolition of slavery where slavery does not exist; and presses are kept in constant employment to scatter abolition publications through the country. Deny the right of petition to the misguided men and women who are induced from no bad motive to petition for the abolition of slavery in the District of Columbia, and you do more to increase their numbers than will thousands of dollars paid to the emissaries who traverse the country to distribute abolition tracts and to spread abolition doctrines. Continue to debate abolition in either branch of Congress, and you more effectually subserve the incendiary views of the movers of abolition than any thing they can do for themselves. It may suit those who have been disappointed in all their political projects, to try what this subject of abolition will now avail them. Such men will be likely to find, in the end, that the people have too strong attachment for that happy Union, to which we owe all our prosperity and happiness, to be thrown from their propriety at every agitating blast which may be blown across the land."

Mr. Webster gave his opinion in favor of receiving the petitions, not to grant their prayer, but to yield to a constitutional right on the part of the petitioners; and said:

"He thought they ought to be received, referred, and considered. That was what was usually done with petitions on other subjects, and what had been uniformly done, heretofore, with petitions on this subject also. Those who believed they had an undoubted right to petition, and that Congress had undoubted constitutional authority over the subjects to which their petitions related, would not be satisfied with a refusal to receive the petitions, nor with a formal reception of them, followed by an immediate vote rejecting their prayer. In

parliamentary terms there was some difference between these two modes of proceeding, but it would be considered as little else than a difference in mere form. He thought the question must at some time be met, considered, and discussed. In this matter, as in others, Congress must stand on its reasons. It was in vain to attempt to shut the door against petitions, and expect in that way to avoid discussion. On the presentment of the first of these petitions, he had been of opinion that it ought to be referred to the proper committee. He was of that opinion still. The subject could not be stifled. It must be discussed, and he wished it should be discussed calmly, dispassionately, and fully, in all its branches, and all its bearings. To reject the prayer of a petition at once, without reference or consideration, was not respectful; and in this case nothing could be possibly gained by going out of the usual course of respectful consideration."

The trial votes were had upon the petition of the Society of Friends, the Caln petition; and on Mr. Calhoun's motion to refuse to receive it. His motion was largely rejected—35 to 10. The vote to receive was: Messrs. Benton, Brown, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Illinois, Ewing of Ohio, Goldsborough, Grundy, Hendricks, Hill, Hubbard, Kent, King of Alabama, King of Georgia, Knight, Linn, McKean, Morris, Naudain, Niles, Prentiss, Robbins, Robinson, Ruggles, Shepley, Southard, Swift, Tallmadge, Tipton, Tomlinson, Wall, Webster, Wright. The nays were: Messrs. Black, Calhoun, Cuthbert, Leigh, Moore, Nicholas, Porter, Preston, Walker, White.

The motion to reject the petition being thus lost (only a meagre minority of the Southern members voting for it), the motion to reject its prayer next came on; and on that motion Mr. Calhoun refused to vote, saying:

"The Senate has by voting to receive this petition, on the ground on which the reception was placed, assumed the principle that we are bound to receive petitions to abolish slavery, whether in this District or the States; that is, to take jurisdiction of the question of abolishing slavery whenever and in whatever manner the abolitionists may think proper to present the question. He considered this decision pregnant with consequences of the most disastrous character. When and how they were to occur it was not for him to predict; but he could not be mistaken in the fact that there must follow a long train of evils. What, he would ask, must hereafter be the condition on this floor of the senators from the slaveholding States? No one can expect that what has been done will arrest the progress of the abolitionists. Its effects must be the opposite, and instead of diminishing must greatly increase the number of the petitions. Under the decision of the Senate, we of the South are doomed to sit here and receive in silence, however outrageous or abusive in their language towards us and those whom we represent, the petitions of the incendiaries who are making war on our institutions. Nay, more, we are bound, without the power of resistance to see the Senate, at the request of these incendiaries, whenever they think proper to petition, extend its jurisdiction on the subject of slavery over the States as well as this District. Thus deprived of all power of effectual resistance, can any thing be considered more hopeless and degrading than our situation; to sit here, year after year, session after session, hearing ourselves and our constituents vilified by thousands of incendiary publications in the form of petitions, of which the Senate, by its decision, is bound to take jurisdiction, and against which we must rise like culprits to defend ourselves, or permit them to go uncontradicted and unresisted? We must ultimately be not only degraded in our own estimation and that of the world, but be exhausted and worn out in such a contest."

This was a most unjustifiable assumption on the part of Mr. Calhoun, to say that in voting to receive this petition, confined to slavery in the District of Columbia, the Senate took jurisdiction of the question in the States—jurisdiction of the question of abolishing slavery

whenever, and in whatever manner, the abolitionists might ask. It was unjustifiable towards the Senate, and giving a false alarm to the South. The thirty-five senators voting to receive the petition wholly repudiated the idea of interfering with slavery in the States. Twelve of them were from the slaveholding States, so that Mr. Calhoun was outvoted in his own half of the Union. The petition itself was confined to the object of emancipation and the suppression of the slave trade in the District of Columbia, where it alleged, and truly that Congress possessed jurisdiction; and there was nothing either in the prayer, or in the language of the petition to justify the inferences drawn from its reception, or to justify the assumption that it was an insult and outrage to the senators from the slaveholding States. It was a brief and temperate memorial in these words:

"The memorial of Caln Quarterly Meeting of the Religious Society of Friends, commonly called Quakers, respectfully represents: That, having long felt deep sympathy with that portion of the inhabitants of these United States which is held in bondage, and having no doubt that the happiness and interests, moral and pecuniary, of both master and slave, and our whole community, would be greatly promoted if the inestimable right to liberty was extended equally to all, we contemplate with extreme regret that the District of Columbia, over which you possess entire control, is acknowledged to be one of the greatest marts for the traffic in the persons of human beings in the known world, notwithstanding the principles of the constitution declare that all men have an unalienable right to the blessing of liberty. We therefore earnestly desire that you will enact such laws as will secure the right of freedom to every human being residing within the constitutional jurisdiction of Congress, and prohibit every species of traffic in the persons of men, which in as inconsistent in principle and inhuman in practice as the foreign slave trade."

This was the petition. It was in favor of emancipation in the District, and prayed the suppression of the slave trade in the District; and neither of these objects had any relation to emancipation or the slave trade, in the States. Mr. Preston, the colleague of Mr. Calhoun, gave his reasons for voting to reject the prayer of the petition, having failed in his first object to reject the petition itself: and Mr. Davis, of Massachusetts, repulsed the inferences and assumptions of Mr. Calhoun in consequence of the vote to receive the petition. He denied the justice of any suggestion that it portended mischief to the South, to the constitution, or to the Union; or that it was to make the District the headquarters of abolitionists, and the stepping-stone and entering wedge to the attack of slavery in the States: and said:

"Neither the petition on which the debate had arisen, nor any other that he had seen, proposed directly or indirectly to disturb the Union, unless the abolition of slavery in this District, or the suppression or regulation of the slave trade within it, would have that effect. For himself, Mr. D. believed no purpose could be further than this from the minds of the petitioners. He could not determine what thoughts or motives might be in the minds of men, but he judged by what was revealed; and he could not persuade himself that these petitioners were not attached to the Union and that they had (as had been suggested) any ulterior purpose of making this District the headquarters of future operation—the stronghold of anti-slavery—the stepping-stone to an attack upon the constitutional rights of the South. He was obliged to repudiate these inferences as unjust, for he had seen no proof to sustain them in any of the petitions that had come here. The petitioners entertained opinions coincident with their fellow-citizens as to the power of Congress to legislate in regard to slavery in this District; and being desirous that slavery should cease here, if it could be abolished upon just principles; and, if not, that the traffic carried on here from other quarters should be suppressed or regulated, they came here to ask Congress to investigate the matter. This was all; and he could see no evidence in it of a clandestine purpose to disregard the constitution or to disturb the Union."

The vote was almost unanimous on Mr. Buchanan's motion—34 to 6; and those six against it, not because they were in favor of granting the prayer of the memorialists, but because they believed that the petition ought to be referred to a committee, reported upon, and then rejected—which was the ancient mode of treating such petitions; and also the mode in which they were now treated in the House of Representatives. The vote was:

"Yeas—Messrs. Benton, Black, Brown, Buchanan, Clay, Crittenden, Cuthbert, Ewing of Illinois, Ewing of Ohio, Goldsborough, Grundy, Hill, Hubbard, King of Alabama, King of Georgia, Leigh, Linn, McKean, Moore, Nicholas, Niles, Porter, Preston, Robbins, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Tomlinson, Walker, Wall, White, Wright—34.

"Nays—Messrs. Davis, Hendricks, Knight, Prentiss, Swift, Webster—6."

After this decision, Mr. Webster gave notice that he had in hand several similar petitions, which he had forborne to present till this one from Pennsylvania should be disposed of; and that now he should, on an early occasion, present them, and move to dispose of them in the way in which it had been his opinion from the first that all such petitions should have been treated; that is, referred to a committee for consideration and inquiry.

The action of the House of Representatives will now be seen on the subject of these petitions; for duplicates of the same generally went to that body; and there, under the lead of a South Carolina member, and with large majorities of the House, they were disposed of very differently from the way that Mr. Calhoun demanded in the Senate, and in the way that he deemed so fatal to the slaveholding States. Mr. Henry L. Pinckney, of the Charleston district, moved that it be—

"*Resolved*, That all the memorials which have been offered, or may hereafter be presented to this House, praying for the abolition of slavery in the District of Columbia; and also the resolutions offered by an honorable member from Maine (Mr. Jarvis), with the amendment thereto proposed by an honorable member from Virginia (Mr. Wise), together with every other paper or proposition that may be submitted in relation to the subject, be referred to a select committee, with instructions to report: that Congress possesses no constitutional authority to interfere in any way with the institution of slavery in any of the States of this confederacy: and that in the opinion of this House, Congress ought not to interfere, in any way, with slavery in the District of Columbia, because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union. Assigning such reasons for these conclusions, as, in the judgment of the committee, may be best calculated to enlighten the public mind, to allay excitement, to repress agitation, to secure and maintain the just rights of the slave-holding States, and of the people of this District, and to restore harmony and tranquillity amongst the various sections of this Union."

On putting the question the motion was divided, so as to have a separate vote on the different propositions of the resolve; and each was carried by large, and some by nearly unanimous majorities. On the first division, To refer all the memorials to a select committee, the vote was 174 to 48. On the second division, That Congress possesses no constitutional authority to interfere, in any way, with the institution of slavery in any of the States, the vote was 201 to 7—the seven negatives being Mr. John Quincy Adams, Mr. Harmer Denny of Pennsylvania, Mr. William Jackson, Mr. Horace Everett of Vermont, Mr. Rice Garland of Louisiana, Mr. Thomas Glascock of Georgia, Mr. William Jackson, Mr. John Robertson of Virginia; and they, because opposed to voting on such a proposition, deemed gratuitous and intermeddling. On the third division, of the resolve, That Congress ought not to interfere in any way with slavery in the District of Columbia, the vote stood 163 to 47. And on the fourth division,

giving as reasons for such non-interference, Because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union, the vote was, 127 to 75. On the last division, To assign reasons for this report, the vote stood 167 to 6. So the committee was ordered, and consisted of Mr. Pinckney, Mr. Hamer of Ohio, Mr. Pierce of New Hampshire, Mr. Hardin of Kentucky, Mr. Jarvis of Maine, Mr. Owens of Georgia, Mr. Muhlenberg of Pennsylvania, Mr. Dromgoole of Virginia, and Mr. Turrill of New-York. The committee reported, and digested their report into two resolutions, *first*, That Congress possesses no constitutional authority to interfere, in any way, with the institution of slavery in any State of this confederacy. *Secondly*, That Congress ought not to interfere in any way with slavery in the District of Columbia. And, "for the purpose of arresting agitation, and restoring tranquillity to the public mind," they recommended the adoption of this resolve: "That all petitions, memorials, resolutions, propositions, or papers relating in any way to the subject of slavery, or the abolition of slavery, shall, without either being printed or referred, be laid upon the table; and that no further action whatever be had upon them." All these resolutions were adopted; and the latter one by a vote of 117 to 68; so that the House came to the same course which the Senate had taken in relation to these memorials. Mr. Adams, whose votes, taken by themselves, might present him as acting with the abolitionists, was entirely opposed to their objects, and was governed by a sense of what appeared to him to be the right of petition, and also the most effectual way of putting an end to an agitation which he sincerely deprecated. And on this point it is right that he should be heard for himself, as speaking for himself when Mr. Pinckney's motion was before the House. He then said:

"But, sir, not being in favor of the object of the petitions, I then gave notice to the House and to the country, that upon the supposition that these petitions had been transmitted to me under the expectation that I should present them, I felt it my duty to say, I should not support them. And, sir, the reason which I gave at that time for declining to support them was precisely the same reason which the gentleman from Virginia now gives for reconsidering this motion—namely, to keep the discussion of the subject out of the House. I said, sir, that I believed this discussion would be altogether unprofitable to the House and to the country; but, in deference to the sacred right of petition, I moved that these fifteen petitions, all of which were numerously signed, should be referred to the Committee on the District of Colombia, at the head of which was, at that time, a distinguished citizen of Virginia now, I regret to say—and the whole country has occasion to regret—no more. These petitions were thus referred, and, after a short period of time, the chairman of the Committee on the District of Columbia made a report to this House, which report was read, and unanimously accepted; and nothing more has been heard of these petitions from that day to this. In taking the course I then took, I was not sustained by the unanimous voice of my own constituents; there were many among them, persons as respectable and as entitled to consideration as any others, who disapproved of the course I pursued on that occasion.

"Attempts were made within the district I then represented to get up meetings of the people to instruct me to pursue a different course, or to multiply petitions of the same character. These efforts were continued during the whole of that long session of Congress; but I am gratified to add, without any other result than that, from one single town of the district which I had the honor to represent, a solitary petition was forwarded before the close of the session, with a request that I would present it to the House. Sir, I did present it, and it was referred to the same Committee on the District of Columbia, and I believe nothing more has been heard of it since. From the experience of this session, I was perfectly satisfied that the true and only method of keeping this subject out of discussion was, to take that course; to refer all petitions of this kind to the Committee on the District of Columbia, or some other committee of the House, to receive their report, and to accept it unanimously. This does equal justice to all

parties in the country; it avoids the discussion of this agitating question on the one hand, and, on the other, it pays a due respect to the right of the constituent to petition. Two years afterwards, similar petitions were presented, and at that time an effort made, without success, to do that which has now been done successfully in one instance. An effort was made to lay these petitions on the table; the House did not accede to the proposition: they referred the petitions as they had been before referred, and with the same result. For, from the moment that these petitions are referred to the Committee on the District of Columbia, they go to the family vault 'of all the Capulets,' and you will never hear of them afterwards.

"At the first session of the last Congress, a gentleman from the State of New-York, a distinguished member of this House, now no longer here, which I regret to say, although I do not doubt that his place is well supplied, presented one or more petitions to this effect, and delivered a long and eloquent speech of two hours in support of them. And what was the result? He was not answered: not a word was said, but the vote of the House was taken; the petitions were referred to the Committees on the District, and we have heard nothing more of them since. At the same session, or probably at the very last session, a distinguished member of this House, from the State of Connecticut, presented one or more petitions to the same effect, and declared in his place that he himself concurred in all the opinions expressed. Did this declaration light up the flame of discord in this House? Sir, he was heard with patience and complacency. He moved the reference of the petitions to the Committee on the District of Columbia, and there they went to sleep the sleep of death. Mr. Adams, speaking from recollection, was [the reporter is requested by him to state] mistaken with respect to the reference of the petitions presented at the last session of Congress to the committee. They were then for the first time laid on the table, as was the motion to print one of them. At the preceding session of the last Congress, as at all former times, all such petitions had been referred to committees and printed when so desired. Why not adopt the same course now? Here is a petition which has been already referred to the Committee on the District of Columbia. Leave it there, and, my word for it, sir, you will have just such a result as has taken place time after time before. Your Committee on the District certainly is not an abolition committee. You will have a fit, proper, and able report from them; the House, *sub silentio*, will adopt it, and you will hear no more about it. But if you are to reconsider the vote, and to lay these petitions on the table; if you come to the resolution that this House will not receive any more petitions, what will be the consequence? In a large portion of this country every individual member who votes with you will be left at home at the next election, and some one will be sent who is not prepared to lay these petitions on the table."

There was certainly reason in what Mr. Adams proposed, and encouragement to adopt his course, from the good effect which had already attended it in other cases; and from the further good effect which he affirmed, that, in taking that course, the committee and the House would have come to the same conclusion by a unanimous, instead of a divided vote, as at present. His course was also conformable to that of the earliest action of Congress upon the subject. It was in the session of Congress of 1789-'90—being the first under the constitution—that the two questions of abolishing the foreign slave trade, and of providing for domestic emancipation, came before it; and then, as in the case of the Caln Memorial, from the Religious Society of Friends, there was discussion as to the mode of acting upon it—which ended in referring the memorial to a special committee, without instructions. That committee, a majority being from the non-slaveholding States, reported against the memorial on both points; and on the question of emancipation in the States, the resolve which the committee recommended (after having been slightly altered in phraseology), read thus: "*That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States to provide any regulations*

therein which humanity and true policy may require." And under this resolve, and this treatment of the subject, the slavery question was then quieted; and remained so until revived in our own time. In the discussion which then took place Mr. Madison was entirely in favor of sending the petition to a committee; and thought the only way to get up an agitation in the country, would be by opposing that course. He said:

"The question of sending the petition to a committee was no otherwise important than as gentlemen made it so by their serious opposition. Had they permitted the commitment of the memorial, as a matter of course, no notice would have been taken of it out of doors: it could never have been blown up into a decision of the question respecting the discouragement of the African slave trade, nor alarm the owners with an apprehension that the general government were about to abolish slavery in all the States. Such things are not contemplated by any gentleman, but they excite alarm by their extended objections to committing the memorials. The debate has taken a serious turn; and it will be owing to this alone if an alarm is created: for, had the memorial been treated in the usual way, it would have been considered, as a matter of course; and a report might have been made so as to give general satisfaction. If there was the slightest tendency by the commitment to break in upon the constitution, he would object to it: but he did not see upon what ground such an event could be apprehended. The petition did not contemplate even a breach of the constitution: it prayed, in general terms, for the interference of Congress so far as they were constitutionally authorized."

This chapter opens and concludes with the words of Mr. Madison. It is beautiful to behold the wise, just, and consistent course of that virtuous and patriotic man—the same from the beginning to the ending of his life; and always in harmony with the sanctity of the laws, the honor and interests of his country, and the peace of his fellow-citizens. May his example not be lost upon us. This chapter has been copious on the subject of slavery. It relates to a period when a new point of departure was taken on the slave question; when the question was carried into Congress with avowed alternatives of dissolving the Union; and conducted in a way to show that dissolution was an object to be attained, not prevented; and this being the starting point of the slavery agitation which has since menaced the Union, it is right that every citizen should have a clear view of its origin, progress, and design. From the beginning of the Missouri controversy up to the year 1835, the author of this View looked to the North as the point of danger from the slavery agitation: since that time he has looked to the South for that danger, as Mr. Madison did two years earlier. Equally opposed to it in either quarter, he has opposed it in both.

136. Removal Of The Cherokees From Georgia

The removal of the Creek Indians from this State was accomplished by the treaty of 1826, and that satisfied the obligations of the United States to Georgia, under the compact of 1802, so far as the Creek tribe was concerned. But the same obligation remained with respect to the Cherokees, contracted at the same time, and founded on the same valuable consideration, namely: the cession by Georgia to the United States of her western territory, now constituting the two States of Alabama and Mississippi. And twenty-five years' delay, and under incessant application, the compact had been carried into effect with respect to the Creeks; it was now thirty-five years since it was formed, and it still remained unexecuted with respect to the Cherokees. Georgia was impatient and importunate, and justly so, for the removal of this tribe, the last remaining obstacle to the full enjoyment of all her territory. General Jackson was equally anxious to effect the removal, both as an act of justice to Georgia, and also to Alabama (part of whose territory was likewise covered by the Cherokees), and also to complete the business of the total removal of all the Indians from the east to the west side of the Mississippi. It was the only tribe remaining in any of the States, and he was in the last year of his presidency, and the time becoming short, as well as the occasion urgent, and the question becoming more complex and difficult. Part of the tribe had removed long before. Faction split the remainder that staid behind. Intrusive counsellors, chiefly from the Northern States, came in to inflame dissension, aggravate difficulties, and impede removal. For climax to this state of things, party spirit laid hold of it, and the politicians in opposition to General Jackson endeavored to turn it to the prejudice of his administration. Nothing daunted by this combination of obstacles, General Jackson pursued his plan with firmness and vigor, well seconded by his Secretary at War, Mr. Cass—the War Department being then charged with the administration of the Indian affairs. In the autumn of 1835, a commission had been appointed to treat with the half tribe in Georgia and Alabama. It was very judiciously composed to accomplish its purpose, being partly military and partly ecclesiastic. General William Carroll, of Tennessee, well known to all the Southern Indians as a brave and humane warrior, and the Reverend John F. Schermerhorn, of New-York, well known as a missionary laborer, composed the commission; and it had all the success which the President expected.

In the winter of 1835-'36, a treaty was negotiated, by which the Cherokees, making clean disposal of all their possessions east of the Mississippi, ceded the whole, and agreed to go West, to join the half tribe beyond that river. The consideration paid them was ample, and besides the moneyed consideration, they had large inducements, founded in views of their own welfare, to make the removal. These inducements were set out by themselves in the preamble to the treaty, and were declared to be: "A desire to get rid of the difficulties experienced by a residence within the settled parts of the United States; and to reunite their people, by joining those who had crossed the Mississippi; and to live in a country beyond the limits of State sovereignties, and where they could establish and enjoy a government of their choice, and perpetuate a state of society, which might be most consonant with their views, habits, and condition, and which might tend to their individual comfort, and their advancement in civilization." These were sensible reasons for desiring a removal, and, added to the moneyed consideration, made it immensely desirable to the Indians. The direct consideration was five millions of dollars, which, added to stipulations to pay for the improvements on the ceded lands—to defray the expenses of removal to their new homes beyond the Mississippi—to subsist them for one year after their arrival—to commute school funds and annuities—to allow pre-emptions and pay for reserves—with some liberal grants of money from Congress, for the sake of quieting complaints—and some large departmental

allowances, amounted, in the whole, to more than twelve millions of dollars! Being almost as much for their single extinction of Indian title in the corner of two States, as the whole province of Louisiana cost! And this in addition to seven millions of acres granted for their new home, and making a larger and a better home than the one they had left. Considered as a moneyed transaction, the advantage was altogether, and out of all proportion, on the side of the Indians; but relief to the States, and quiet to the Indians, and the completion of a wise and humane policy, were overruling considerations, which sanctioned the enormity of the amount paid.

Advantageous as this treaty was to the Indians, and desirable as it was to both parties, it was earnestly opposed in the Senate; and only saved by one vote. The discontented party of the Cherokees, and the intrusive counsellors, and party spirit, pursued it to Washington city, and organized an opposition to it, headed by the great chiefs then opposed to the administration of General Jackson—Mr. Clay, Mr. Webster, and Mr. Calhoun. Immediately after the treaty was communicated to the Senate, Mr. Clay presented a memorial and protest against it from the "Cherokee nation," as they were entitled by the faction that protested; and also memorials from several individual Cherokees; all which were printed and referred to the Senate's Committee on Indian Affairs, and duly considered when the merits of the treaty came to be examined. The examination was long and close, extending at intervals for nearly three months—from March 7th to the end of May—and assuming very nearly a complete party aspect. On the 18th of May Mr. Clay made a motion which, as disclosing the grounds of the opposition to the treaty, deserves to be set out in its own words. It was a motion to reject the resolution of ratification, and to adopt this resolve in its place: "That the instrument of writing, purporting to be a treaty concluded at New Echota on the 29th of December, 1835, between the United States and the chiefs, head men and people of the Cherokee tribe of Indians, and the supplementary articles thereto annexed, were not made and concluded by authority, on the part of the Cherokee tribe, competent to bind it; and, therefore, without reference to the terms and conditions of the said agreement and supplementary articles, the Senate cannot consent to and advise the ratification thereof, as a valid treaty, binding upon the Cherokee tribe or nation;" concluding with a recommendation to the President to treat again with the Cherokees east of the Mississippi for the whole, or any of their possessions on this side of that river. The vote on this resolve and recommendation was, 29 yeas to 15 nays; and it requiring two-thirds to adopt it, it was, of course, lost. But it showed that the treaty itself was in imminent danger of being lost, and would actually be lost, in a vote, as the Senate then stood. The whole number of the Senate was forty-eight; only forty-four had voted. There were four members absent, and unless two of these could be got in, and vote with the friends of the treaty, and no one got in on the other side, the treaty was rejected. It was a close pinch, and made me recollect what I have often heard Mr. Randolph say, that there were always members to get out of the way at a pinching vote, or to lend a hand at a pinching vote. Fortunately the four absent senators were classified as friends of the administration, and two of them came in to our side, the other two refusing to go to the other side: thus saving the treaty by one vote. The vote stood, thirty-one for the treaty, fifteen against it; and it was only saved by a strong Northern vote. The yeas were: Messrs. Benton of Missouri; Black of Mississippi; Brown of North Carolina; Buchanan of Pennsylvania; Cuthbert of Georgia; Ewing of Illinois; Goldsborough of Maryland; Grundy of Tennessee; Hendricks of Indiana; Hubbard of New Hampshire; Kent of Maryland; King of Alabama; King of Georgia; Linn of Missouri; McKean of Pennsylvania; Mangum of North Carolina; Moore of Alabama; Morris of Ohio; Niles of Connecticut; Preston of South Carolina; Rives of Virginia; Robinson of Illinois; Ruggles and Shepley of Maine; N. P. Tallmadge of New-York; Tipton of Illinois; Walker of Mississippi; Wall of New Jersey; White of Tennessee; and Wright of New-York—31. The nays were: Messrs. Calhoun of South Carolina; Clay of

Kentucky; Clayton of Delaware; Crittenden of Kentucky; Davis of Massachusetts; Ewing of Ohio; Leigh of Virginia; Naudain of Delaware; Porter of Louisiana; Prentiss of Vermont; Robbins of Rhode Island; Southard of New Jersey; Swift of Vermont; Tomlinson of Connecticut; and Webster of Massachusetts—15. Thus the treaty was barely saved. One vote less in its favor, or one more against it, and it would have been lost. Two members were absent. If either had come in and voted with the opposition, it would have been lost. It was saved by the free State vote—by the fourteen free State affirmative votes, which precisely balanced and neutralized the seven slave State negatives. If any one of these fourteen had voted with the negatives, or even been absent at the vote, the treaty would have been lost; and thus the South is indebted to the North for this most important treaty, which completed the relief of the Southern States—the Chickasaws, Creeks and Choctaws having previously agreed to remove, and the treaties with them (except with the Creeks) having been ratified without serious opposition.

The ratification of this treaty for the removal of the Cherokees was one of the most difficult and delicate questions which we ever had to manage, and in which success seemed to be impossible up to the last moment. It was a Southern question, involving an extension of slavery, and was opposed by all three of the great opposition leaders; who only required a minority of one third to make good their point. At best, it required a good Northern vote, in addition to the undivided South, to carry the treaty; but, with the South divided, it seemed hardly possible to obtain the requisite number to make up for that defection; yet it was done, and done at the very time that the systematic plan had commenced, to charge the Northern States with a design to abolish slavery in the South. And I, who write history, not for applause, but for the sake of the instruction which it affords, gather up these dry details from the neglected documents in which they lie hidden, and bring them forth to the knowledge and consideration of all candid and impartial men, that they may see the just and fraternal spirit in which the free States then acted towards their brethren of the South. Nor can it fail to be observed, as a curious contrast, that, in the very moment that Mr. Calhoun was seeing cause for Southern alarm lest the North should abolish slavery in the South, the Northern senators were extending the area of slavery in Georgia by converting Indian soil into slave soil: and that against strenuous exertions made by himself.

137. Extension Of The Missouri Boundary

This was a measure of great moment to Missouri and full of difficulties in itself, and requiring a double process to accomplish it—an act of Congress to extend the boundary, and an Indian treaty to remove the Indians to a new home. It was to extend the existing boundary of the State so as to include a triangle between the existing line and the Missouri River, large enough to form seven counties of the first class, and fertile enough to sustain the densest population. The difficulties were threefold: 1. To make still larger a State which was already one of the largest in the Union. 2. To remove Indians from a possession which had just been assigned them in perpetuity. 3. To alter the Missouri compromise line in relation to slave territory, and thereby convert free soil into slave soil. The two first difficulties were serious—the third formidable: and in the then state of the public mind in relation to slave territory, this enlargement of a great slave State, and by converting free soil into slave, and impairing the compromise line, was an almost impossible undertaking, and in no way to be accomplished without a generous co-operation from the members of the free States. They were a majority in the House of Representatives, and no act of Congress could pass for altering the compromise line without their aid: they were equal in the Senate, where treaty for the removal of the Indians could be ratified except by a concurrence of two thirds. And all these difficulties to be overcome at a time when Congress was inflamed with angry debates upon abolition petitions, transmission of incendiary publications, imputed designs to abolish slavery; and the appearance of the criminating article in South Carolina entitled the "Crises," announcing a Southern convention and a secession if certain Northern States did not suppress the abolition societies within their limits within a limited time.

In the face of all these discouraging obstacles the two Missouri senators, Messrs. Benton and Linn, commenced their operations. The first was to procure a bill for the alteration of the compromise line and the extension of the boundary: it was obtained from the Judiciary Committee, reported by Mr. John M. Clayton of Delaware: and passed the Senate without material opposition. It went to the House of Representatives; and found there no serious opposition to its passage. A treaty was negotiated with the Sac and Fox Indians to whom the country had been assigned, and was ratified by the requisite two thirds. And this, besides doing an act of generous justice to the State of Missouri, was the noble answer which Northern members gave to the imputed design of abolishing slavery in the States! actually extending it! and by an addition equal in extent to such States as Delaware and Rhode Island; and by its fertility equal to one of the third class of States. And this accomplished by the extraordinary process of altering a compromise line intended to be perpetual, and the reconversion of soil which had been slave, and made free, back again from free to slave. And all this when, had there been the least disposition to impede the proper extension of a slave State, there were plausible reasons enough to cover an opposition, in the serious objections to enlarging a State already the largest in the Union—to removing Indians again from a home to which they had just been removed under a national pledge of no more removals—and to disturbing the compromise line of 1820 on which the Missouri question had been settled; and the line between free and slave territory fixed for national reasons, to remain for ever. The author of this View was part and parcel of all that transaction—remembers well the anxiety of the State to obtain the extension—her joy at obtaining it—the gratitude which all felt to the Northern members without whose aid it could not have been done; and whose magnanimous assistance under such trying circumstances he now records as one of the proofs—(this work contains many others)—of the willingness of the non-slaveholding part of the Union to be just and generous to their slaveholding brethren, even in disregard of cherished prejudices

and offensive criminations. It was the second great proof to this effect at this identical session, the ratification of the Georgia Cherokee treaty being the other.

138. Admission Of The States Of Arkansas And Michigan Into The Union

These two young States had applied to Congress for an act to enable them to hold a convention, and form State constitutions, preparatory to admission into the Union. Congress refused to pass the acts, and the people of the two territories held the convention by their own authority, formed their constitutions—sent copies to Congress, praying admission as States. They both applied at this session, and the proceedings on their respective applications were simultaneous in Congress, though in separate bills. That of Michigan was taken up first, and had been brought before each House in a message from the President in these words:

"By the act of the 11th of January, 1805, all that part of the Indian Territory lying north of a line drawn due 'east from the southerly bend or extreme of Lake Michigan until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend, through the middle of said lake, to its northern extremity, and thence, due north, to the northern boundary of the United States,' was erected into a separate Territory, by the name of Michigan. The Territory comprised within these limits being part of the district of country described in the ordinance of the 13th of July, 1787, which provides that, whenever any of the States into which the same should be divided should have sixty thousand free inhabitants, such State should be admitted by its delegates 'into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government, provided the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles,' the inhabitants thereof have, during the present year, in pursuance of the right secured by the ordinance, formed a constitution and State government. That instrument, together with various other documents connected therewith, has been transmitted to me for the purpose of being laid before Congress, to whom the power and duty of admitting new States into the Union exclusively appertains; and the whole are herewith communicated for your early decision."

The application was referred to a select committee, Mr. Benton the chairman; and a memorial, entitled from the "Legislature of Michigan," was also referred to the same committee, though objected to by some senators as purporting to come from a State which, as yet, had no existence. But the objection was considered by others as being one of form—that it might be considered as coming from the people of Michigan—and was not even material in that point of view, as the question was already before the Senate on the President's Message. Some objection was also made to the boundaries, as being too large, and as trenching upon those of Indiana and Ohio. A bill was reported for the admission of the State, in support of which Mr. Benton said, the committee had included in the proposed limits a considerable portion of territory on the northwest, and had estimated the superficial contents of the State at 60,000 square miles. The territory attached contained but a very small portion of Indian population. It was necessary to make her large and strong, being a frontier State both to the Indians and to the British possessions. It should have a large front on Lake Superior. The principal points of objection, of a permanent character, were, that the proceedings of the people were revolutionary, in forming a constitution without a previous act of Congress; and her constitution inconsistent with that of the United States in admitting aliens to vote before naturalization. To the first it was answered that she had applied for an act of Congress two years ago, and was denied by the then dominant party, and that it was contradictory to object

to her, for not having that which had been refused to be given; and on the second, that the same thing had been done for a quarter of a century. On the latter point Mr. Buchanan said:

"Michigan confined herself to such residents and inhabitants of her territory as were there at the signing of her constitution; and to those alone she extended the right of suffrage. Now, we had admitted Ohio and Illinois into this Union; two sister States, of whom we ought certainly to be very proud. He would refer senators to the provision in the constitution of Ohio on that subject. By it, all white male inhabitants, twenty-one years of age, or upwards, having resided one year in the State, are entitled to vote. Michigan had made the proper distinction; she had very properly confined the elective franchise to inhabitants within the State at the time of the adoption of her constitution; but Ohio had given the right of suffrage as to all future time to all her white inhabitants over the age of twenty-one years; a case embracing all time to come, and not limited as in the constitution of Michigan. He had understood that, since the adoption of her constitution, Ohio had repealed this provision by law. He did not know whether this was so or not; but here it was, as plain as the English language could make it, that all the white male inhabitants of Ohio, above the age of twenty-one years, were entitled to vote at her elections. Well, what had Illinois done in this matter? He would read an extract from her constitution, by which it would appear that only six months' previous residence was required to acquire the right of suffrage. The constitution of Illinois was therefore still broader and more liberal than that of Ohio. There, in all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months previous to the election, shall enjoy the rights of an elector. Now, sir, it had been made a matter of preference by settlers to go to Illinois, instead of the other new States, where they must become citizens before they could vote; and he appealed to the senators from Illinois whether this was not now the case, and whether any man could not now vote in that State after a six months' residence.

"[Mr. Robinson said that such was the fact.]

"Now, here were two constitutions of States, the senator from one of which was most strenuously opposed to the admission of Michigan, who had not extended the right of suffrage as far as was done by either of them. Did Michigan do right in thus fixing the elective franchise? He contended that she did act right; and if she had not acted so, she would not have acted in obedience to the spirit, if not the very letter, of the ordinance of 1787. Michigan took the right ground, while the States of Ohio and Illinois went back in making perpetual in their constitution what was contained in the ordinance. When Congress admitted them and Indiana on this principle, he thought it very ungracious in any of their senators or representatives to declare that Michigan should not be admitted, because she has extended the right of suffrage to the few persons within her limits at the adoption of her constitution. He felt inclined to go a good deal further into this subject; but as he was exceedingly anxious that the decision should be made soon, he would not extend his remarks any further. It appeared to him that an amendment might very well be made to this bill, requiring that the assent of the people of Michigan shall be given to the change of boundary. He did hope that by this bill all objections would be removed; and that this State, so ready to rush into our arms, would not be repulsed, because of the absence of some formalities, which, perhaps, were very proper, but certainly not indispensable."

On the other point, that of a revolutionary movement, Mr. Buchanan answered:

"I think their course is clearly justifiable; but if there to any thing wrong or unusual in it, it is to be attributed to the neglect of Congress. For three years, they have been rapping at your door, and asking for the consent of Congress to form a constitution, and for admission into the Union; but their petitions have not been heeded, and have been treated with neglect. Not being able to be admitted in the way they sought, they have been forced to take their own

course, and stand upon their rights—rights secured to them by the constitution and a solemn irrepealable ordinance. They have taken the census of the territory; they have formed a constitution, elected their officers, and the whole machinery of a State government is ready to be put in operation: they are only awaiting your action. Having assumed this attitude, they now demand admission as a matter of right: they demand it as an act of justice at your hands. Are they now to be repelled, or to be told that they must retrace their steps, and come into the Union in the way they at first sought to do, but could not obtain the sanction of Congress? Sir, I fear the consequences of such a decision; I tremble at an act of such injustice."

The bill passed the Senate by rather a close vote—twenty-four to eighteen; the latter being all senators in the opposition. It then went to the House of Representatives for concurrence. From the time of the admission of new States, it had been the practice to admit a free and slave State together, or alternately, so as to keep up a numerical equilibrium between them—a practice resulting from some slight jealousy existing, from the beginning, between the two classes of States. In 1820, when the Missouri controversy inflamed that jealousy, the State of Massachusetts divided herself to furnish territory for the formation of a new free State (Maine) to balance Missouri; and the acts of Congress *for* the admission of both, were passed contemporaneously, March, 1820. Now, in 1836, when the slave question again was much inflamed, and a State of each kind to be admitted, the proceedings for that purpose were kept as nearly together as possible, not to include them in the same bill. The moment, then, that the Michigan bill had passed the Senate, that of Arkansas was taken up, under the lead of Mr. Buchanan, to whom the Arkansas application had been confided, as that of Michigan had been to Mr. Benton. This latter senator alluded to this circumstance to show that the people of these young States had no fear of trusting their rights and interests to the care of senators differing from themselves on the slavery question. He said:

"It was worthy of notice, that, on the presentation of these two great questions for the admission of two States, the people of those States were so slightly affected by the exertions that had been made to disturb and ulcerate the public mind on the subject of slavery, as to put them in the hands of senators who might be supposed to entertain opinions on that subject different from those held by the States whose interests they were charged with. Thus, the people of Arkansas had put their application into the hands of a gentleman representing a non-slaveholding State; and the people of Michigan had put their application into the hands of a senator (himself) coming from a State where the institutions of slavery existed; affording a most beautiful illustration of the total impotence of all attempts to agitate and ulcerate the public mind on the worn-out subject of slavery. He would further take occasion to say, that the abolition question seemed to have died out; there not having been a single presentation of a petition on that subject, since the general jail delivery ordered by the Senate."

Mr. Swift, of Vermont, could not vote for the admission of Arkansas, because the constitution of the State sanctioned perpetual slavery; and said:

"That, although he felt every disposition to vote for the admission of the new State into the Union, yet there were operative reasons under which he must vote against it. On looking at the constitution submitted by Arkansas, he found that they had made the institution of slavery perpetual; and to this he could never give his assent. He did not mean to oppose the passage of the bill, but had merely risen to explain the reasons why he could not vote for it."

Mr. Buchanan felt himself bound by the Missouri compromise to vote for the admission, and pointed out the ameliorating feature in the constitution which guaranteed the right of jury trials to slaves; and said:

“That, on the subject of slavery, this constitution was more liberal than the constitution of any of the slaveholding States that had been admitted into the Union. It preserved the very words of the other constitutions, in regard to slavery; but there were other provisions in it in favor of the slaves, and among them a provision which secured to them the right of trial by jury; thus putting them, in that particular, on an equal footing with the whites. He considered the compromise which had been made, when Missouri was admitted into the Union, as having settled the question as to slavery in the new South Western States; and the committee, therefore, did not deem it right to interfere with the question of slavery in Arkansas.”

Mr. Prentiss, of Vermont, opposed the admission, on account of the “revolutionary” manner in which the State had held her convention, without the authorization of a previous act of Congress, and because her constitution had given perpetual sanction to slavery; and, referring to the reasons which induced him to vote against the admission of Michigan, said:

“That he must also vote against the admission of Arkansas. He viewed the movements of these two territories, with regard to their admission into the Union, as decidedly revolutionary, forming their constitution without the previous consent of Congress, and importunately knocking at its doors for admission. The objections he had to the admission of Arkansas, particularly, were, that she had formed her constitution without the previous assent of Congress, and in that constitution had made slavery perpetual, as noticed by his colleague. He regretted that he was compelled to vote against this bill; but he could not, in the discharge of his duty, do otherwise.”

Mr. Morris, of Ohio, spoke more fully on the objectionable point than other senators, justifying the right of the people of a territory, when amounting to 60,000 to meet and form their own constitution—regretting the slavery clause in the constitution of Arkansas, but refusing to vote against her on that account, as she was not restrained by the ordinance of 1787, nor had entered into agreement against slavery. He said:

“Before I record my vote in favor of the passage of the bill under consideration, I must ask the indulgence of the Senate for a moment, while I offer a few of the reasons which govern me in the vote I shall give. Being one of the representatives of a free State, and believing slavery to be wrong in principle, and mischievous in practice, I wish to be clearly understood on the subject, both here and by those I have the honor to represent. I have objections to the constitution of Arkansas, on the ground that slavery is recognized in that constitution, and settled and established as a fundamental principle in her government. I object to the existence of this principle forming a part of the organic law in any State; and I would vote against the admission of Arkansas, as a member of this Union, if I believed I had the power to do so. The wrong, in a moral sense, with which I view slavery, would be sufficient for me to do this, did I not consider my political obligations, and the duty, as a member of this body, I owe to the constitution under which I now act, clearly require of me the vote I shall give. I hold that any portion of American citizens, who may reside on a portion of the territory of the United States, whenever their numbers shall amount to that which would entitle them to a representation in the House of Representatives in Congress, have the right to provide for themselves a constitution and State government, and to be admitted into the Union whenever they shall so apply; and they are not bound to wait the action of Congress in the first instance, except there is some compact or agreement requiring them to do so. I place this right upon the broad, and, I consider, indisputable ground, that all persons, living within the jurisdiction of the United States, are entitled to equal privileges; and it ought to be matter of high gratification to us here, that, in every portion, even the most remote, of our country, our people are anxious to obtain this high privilege at as early a day as possible. It furnishes clear

proof that the Union is highly esteemed, and has its foundation deep in the hearts of our fellow-citizens.

“By the constitution of the United States, power is given to Congress to admit new States into the Union. It is in the character of a State that any portion of our citizens, inhabiting any part of the territory of the United States, must apply to be admitted into the Union; a State government and constitution must first be formed. It is not necessary for the power of Congress, and I doubt whether Congress has such power, to prescribe the mode by which the people shall form a State constitution; and, for this plain reason, that Congress would be entirely incompetent to the exercise of any coercive power to carry into effect the mode they might prescribe. I cannot, therefore, vote against the admission of Arkansas into the Union, on the ground that there was no previous act of Congress to authorize the holding of her convention. As a member of Congress, I will not look beyond the constitution that has been presented. I have no right to presume it was formed by incompetent persons, or that it does not fully express the opinions and wishes of the people of that country. It is true that the United States shall guarantee to every State in the Union a republican form of government: meaning, in my judgment, that Congress shall not permit any power to establish, in any State, a government without the assent of the people of such State; and it will not be amiss that we remember here, also, that that guaranty is to the State, and not as to the formation of the government by the people of the State; but should it be admitted that Congress can look into the constitution of a State, in order to ascertain its character, before such State is admitted into the Union, yet I contend that Congress cannot object to it for the want of a republican form, if it contains the great principle that all power is inherent in the people, and that the government drew all its just powers from the governed.

“The people of the territory of Arkansas, having formed for themselves a State government, having presented their constitution for admission into the Union, and that constitution being republican in its form, and believing that the people who prepared and sent this constitution here are sufficiently numerous to entitle them to a representative in Congress, and believing, also, that Congress has no right or power to regulate the system of police these people have established for themselves, and the ordinance of 1787 not operating on them, nor have they entered into any agreement with the United States that slavery should not be admitted in their State, have the right to choose this lot for themselves, though I regret that they made this choice. Yet believing that this government has no right to interfere with the question of slavery in any of the States, or prescribe what shall or shall not be considered property in the different States, or by what tenure property of any kind shall be holden, but that all these are exclusively questions of State policy, I cannot, as a member of this body, refuse my vote to admit this State into the Union, because her constitution recognizes the right and existence of slavery.”

Mr. Alexander Porter, of Louisiana, would vote against the admission, on account of the “revolutionary” proceedings of the people in the formation of their constitution, without a previous act of Congress. It is believed that Mr. Clay voted upon the same ground. There were but six votes against the admission; namely: Mr. Clay, Mr. Knight of Rhode Island, Mr. Porter, Mr. Prentiss, Mr. Robbins of Rhode Island, and Mr. Swift. It is believed that Mr. Robbins and Mr. Knight voted on the same ground with Mr. Clay and Mr. Porter. So, the bill was easily passed, and the two bills went together to the House of Representatives, where they gave rise to proceedings, the interest of which still survives, and a knowledge of which, therefore, becomes necessary. The two bills were made the special order for the same day, Wednesday, the 8th of June, Congress being to adjourn on the 4th of July; and the Michigan bill having priority on the calendar, as it had first passed the Senate. Mr. Wise, of Virginia, on the announcement of the Michigan bill, from the chair, as the business before the House,

moved to postpone its consideration until the ensuing Monday, in order to proceed with the Arkansas bill. Mr. Thomas, of Maryland, objected to the motion, and said:

"He would call the attention of the House to the position of the two bills on the Speaker's table, and endeavor to show that this postponement is entirely unnecessary. These bills are from the Senate. By the rules of this House, two, I may say three, questions will arise, to be decided before they can become a law, so far as this House is concerned. We must first order each of these bills to be read a third time; the next question then will be, when shall the bill be read a third time? And the last question to be decided will be, shall the bill pass? Why, then, should Southern men now make an effort to give precedence to the bill for the admission of Arkansas into the Union? If they manifest distrust, must we not expect that fears will be entertained by Northern members, that unreasonable opposition will be made to the admission of Michigan? Let us proceed harmoniously, until we find that our harmony must be interrupted. We shall lose nothing by so doing. If a majority of the House be in favor of reading a third time the Michigan bill, they will order it to be done. After that vote has been taken, we can refuse to read the bill a third time, go into Committee of the Whole on the state of the Union, then consider the Arkansas bill, report it to the House, order it to be read a third time, and in this order proceed to read them each a third time, if a majority of the House be in favor of that proceeding. Let it not be said that Southern men may be taken by surprise, if the proceeding here respectfully recommended be adopted. If the friends of Arkansas are sufficiently numerous to carry now the motion to postpone, they can arrest at any time the action of the House on the Michigan bill, until clear undubitable indications have been given that the Missouri compromise is not to be disregarded."

These latter words of Mr. Thomas revealed the point of jealousy between some Southern and Northern members, and brought the observance of the Missouri compromise fully into view, as a question to be tried. Mr. Wise, after some remarks, modified his motion by moving to refer both bills to the Committee of the Whole on the state of the Union, with instructions to incorporate the two bills into one bill. Mr. Patton, of Virginia, opposed the latter motion, and gave his reasons at length against it. If his colleague would so modify his motion as to move to refer both bills to the Committee of the Whole House, without the instructions, he would vote for it. Mr. Bouldin, of Virginia, successor to Mr. Randolph, said:

"He agreed with his colleague [Mr. Patton] in a fact too plain for any to overlook, that both bills must be acted on separately, and that one must have the preference in point of time. Michigan had it at that time—he was willing it should hold it. His colleague [Mr. Patton] seemed to think that in the incipient steps in relation to this bill, it would be well enough to suffer Michigan to hold her present position; but that, before the final passage of the bill, it would be well to require of the House (or rather of the non-slaveholding portion of the Union) to give some unequivocal guaranty to the South that no difficulty would be raised as to the reception of Arkansas in regard to negro slavery. Mr. B. was willing to go on with the bill for the admission of Michigan. He had the most implicit confidence in the House, particularly alluding to the non-slaveholding part of the Union, that no serious difficulty would be made as to the admission of Arkansas in regard to negro slavery. If there were any serious difficulties to be raised in the House to the admission of Arkansas, upon the ground of negro slavery, he wished immediate notice of it. If his confidence was misplaced, he wished to be corrected as soon and as certainly as possible. If there really was any intention in the House of putting the South under any difficulty, restraint, limit, any shackle or embarrassment on the South on account of negro slavery (some gentlemen said slavery, but he said *negro* slavery), he wished to know it. If there were any individuals having such feeling, he wished to know them; he wished to hear their names upon yeas and nays. If there were a majority, he should act promptly, decisively, immediately upon it, and had no doubt

all the South would do the same. There might be some question as to the claim of non-slaveholding States to stop the progress of Southern habits and Southern influence Northward. As to Arkansas, there could be no question; and if seriously pressed, such claims could leave no doubt on the minds of the South as to the object of those who pressed them, or the course to be pursued by them. Such a stand being taken by the non-slaveholding States, it would make little difference whether Michigan was in or out of this Union. He said he would sit down, again assuring the House, and the gentlemen particularly from the non-slaveholding States, of his entire confidence that no such thing would be seriously attempted by any considerable numbers of this House."

Mr. Lewis, of Worth Carolina, took decided ground in favor of giving the Arkansas bill the priority of decision; and expressed himself thus:

"He should vote for the proposition of the gentleman from Virginia [Mr. Wise] to lay the bill for the admission of Michigan into the Union on the table, until the bill for the admission of Arkansas should be first passed. He should do this, for the obvious reason that there were dangers, he would not say how great, which beset Arkansas, and which did not beset Michigan. The question of slavery could be moved as a condition for the admission of Arkansas, and it could not as a condition to the admission of Michigan. I look upon the Arkansas question as therefore the weaker of the two, and for that reason I would give it precedence. Besides, upon the delicate question which may be involved in the admission of Arkansas, we may be the weaker party in this House. For that reason, if gentlemen mean to offer no obstructions to the admission of Arkansas, let them give the assurance by helping the weaker party through with the weaker question. We of the South cannot, and will not, as I pledge myself, offer any objections to the domestic institutions of Michigan with regard to slavery. Can any gentleman make the same pledge that no such proposition shall come from the North? Besides, the two bills are not now on an equal footing. The bill for the admission of Arkansas must be sent to a Committee of the Whole on the state of the Union. The bill for the admission of Michigan need not necessarily go to that committee. It will therefore pass in perfect safety, while we shall be left to get Arkansas along, through the tedious stages of commitment, as well as we can. The gentleman from Pennsylvania [Mr. Sutherland] says that these two bills will be hostages for the safety of each other. Not, sir, if you pass the stronger bill in advance of the weaker. Besides, the North want no hostages on this subject. Their institutions cannot be attacked. We of the South want a hostage, to protect us on a delicate question; and the effect of giving precedence to the Michigan bill is to deprive us of that hostage."

Mr. Cushing, of Massachusetts, addressed the committee at length on the subject, of which only the leading passages can be given. He said:

"The House has now continued in session for the space of eighteen or nineteen hours, without any interval of refreshment or rest. It is impossible to mistake the intentions of the ruling majority. I see clearly that the committee is resolved to sit out the debate on these important bills for the admission of Michigan and Arkansas into the Union. This, it is apparent, the majority have the power as well as the right to do. Whether it be just and reasonable, is another question. I shall not quarrel, however, with the avowed will of the House. It has done me the favor to hear me with patience on other occasions; and I cannot render it the unfit return of trespassing on its indulgence at this unseasonable hour, nor seek to defeat its purposes by speaking against time. But having been charged with sundry memorials from citizens of Massachusetts and New Hampshire, remonstrating against that clause in the constitution of Arkansas which relates to the subject of slavery, I should be recreant to the trust they have reposed in me, if I suffered the bill for the admission of Arkansas to pass

without a word of protestation. The extraordinary circumstances under which I rise to address the committee impel me to brevity and succinctness; but they would afford me no justification for a passive acquiescence in the admission of Arkansas into the Union, with all the sins of its constitution upon its head.

"The constitution of Arkansas, as communicated to Congress in the memorial of the people of that Territory, praying to be admitted into the Union, contains the following clause: 'The General Assembly shall have no power to pass laws for the emancipation of slaves without the consent of the owners. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States.' This provision of the constitution of Arkansas is condemned by those whom I represent on this occasion as anti-republican, as wrong on general principles of civil polity, and as unjust to the inhabitants of the non-slaveholding States. They object to it as being, in effect, a provision to render slavery perpetual in the new State of Arkansas. I concur in reprobating such a clause. The legislature of Arkansas is forbidden to emancipate the slaves within its jurisdiction, even though it should be ready to indemnify fully their owners. It is forbidden to exclude slaves from being imported into the State. I cannot, by any vote of mine, ratify or sanction a constitution of government which undertakes in this way to foreclose in advance the progress of civilization and of liberty for ever. In order to do justice to the unchangeable opinions of the North, without, in any respect, invading the rights, real or supposed, of the South, my colleague [Mr. Adams], the vigilant eye of whose unsleeping mind there is nothing which escapes, has moved an amendment of the bill for the admission of Arkansas into the Union, so that, if the amendment be adopted, the bill would read as follows: 'The State of Arkansas is admitted into the Union upon the express condition that the people of the said State shall never interfere with the primary disposal of the public lands within the said State, nor shall they levy a tax on any of the lands of the United States within the said State; and nothing in this act shall be construed as an assent by Congress [to the article in the constitution of the said State relating to slavery and to the emancipation of the slaves, or] to all or to any of the propositions contained in the ordinance of the said convention of the people of Arkansas, nor to deprive the said State of Arkansas of the same grants, subject to the same restrictions, which were made to the State of Missouri.' This amendment is, according to my judgment, reasonable and proper in itself, and the very least that any member from the North can propose in vindication of the opinions and principles of himself and his constituents.

"It is opposed, however, by the gentleman from Virginia [Mr. Wise], with his accustomed vigor and ability. He alleges considerations adverse to the motion. He interrogates the friends of the proposed amendment in regard to its force, effect, and purposes, in terms which seem to challenge response; or which, at any rate, if not distinctly and promptly met, would leave the objections which those interrogatories impliedly convey, to be taken as confessed and admitted by our significant silence. What may be the opinions of Martin Van Buren as to this particular bill, what his conduct formerly in reference to a similar case, is a point concerning which I can have no controversy with the gentleman from Virginia. I look only to the merits of the question before the committee. There is involved in it a principle which I regard as immeasurably more important than the opinion of any individual in this nation, however high his present situation or his possible destiny—the great principle of constitutional freedom. The gentleman from Virginia, who, I cheerfully admit, is always frank and honorable in his course upon this floor, has just declared that, as a Southern man, he had felt it to be his duty to come forward and take a stand in behalf of an institution of the South. That institution is slavery. In like manner, I feel it to be my duty, as a Northern man, to take a counter stand in conservation of one among the dearest of the institutions of the North. This institution is

liberty. It is not to assail slavery, but to defend liberty, that I speak. It is demanded of us, Do you seek to impose restrictions on Arkansas, in violation of the compromise under which Missouri entered the Union? I might content myself with replying that the State of Massachusetts was not a party to that compromise. She never directly or indirectly assented to it. Most of her Representatives in Congress voted against it. Those of her Representatives who, regarding that compromise in the light of an act of conciliation important to the general interests of the Union, voted for it, were disavowed and denounced at home, and were stigmatized even here, by a Southern member, as over-compliant towards the exactingness of the South. On the first introduction of this subject to the notice of the House, the gentleman from Virginia made a declaration, which I particularly noticed at the time, for the purpose of having the tenor of the declaration distinctly understood by the House and by the country. The gentleman gave it to be known that, if members from the North held themselves not engaged by the terms of the compromise under which Missouri entered into the Union, neither would members from the South hold themselves engaged thereby; and that, if we sought to impose restrictions affecting slave property on the one hand, they might be impelled, on the other hand, to introduce slavery into the heart of the North. I heard the suggestion with the feelings natural to one born and bred in a land of equality and freedom. I took occasion to protest, in the surprised impulse of the moment, against the idea of putting restrictions on liberty in one quarter of the Union, in retaliation of the attempt to limit the spread of slavery in another quarter. I held up to view the inconsistency and inconsequence of uttering the warmest eulogiums on freedom one day, of pouring out aspirations that the spirit of liberty might pervade the universe, and at another time threatening the North with the establishment of Slavery within its borders, if a Northern member should deprecate the legal perpetuation of slavery in a proposed new State of the West. It did not fall within the rules of pertinent debate to pursue the subject at that time; and I have but a single idea to present now, in addition to what I then observed. It is not possible for me to judge whether the gentleman from Virginia, and any of his friends or fellow-citizens at the South, deliberately and soberly cherish the extraordinary purpose which his language implied. I trust it was but a hasty thought, struck out in the ardor of debate. To introduce slavery into the heart of the North? Vain idea! Invasion, pestilence, civil war, may conspire to exterminate the eight millions of free spirits who now dwell there. This, in the long lapse of ages incalculable, is possible to happen. You may raze to the earth the thronged cities, the industrious villages, the peaceful hamlets of the North. You may lay waste its fertile valleys and verdant hill-sides. You may plant its very soil with salt, and consign it to everlasting desolation. You may transform its beautiful fields into a desert as bare as the blank face of the sands of Sahara. You may reach the realization of the infernal boast with which Attila the Hun marched his barbaric hosts into Italy, demolishing whatever there is of civilization or prosperity in the happy dwellings of the North, and reducing their very substance to powder, so that a squadron of cavalry shall gallop over the site of populous cities, unimpeded as this wild steeds on the savannas of the West. All this you may do: it is within the bounds of physical possibility. But I solemnly assure every gentleman within the sound of my voice, I proclaim to the country and to the world, that, until all this be fully accomplished to the uttermost extremity of the letter, you cannot, you shall not, introduce slavery into the heart of the North."

A point of order being raised whether the two bills were not required by a rule of the House to go before the Committee of the Whole, the Speaker, Mr. Polk, decided in the affirmative—the Arkansas bill, upon the ground of containing an appropriation for the salary of judges; and that of Michigan because it provided for judges, which involved a necessity for an appropriation. The two bills then went into Committee of the Whole, Mr. Speight, of North Carolina, in the chair. Many members spoke, and much of the speaking related to the boundaries of Michigan, and especially the line between herself and the State of Ohio—to

which no surviving interest attaches. The debate, therefore, will only be pursued as it presents points of present and future interest. These may be assumed under three heads: 1. The formation of constitutions without the previous assent of Congress: and this was applicable to both States. 2. The right of aliens to vote before naturalization. 3. The right of Arkansas to be admitted with slavery by virtue of the rights of a State,—by virtue of the third article of the treaty which ceded Louisiana to the United States—and by virtue of the Missouri compromise. On these points, Mr. Hamer, of Ohio, spoke thus:

"One of the principal objections urged against their admission at this time is, that their proceedings have been lawless and revolutionary; and that, for the example's sake, if for no other reason, we should reject their application, and force them to go back and do all their work over again. I cannot assent to this proposition. Two ways are open to every territory that desires to emerge from its dependent condition and become a State. It may either petition Congress for leave to form a State constitution, and, when that permission is given, proceed to form it, and present the new State constitution for our approbation; or they may meet, in the first instance, form the constitution, and offer it for our approval. There is no impropriety in either mode. It is optional with Congress, at last, to admit the State or not, as may be thought expedient. If they wish to admit her, they can do it by two acts of Congress; one to authorize the formation of a constitution, and the other to approve of it when made; or by one act allowing the prayer of the petitioners to become a State, and approving of their constitution at the same time. This latter course is the one adopted in the present case. There is nothing disrespectful in it. Indeed, there is much to justify the Territory in its proceeding. Year after year they petitioned for leave to form a constitution, and it was refused, or their application was treated with neglect. Wearied with repeated instances of this treatment, they have formed a constitution, brought it to us, and asked us to sanction it, and admit them into the Union. We have the authority to do this; and if their constitution is republican, we ought to do it. There is no weight in this objection, and I will dismiss it without further remark. Another objection is, that aliens have aided in making this constitution, and are allowed the right of suffrage in all elections by the provisions it contains. As to the first point, it is sufficient to say that all the new States northwest of the Ohio formed their constitutions precisely in the same way. The ordinance of 1787 does not require sixty thousand citizens of the United States to be resident within the limits of a new State, in order to authorize a constitution and admission into the Union. It requires that number of 'free inhabitants;' and the alien who resides there, if he be a 'free inhabitant,' is entitled to vote in the election of delegates to the convention; and afterwards in deciding whether the people will accept the constitution formed by their convention. Such has been the construction and practice in all the country north of the Ohio; and as the last census shows that there are but a few hundreds of aliens in Michigan, it would be hard to set aside their constitution, because some of these may have participated in its formation. It would be unjust to do so, if we had the power; but we have no authority to do it; for if we regard the ordinance as of any validity, it allows all 'free inhabitants' to vote in framing the State governments which are to be created within the sphere of its influence. We will now turn to the remaining point in this objection, and we shall see that it has no more force in it than the other.

"The constitution allows all white male citizens over twenty-one years of age, having resided six months in Michigan, to vote at all elections; and every white male inhabitant residing in the State at the time of signing the constitution is allowed the same privilege. These provisions undoubtedly confer on aliens the right of suffrage; and it is contended that they are in violation of the constitution of the United States. That instrument declares that 'new States may be admitted by the Congress into this Union;' that 'the United States shall guarantee to every State in this Union a republican form of government;' and that 'the citizens of each

State shall be entitled to all privileges and immunities of citizens in the several States.' The ordinance of 1787 provides that the constitution to be formed northwest of the Ohio 'shall be republican.'

"It is an error not very uncommon to suppose that the right of suffrage is inseparably connected with the privilege of citizenship. A slight investigation of the subject will prove that this is not so. The privileges are totally distinct. A State cannot make an American citizen who, under the constitution of the United States shall be entitled to the rights of citizenship throughout the Union. The power belongs to the federal government. We pass all the naturalization laws, by which aliens are transformed into citizens. We do so under the constitution of the United States, conceding to us this authority. But, on the other hand, we have no control over the right of suffrage in the different States. That belongs exclusively to State legislation and State authority. It varies in almost all the States; and yet who ever supposed that Congress could interfere to change the rules adopted by the people in regard to it? No one, I presume. Why then attempt to control it here? Other States have adopted the same provisions. Look at the constitutions of Ohio and other new States, and you will find that they require residence only, and not citizenship, to enable a man to vote. Each State can confer this right upon all persons within her limits. It gives them no rights beyond the limits of the State. It cannot make them citizens, for that would violate the naturalization laws; or, rather, it would render them nugatory. It cannot give them a right to vote in any other State, for that would infringe upon the authority of such State to regulate its own affairs. It simply confers the right of aiding in the choice of public officers whilst the alien remains in the State; it does not make him a citizen; nor is it of the slightest advantage to him beyond the boundaries of Michigan."

Mr. Hamer concluded his remarks with a feeling allusion to the distractions which had prevailed during the Missouri controversy, a congratulation upon their disappearance under the Missouri compromise and an earnest exhortation to harmony and the preservation of good feeling in the speedy admission of the two States; and said:

"We can put an end to a most distracting contest, that has agitated our country from Maine to Georgia, and from the Atlantic to the most remote settlement upon the frontier. There was a time when the most painful anxiety pervaded the whole nation; and whilst each one waited with feverish impatience for further intelligence from the disputed territory, he trembled lest the ensuing mail should bear the disastrous tidings of a civil strife in which brother had fallen by the hand of brother, and the soil of freedom had been stained by the blood of her own sons. But the storm has passed. The usual good fortune of the American people has prevailed. The land heaves in view, and a haven, with its wide-spread arms, invites us to enter. After so long an exposure to the fury of a tempest that was apparently gathering in our political horizon, let us seize the first opportunity to steer the ship into a safe harbor, far beyond the reach of that elemental war that threatened her security in the open sea. Let us pass this bill. It does justice to all. It conciliates all. Its provisions will carry peace and harmony to those who are now agitated by strife, and disquieted by tumults and disorders. By this just, humane, and beneficent policy, we shall consolidate our liberties, and make this government what Mr. Jefferson, more than thirty years ago, declared it to be, 'the strongest government on earth; the only one where every man, at the call of the law, will fly to the standard of the law, and meet invasions of the public order as his own personal concern.' With this policy on the part of the government, and the spirit of patriotism that now animates our citizens in full vigor, united America may bid defiance to a world in arms; and should Providence continue to smile upon our country, we may confidently anticipate that the freedom, the happiness, and the prosperity, which we now enjoy, will be as perpetual as the lofty mountains that crown our continent, or the noble rivers that fertilize our plains."

Mr. Adams commenced a speech in Committee of the Whole, which was finished in the House, and being prepared for publication by himself, and therefore free from error, is here given—all the main parts of it—to show his real position on the slavery question, so much misunderstood at the time on account of his tenacious adherence to the right of petition. He said:

"I cannot, consistently with my sense of my obligations as a citizen of the United States, and bound by oath to support their constitution, I cannot object to the admission of Arkansas into the Union as a slave State; I cannot propose or agree to make it a condition of her admission, that a convention of her people shall expunge this article from her constitution. She is entitled to admission as a slave State, as Louisiana and Mississippi, and Alabama, and Missouri, have been admitted, by virtue of that article in the treaty for the acquisition of Louisiana, which secures to the inhabitants of the ceded territories all the rights, privileges, and immunities, of the original citizens of the United States; and stipulates for their admission, conformably to that principle, into the Union. Louisiana was purchased as a country wherein slavery was the established law of the land. As Congress have not power in time of peace to abolish slavery in the original States of the Union, they are equally destitute of the power in those parts of the territory ceded by France to the United States by the name of Louisiana, where slavery existed at the time of the acquisition. Slavery is in this Union the subject of internal legislation in the States, and in peace is cognizable by Congress only, as it is tacitly tolerated and protected where it exists by the constitution of the United States, and as it mingles in their intercourse with other nations. Arkansas, therefore, comes, and has the right to come into the Union with her slaves and her slave laws. It is written in the bond, and, however I may lament that it ever was so written, I must faithfully perform its obligations. I am content to receive her as one of the slave-holding States of this Union; but I am unwilling that Congress, in accepting her constitution, should even lie under the imputation of assenting to an article in the constitution of a State which withholds from its legislature the power of giving freedom to the slave. Upon this topic I will not enlarge. Were I disposed so to do, twenty hours of continuous session have too much exhausted my own physical strength, and the faculties as well as the indulgence of those who might incline to hear me, for me to trespass longer upon their patience. When the bill shall be reported to the House, I may, perhaps, again ask to be heard, upon renewing there, as I intend, the motion for this amendment."

After a session of twenty-five hours, including the whole night, the committee rose and reported the two bills to the House. Of the arduousness of this session, which began at ten in the morning of Thursday, and was continued until eleven o'clock the next morning, Mr. Adams, who remained at his post the whole time, gave this account in a subsequent notice of the sitting:

"On Thursday, the 9th of June, the House went into Committee of the Whole on the state of the Union upon two bills; one to fix the Northern boundary of the State of Ohio, and for the conditional admission of the State of Michigan into the Union; and the other for the admission of the State of Arkansas into the Union. The bill for fixing the Northern boundary of the State of Ohio, and the conditional admission of Michigan into the Union, was first taken up for consideration, and gave rise to debates which continued till near one o'clock of the morning of Friday, the 10th of June: repeated motions to adjourn had been made and rejected. The committee had twice found itself without a quorum, and had been thereby compelled to rise, and report the fact to the House. In the first instance there had been found within private calling distance a sufficient number of members, who, though absent from their duty of attendance upon the House, were upon the alert to appear and answer to their names to make a quorum to vote against adjourning, and then to retire again to their

amusement or repose. Upon the first restoration of the quorum by this operation, the delegate from Arkansas said that if the committee would only take up and read the bill, he would not urge any discussion upon it then, and would consent to the committee's rising, and resuming the subject at the next sitting of the House. The bill was accordingly read; a motion was then made for the committee to rise, and rejected; an amendment to the bill was moved, on taking the question upon which there was no quorum. The usual expedient of private call to straggling members was found ineffectual. A call of the House was ordered, at one o'clock in the morning. This operation to be carried through all its stages, must necessarily consume about three hours of time, during which the House can do no other business. Upon this call, after the names of all the members had been twice called over, and all the absentees for whom any valid or plausible excuse was offered had been excused, there remained eighty-one names of members, who, by the rules of the House, were to be taken into custody as they should appear, or were to be sent for, and taken into custody wherever they might be found, by special messengers appointed for that purpose. At this hour of the night the city of Washington was ransacked by these special messengers, and the members of the House were summoned from their beds to be brought in custody of these special messengers, before the House, to answer for their absence. After hearing the excuses of two of these members, and the acknowledged no good reason of a third, they were all excused in a mass, without payment of fees; which fees, to the amount of two or three hundred dollars, have of course become a charge upon the people, and to be paid with their money. By this operation, between four and five o'clock of the morning, a small quorum of the House was obtained, and, without any vote of the House, the speaker left the chair, which was resumed by the chairman of the Committee of the Whole."

Mr. Adams resumed his seat, and Mr. Wise addressed the committee, particularly in reply to Mr. Cushing. Confusion, noise and disorder became great in the Hall. Several members spoke; and cries of "order," and "question" were frequent. Personal reflections passed, and an affair of honor followed between two Southern members, happily adjusted without bloodshed. The chairman, Mr. Speight, by great exertions, had procured attention to Mr. Hoar, of Massachusetts. Afterwards Mr. Adams again addressed the committee. Mr. Wise inquired of him whether in his own opinion, if his amendment should be adopted, the State of Arkansas would, by this bill, be admitted? Mr. Adams answered—"Certainly, sir. There is not in my amendment the shadow of a restriction proposed upon the State. It leaves the State, like all the rest, to regulate the subject of slavery within herself by her own laws." The motion of Mr. Adams was rejected, only thirty-two members voting for it; being not one third of the members from the non-slaveholding States.

The vote was taken on the Michigan bill first, and was ordered to a third reading by a vote of 153 to 45. The nays were:

"Messrs. John Quincy Adams, Heman Allen, Jeremiah Bailey, John Bell, George N. Briggs, William B. Calhoun, George Chambers, John Chambers, Timothy Childs, William Clark, Horace Everett, William J. Graves, George Grennell, jr., John K. Griffin, Hiland Hall, Gideon Hard, Benjamin Hardin, James Harper, Abner Hazeltine, Samuel Hoar, Joseph R. Ingersoll, Daniel Jenifer, Abbott Lawrence, Levi Lincoln, Thomas C. Love, Samson Mason, Jonathan McCarty, Thomas M. T. McKennan, Charles F. Mercer, John J. Milligan, Mathias Morris, James Parker, James A. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, John Robertson, David Russell, William Slade, John N. Steele, John Taliaferro, Joseph R. Underwood, Lewis Williams, Sherrod Williams, Henry A. Wise."

It is remarkable that this list of nays begins with Mr. Adams, and ends with Mr. Wise—a proof that all the negative votes, were not given upon the same reasons.

The vote was immediately after taken on ordering to a third reading the bill for the admission of the State of Arkansas; which was so ordered by a vote of 143 to 50. The nays were:

"Messrs. John Quincy Adams, Heman Allen, Joseph B. Anthony, Jeremiah Bailey, William K. Bond, Nathaniel E. Borden, George N. Briggs, William B. Calhoun, Timothy Childs, William Clark, Joseph H. Crane, Caleb Cushing, Edward Darlington, Harmer Denny, George Evans, Horace Everett, Philo C. Fuller, George Grennell, jr., Hiland Hall, Gideon Hard, James Harper, Abner Hazeltine, Joseph Henderson, William Hiester, Samuel Hoar, William Jackson, Henry F. Janes, Benjamin Jones, John Laporte, Abbott Lawrence, George W. Lay, Levi Lincoln, Thomas C. Love, Samson Mason, Jonathan McCarthy, Thomas M. T. McKennan, Mathias Morris, James Parker, Dutee J. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, David Russell, William N. Shinn, William Slade, John Thomson, Joseph R. Underwood, Samuel F. Vinton, Elisha Whittlesey, Lewis Williams."

Here again the beginning and the ending of the list of voters is remarkable, beginning again with Mr. Adams, and terminating with Mr. Lewis Williams, of North Carolina—two gentlemen wide apart in their political courses, and certainly voting on this occasion on different principles.

From the meagreness of these negative votes, it is evident that the struggle was, not to pass the two bills, but to bring them to a vote. This was the secret of the arduous session of twenty-five hours in the House. Besides the public objections which clogged their admission—boundaries in one, slavery in the other, alien voting, and (what was deemed by some), revolutionary conduct in both in holding conventions without authority of Congress; besides these public reasons, there was another cause operating silently, and which went more to the postponement than to the rejection of the States. This cause was political and partisan, and grew out of the impending presidential election, to be held before Congress should meet again. Mr. Van Buren was the democratic candidate; General William Henry Harrison was the candidate of the opposition; and Mr. Hugh L. White, of Tennessee, was brought forward by a fraction which divided from the democratic party. The new States, it was known, would vote, if now admitted, for Mr. Van Buren; and this furnished a reason to the friends of the other candidates (even those friendly to eventual admission, and on which some of them were believed to act), to wish to stave off the admission to the ensuing session.—The actual negative vote to the admission of each State, was not only small, but nearly the same in number, and mixed both as to political parties and sectional localities; so as to exclude the idea of any regular or considerable opposition to Arkansas as a slave State. The vote which would come nearest to referring itself to that cause was the one on Mr. Adams' proposed amendment to the State constitution; and there the whole vote amounted only to 32; and of the sentiments of the greater part of these, including Mr. Adams himself, the speech of that gentleman must be considered the authentic exponent; and will refer their opposition, not to any objection to the admission of the State as slave-holding, but to an unwillingness to appear upon the record as assenting to a constitution which forbid emancipation, and made slavery perpetual. The number actually voting to reject the State, and keep her out of the Union, because she admitted slavery, must have been quite small—not more in proportion, probably, than what it was in the Senate.

139. Attempted Inquiry Into The Military Academy

This institution, soon after its organization under the act of 1812, began to attract public attention, as an establishment unfriendly to the rights of the people, of questionable constitutionality, as being for the benefit of the rich and influential; and as costing an enormous sum for each officer obtained from it for actual service. Movements against it were soon commenced in Congress, and for some years perseveringly continued, principally under the lead of Mr. Newton Cannon, and Mr. John Cooke, representatives from the State of Tennessee. Their speeches and statements made considerable impression upon the public mind, but very little upon Congress, where no amelioration of any kind could be obtained, either in the organization of the institution, or in the practical administration which had grown up under it. In the session of 1834-'35 these efforts were renewed, chiefly induced by Mr. Albert Gallatin Hawes, representative from Kentucky, who moved for, and attained the appointment of a committee of twenty-four, one from each State; which made a report, for which no consideration could be procured—not even the printing of the report. Baffled in their attempts to get at their object in the usual forms of legislation, the members opposed to the institution resorted to the extraordinary mode of attacking its existence in an appropriation bill: that is to say, resisting appropriations for its support—a mode of proceeding entirely hopeless of success, but justifiable, as they believed, under the circumstances; and at all events as giving them an opportunity to get their objections before the public.

It was at the session of 1835-'36, that this form of opposition took its most determined course; and some brief notices of what was said then may still be of service in awakening a spirit of inquiry in the country, and promoting investigations which have so long been requested and denied. But it was not until after another attempt had failed to do any thing through a committee at this session also, that the ultimate resource of an attack upon the appropriation for the support of the institution was resorted to. Early in the session Mr. Hawes offered this resolution: "That a select committee of nine be appointed to inquire into what amendments, if any, are expedient to be made to the laws relating to the military Academy at West Point, in the State of New-York; and also into the expediency of modifying the organization of said institution; and also whether it would not comport with the public interest to abolish the same: with power in the committee to report by bill or otherwise." Mr. Hawes, in support of his motion reminded the House of the appointment of the committee of the last session, of its report, and his inability to obtain action upon it, or to procure an order for its printing. The resolution which he now submitted varied but in one particular from that which he had offered the year before, and that was in the reduced number of the committee asked for. Twenty-four was a larger number than could be induced to enter into any extended or patient investigation; and he now proposed a committee of nine only. His resolution was only one of inquiry, to obtain a report for the information of the people, and the action of the House—a species of resolution usually granted as a matter of course; and he hoped there would be no objection to his motion. Mr. Wardwell, of New-York, objected to the appointment of a select committee, and thought the inquiry ought to go to the standing committee on military affairs. Mr. F. O. J. Smith, of Maine, wished to hear some reason assigned for this motion. It seemed to him that a special committee ought to be raised; but if the friends of the institution were fearful of a select committee, and would assign that fear as a motive for preferring the standing committee, he would withdraw his objection. Mr. Briggs, of Massachusetts, believed the subject was already referred to the military committee in the general reference to that committee of all that related in the President's message to this

Academy; and so believing, he made it a point of order for the Speaker to decide, whether the motion of Mr. Hawes could be entertained. The Speaker, Mr. Polk, said that the motion was one of inquiry; and he considered the reference of the President's message as not applying to the case. Mr. Briggs adhered to his belief that the subject ought to go to a standing committee. The committee had made an elaborate report at the last session, which was now on the files of the House; and if gentlemen wished information from it, they could order it to be printed. Mr. John Reynolds, of Illinois, said it was astonishing that members of this House, friends of this institution, were so strenuous in their opposition to investigation. If it was an institution founded on a proper basis, and conducted on proper and republican principles, they had nothing to fear from investigation; if otherwise the people had; and the great dread of investigation portended something wrong. His constituents were dissatisfied with this Academy, and expected him to represent them fairly in doing his part to reform, or to abolish it; and he should not disappoint them. The member from Massachusetts, Mr. Briggs, he said, had endeavored to stifle this inquiry, by making it a point of order to be decided by the Speaker; which augured badly for the integrity of the institution. Failing in that attempt to stifle inquiry, he had joined the member from New-York, Mr. Wardwell, in the attempt to send it to a committee where no inquiry would be made, and in violation of parliamentary practice. He, Mr. Reynolds, had great respect for the members of the military committee; but some of them, and perhaps all, had expressed an opinion in favor of the institution. Neither the chairman, nor any member of the committee had asked for this inquiry; it was the law of parliament, and also of reason and common sense, that all inquiries should go to committees disposed to make them; and it was without precedent or justification, and injurious to the fair conducting of business, to take an inquiry out of the hands of a member that moves it, and is responsible for its adequate prosecution, and refer it to a committee that is against it, or indifferent to it. When a member gets up, and moves an inquiry touching any branch of the public service, or the official conduct of any officer, he incurs a responsibility to the moral sense of the House and of the country. He assumes that there is something wrong—that he can find it out if he has a chance; and he is entitled to a chance, both for his own sake and the country; and not only to have his committee, but to be its chairman, and to have a majority of the members favorable to its object. If it were otherwise members would have but poor encouragement to move inquiries for the public service. Cut off himself from the performance of his work, an indifferent or prejudiced committee may neglect inquiry, or pervert it into defence; and subject the mover to the imputation of preferring false and frivolous motions; and so discredit him, while injuring the public, and sheltering abuse. Under a just report he believed the Academy would wither and die. Under its present organization it is a monopoly for the gratuitous education of the sons and connections of the rich and influential—to be afterwards preferred for army appointments, or even for civil appointments; and to be always provided for as the children of the government, getting not only gratuitous education, but a preference in appointments. A private soldier, though a young David, slaying Goliath, could get no appointment in our army. He must stand back for a West-Pointer, even the most inefficient, who through favor, or driving, had gone through his course and got his diploma. Promotion was the stimulus and the reward to merit. We, members of Congress, rise from the ranks of the people when we come here, and have to depend upon merit to get here. Why not let the same rule apply in the army, and give a chance to merit there, instead of giving all the offices to those who may have no turn for war, who only want support, and get it by public patronage, and favor, because they have official friends or parents? The report made at the last session looks bad for the Academy. Let any one read it, and he will feel that there is something wrong. If the friends of the institution would suffer that report to be printed, and let it go to the people, it would be a great satisfaction. Mr. Wardwell said the last Congress had refused to print the report; and asked

why it was that these complaints against the Academy came from the West? Was it because the Western engineers wanted the employment on the roads and bridges in place of the regular officers. Mr. Hannegan, of Indiana, said he was a member of the military committee which made the report at the last session, and which Mr. Wardwell had reminded them the House refused to order to be printed. And why that refusal? Because the friends of the Academy took post behind the two-thirds rule; and the order for printing could not be obtained because two-thirds of the House could not be got to suspend the rule, even for one hour, and that the morning hour. The friends of the Academy rallied, he said, to prevent the suspension of the rule, and to prevent publicity to the report. Mr. Hamer, of Ohio, said, why oppose this inquiry? The people desire it. A large portion of them believed the Academy to be an aristocratical institution, which ought to be abolished; others believe it to be republican, and that it ought to be cherished. Then why not inquire, and find out which is right, and legislate accordingly? Mr. Abijah Mann, of New-York, said there was a considerable interest in the States surrounding this institution, and he had seen a strong disposition in the members coming from those States to defend it against all charges. He was a member of the committee of twenty-four at the last session, and concurred partially in the report which was made, which was, to say the least of it, an elaborate examination of the institution from its foundation. He knew that in doing so he had incurred some censure from a part of his own State; but he never had flinched, and never would flinch, from the performance of any duty here which he felt it incumbent upon him to discharge. He had found much to censure, and believed if the friends of the institution would take the trouble to investigate it as the committee of twenty-four had done, they would find more to censure in the principle of the establishment than they were aware of. There were abuses in this institution, developed in that report, of a character that would not find, he presumed, a single advocate upon that floor when they came to be published. He believed the principle of the institution was utterly inconsistent with the principle of all other institutions; but he was not for exterminating it. Reformation was his object. It was the only avenue by which the people of the country could approach the offices of the army—the only gateway by which they could be reached. The principle was wrong, and the practice bad. We saw individuals continually pressing the government for admission into this institution, to be educated professedly for the military service, but very frequently, and too generally with the secret design in their hearts to devote themselves to the civil pursuits of society; and this was a fraud upon the government, and a poor way for the future officer to begin his educational life. When the report of the twenty-four came to be printed, as he hoped it would, it would be seen that this institution cost the government by far too much for the education of these young men. Whether it sprung from abuse or not, such was the fact when they looked at utility connected with the expenditure. If he recollected the report aright it proved that not more than two out of five who entered the institution remained there long enough to graduate; and not two more out of five graduates who entered the army. If his memory served him right the report would show that every graduate coming from that institution in the last ten years, had cost the United States more than five thousand dollars; and previously a much larger sum; and he believed within one year the graduates had cost upwards of thirty thousand dollars. If there be any truth in these statements the institution must be mismanaged, or misconducted, and ought to be thoroughly investigated and reformed. And he appealed to the friends of the Academy to withdraw their opposition, and suffer the report to be printed, and the select committee to be raised; but he appealed in vain. The opposition was kept up, and the two-thirds rule again resorted to, and effectually used to balk the friends of inquiry. It was after this second failure to get at the subject regularly through a committee, and a published report, that the friends of inquiry resorted to the last alternative—that of an attack upon the appropriation. The opportunity for this was not presented until near the end of the session, when Mr. Franklin Pierce, of New

Hampshire, delivered a well-considered and well-reasoned speech against the institution, bottomed on facts, and sustained by conclusions, in the highest degree condemnatory of the Academy; and which will be given in the next chapter.

140. Military Academy—Speech Of Mr. Pierce

“Mr. Chairman:—An attempt was made during the last Congress to bring the subject of the reorganization of the Military Academy before the country, through a report of a committee. The same thing has been done during the present session, again and again, but all efforts have proved alike unsuccessful! Still, you do not cease to call for appropriations; you require the people’s money for the support of the institution, while you refuse them the light necessary to enable them to judge of the propriety of your annual requisitions. Whether the amount proposed to be appropriated, by the bill upon your table, is too great or too small, or precisely sufficient to cover the current expenses of the institution, is a matter into which I will not at present inquire; but I shall feel bound to oppose the bill in every stage of its progress. I cannot vote a single dollar until the resolution of inquiry, presented by my friend from Kentucky (Mr. Hawes), at an early day in the session, shall be first taken up and disposed of. I am aware, sir, that it will be said, because I have heard the same declaration on a former occasion, that this is not the proper time to discuss the merits of the institution; that the bill is to make provision for expenses already incurred in part; and whatever opinions may be entertained upon the necessity of a reorganization, the appropriation must be made. I say to gentlemen who are opposed to the principles of the institution, and to those who believe that abuses exist, which ought to be exposed and corrected, that now is their only time, and this the only opportunity, during the present session, to attain their object, and I trust they will steadily resist the bill until its friends shall find it necessary to take up the resolution of inquiry, and give it its proper reference.

“Sir, why has this investigation been resisted? Is it not an institution which has already cost this country more than three millions of dollars, for which you propose, in this very bill, an appropriation of more than one hundred and thirty thousand dollars, and which, at the same time, in the estimation of a large portion of the citizens of this Union, has failed, eminently failed, to fulfil the objects for which it was established, of sufficient interest and importance to claim the consideration of a committee of this House, and of the House itself? I should have expected the resolution of the gentleman from Kentucky (Mr. Hawes), merely proposing an inquiry, to pass without opposition, had I not witnessed the strong sensation, nay, excitement, that was produced here, at the last session, by the presentation of his yet unpublished report. Sir, if you would have an exhibition of highly excited feeling, it requires little observation to learn that you may produce it at any moment by attacking such laws as confer exclusive and gratuitous privileges. The adoption of the resolution of inquiry, at the last session of Congress, and the appointment of a select committee under it, were made occasion of newspaper paragraphs, which, in tone of lamentation and direful prediction, rivalled the most highly wrought specimens of the panic era. One of those articles I have preserved, and have before me. It commences thus: ‘*The architects of ruin.*—This name has been appropriately given to those who are leading on the base, the ignorant, and the unprincipled, in a remorseless war upon all the guards and defences of society.’

“I introduce it here merely to show what are, in certain quarters, considered the guards and defences of society. After various compliments, similar to that just cited, the article proceeds: ‘All this is dangerous as novel, and the ultimate results cannot be contemplated without anxiety. If this spirit extends, who can check it? “Down with the Bank;” “down with the Military Academy;” “down with the Judiciary;” “down with the Senate;” will be followed by watchwords of a worse character.’ Here, Mr. Chairman, you have the United States Bank first, and then the Military Academy, as the guards and defences of your country. If it be so,

you are, indeed, feebly protected. One of these guards and defences is already tottering. And who are the ‘architects of ruin’ that have resolved its downfall? Are they the base, the ignorant, and the unprincipled? No, sir. The most pure and patriotic portion of your community: the staid, industrious, intelligent farmers and mechanics, through a public servant, who has met responsibilities and seconded their wishes, with equal intrepidity and success, in the camp and in the cabinet, have accomplished this great work. Mr. Chairman, there is no real danger to be apprehended from this much-dreaded levelling principle.

“From the middling interest you have derived your most able and efficient support in the most gloomy and trying periods of your history. And what have they asked in return? Nothing but the common advantages and blessings of a free government, administered under equal and impartial laws. They are responsible for no portion of your legislation, which, through its partial and unjust operation, has shaken this Union to its centre. That has had its origin in a different quarter, sustained by wealth, the wealth of monopolies, and the power and influence which wealth, thus accumulated and disposed, never fails to control. Indeed, sir, while far from demanding at your hands special favors for themselves, they have not, in my judgment, been sufficiently jealous of all legislation conferring exclusive and gratuitous privileges.

“That the law creating the institution, of which I am now speaking, and the practice under it, is strongly marked by both these characteristics, is apparent at a single glance. It is gratuitous, because those who are so fortunate as to obtain admission there, receive their education without any obligation, except such as a sense of honor may impose, to return, either by service or otherwise, the slightest equivalent. It is exclusive, inasmuch as only one youth, out of a population of more than 47,000, can participate in its advantages at the same time; and those who are successful are admitted at an age, when their characters cannot have become developed, and with very little knowledge of their adaptation, mental or physical, for military life. The system disregards one of those great principles which, carried into practice, contributed, perhaps, more than any other to render the arms of Napoleon invincible for so many years. Who does not perceive that it destroys the very life and spring of military ardor and enthusiasm, by utterly foreclosing all hope of promotion to the soldier and non-commissioned officer? However meritorious may be his services, however pre-eminent may become his qualifications for command, all is unavailing. The portcullis is dropped between him and preferment; the wisdom of your laws having provided another criterion than that of admitted courage and conduct, by which to determine who are worthy of command. They have made an Academy, where a certain number of young gentlemen are educated annually at the public expense, and to which there is, of consequence, a general rush, not so much from sentiments of patriotism and a taste for military life, as from motives less worthy—the avenue, and the only avenue, to rank in your army. These are truths. Mr. Chairman, which no man will pretend to deny; and I leave it for this House and the nation to determine whether they do not exhibit a spirit of exclusiveness, alike at variance with the genius of your government, and the efficiency and chivalrous character of your military force.

“Sir, no man can feel more deeply interested in the army, or entertain a higher regard for it, than myself. My earliest recollections connect themselves fondly and gratefully with the names of the brave men who, relinquishing the quiet and security of civil life, were staking their all upon the defence of their country’s rights and honor. One of the most distinguished among that noble band now occupies and honors a seat upon this floor. It is not fit that I should indulge in expressions of personal respect and admiration, which I am sure would find a hearty response in the bosom of every member of this committee. I allude to him merely to

express the hope that, on some occasion, we may have, upon this subject, the benefit of his experience and observation. And if his opinions shall differ from my own, I promise carefully to review every step by which I have been led to my present conclusions. You cannot mistake me, sir; I refer to the hero of Erie. I have declared myself the friend of the army. Satisfy me, then, what measures are best calculated to render it effective and what all desire it to be, and I go for the proposition with my whole heart.

"But I cannot believe that the Military Academy, as at present organized, is calculated to accomplish this desirable end. It may, and undoubtedly does, send forth into the country much military knowledge; but the advantage which your army, or that which will constitute your army in time of need, derives from it, is by no means commensurate with the expense you incur. Here, Mr. Chairman, permit me to say that I deny, utterly, the expediency, and the right to educate, at the public expense, any number of young men who, on the completion of their education, are not to form a portion of your military force, but to return to the walks of private life. Such was never the operation of the Military Academy, until after the law of 1812; and the doctrine, so far as I have been able to ascertain, was first formally announced by a distinguished individual, at this time sufficiently jealous of the exercise of executive patronage, and greatly alarmed by what he conceives to be the tendencies of this government to centralism and consolidation. It may be found in the report of the Secretary of War, communicated to Congress in 1819.

"If it shall, upon due consideration, receive the sanction of Congress and the country, I can see no limit to the exercise of power and government patronage. Follow out the principle, and where will it lead you? You confer upon the national government the absolute guardianship of literature and science, military and civil; you need not stop at military science; any one, in the wide range of sciences, becomes at once a legitimate and constitutional object of your patronage; you are confined by no limit but your discretion; you have no check but your own good pleasure. If you may afford instruction, at the public expense, in the languages, in philosophy, in chemistry, and in the exact sciences, to young gentlemen who are under no obligation to enter the service of their country, but are, in fact, destined for civil life, why may you not, by parity of reasoning, provide the means of a legal, or theological, or medical education, on the ground that the recipients of your bounty will carry forth a fund of useful knowledge, that may, at some time, under some circumstances, produce a beneficial influence, and promote 'the general welfare?' Sir, I fear that even some of us may live to see the day when this 'general welfare' of your constitution will leave us little ground to boast of a government of limited powers. But I did not propose at this time to discuss the abstract question of constitutional right. I will regard the expediency alone; and, whether the power exist or not, its exercise, in an institution like this, is subversive of the only principle upon which a school, conducted at the public expense, can be made profitable to the public service—that of making an admission into your school, and an education there, secondary to an appointment in the army. Sir, this distinctive feature characterized all your legislation, and all executive recommendations, down to 1810.

"I may as well notice here, as at any time, an answer which has always been ready when objections have been raised to this institution—an answer which, if it has not proved quite satisfactory to minds that yield their assent more readily to strong reasons than to the authority of great names, has yet, unquestionably, exercised a powerful influence upon the public mind. It has not gone forth upon the authority of an individual merely, but has been published to the world with the approbation of a committee of a former Congress. It is this: that the institution has received, at different times, the sanction of such names as Washington, Adams, and Jefferson; and this has been claimed with such boldness, and in a form so imposing, as almost to forbid any question of its accuracy. If this were correct, in point of

fact, it would be entitled to the most profound respect and consideration, and no change should be urged against the weight of such authority, without mature deliberation, and thorough conviction of, expediency. Unfortunately for the advocates of the institution, and fortunately for the interests of the country, this claim cannot be sustained by reference to executive documents, from the first report of General Knox, in 1790, to the close of Mr. Jefferson's administration.

"The error has undoubtedly innocently occurred, by confounding the Military Academy at West Point as it was, with the Military Academy at West Point as it is. The report of Secretary Knox, just referred to, is characterized by this distinctive feature—that the corps proposed to be organized were 'to serve as an actual defence to the community,' and to constitute a part of the active military force of the country, 'to serve in the field, or on the frontier, or in the fortifications of the sea-coast, as the commander-in-chief may direct.' At a later period, the report of the Secretary of War (Mr. McHenry), communicated to Congress in 1800 although it proposed a plan for military schools, differing in many essential particulars from those which had preceded it, still retained the distinctive feature just named as characterizing the report of General Knox.

"With regard to educating young men gratuitously, which, whatever may have been the design, I am prepared to show is the practical operation of the Academy, as at present organized, I cannot, perhaps, exhibit more clearly the sentiments of the Executive at that early day, urgent as was the occasion, and strong as must have been the desire, to give strength and efficiency to the military force, than by reading one or two paragraphs from a supplementary report of Secretary McHenry, addressed to the chairman of the Committee of Defence, on the 31st January, 1800.

"The Secretary says: 'Agreeably to the plan of the Military Academy, the directors thereof are to be officers taken from the army; consequently, no expense will be incurred by such appointments. The plan also contemplates that officers of the army, cadets, and non-commissioned officers, shall receive instruction in the Academy. As the rations and fuel which they are entitled to in the army will suffice for them in the Academy, no additional expense will be required for objects of maintenance while there. The expenses of servants and certain incidental expenses relative to the police and administration, may be defrayed by those who shall be admitted, out of their pay and emoluments.'

"You will observe, Mr. Chairman, from the phraseology of the report, that all were to constitute a part of your actual military force; and that whatever additional charges should be incurred, were to be defrayed by those who might receive the advantages of instruction. These were provisions, just, as they are important. Let me call your attention for a moment to a report of Col. Williams, which was made the subject of a special message, communicated to Congress by Mr. Jefferson, on the 18th of March, 1808. The extract I propose to read, as sustaining fully the views of Mr. McHenry upon this point, is in the following words: 'It might be well to make the plan upon such a scale as not only to take in the minor officers of the navy, but also any youths from any of the States who might wish for such an education, whether designed for the army or navy, or neither, and let them be assessed to the value of their education, which might form a fund for extra or contingent expenses.' Sir, these are the true doctrines upon this subject; doctrines worthy of the administration under which they were promulgated, and in accordance with the views of statesmen in the earlier and purer days of the Republic. Give to the officers of your army the highest advantages for perfection in all the branches of military science, and let those advantages be open to all, in rotation, and under such terms and regulations as shall be at once impartial toward the officers and advantageous to the service; but let all young gentlemen who have a taste for military life,

and desire to adopt arms as a profession, prepare themselves for subordinate situations at their own expense, or at the expense of their parents or guardians, in the same manner that the youth of the country are qualified for the professions of civil life. Sir, while upon this subject of gratuitous education, I will read an extract from 'Dupin's Military Force of Great Britain,' to show what favor it finds in another country, from the practice and experience of which we may derive some advantages, however far from approving of its institutions generally. The extract is from the 2d vol. 71st page, and relates to the terms on which young gentlemen are admitted to the junior departments of the Royal Military College at Sandhurst.

"*First*: The sons of officers of all ranks, whether of the land or sea forces, who have died in the service, leaving their families in pecuniary distress; this class are instructed, boarded, and habited gratuitously by the State; being required only to provide their equipments on admission, and to maintain themselves in linen. *Secondly*: The sons of all officers of the army above the rank of subalterns actually in the service, and who pay a sum proportioned to their ranks, according to a scale per annum regulated by the supreme board. The sons of living naval officers of rank not below that of master and commander, are also admitted on payment of annual stipends, similar to those of corresponding ranks in the army. The orphan sons of officers, who have not left their families in pecuniary difficulties, are admitted into this class on paying the stipends required of officers of the rank held by their parents at the time of their decease. *Thirdly*: The sons of noblemen and private gentlemen who pay a yearly sum equivalent to the expenses of their education, board, and clothing, according to a rate regulated from time to time by the commissioners.' Sir, let it be remembered that these are the regulations of a government which, with all its wealth and power, is, from its structure and practice, groaning under the accumulated weight of pensions, sinecures, and gratuities, and yet you observe, that only one class, 'the sons of officers of all ranks, whether of the land or sea forces, who have died in the service, leaving their families in pecuniary distress,' are educated gratuitously.

"I do not approve even of this, but I hold it up in contrast with your own principles and practice. If the patience of the committee would warrant me, Mr. Chairman, I could show, by reference to Executive communications, and the concurrent legislation of Congress in 1794, 1796, 1802, and 1808, that prior to the last mentioned date, such an institution as we now have was neither recommended nor contemplated. Upon this point I will not detain you longer; but when hereafter confronted by the authority of great names, I trust we shall be told where the expressions of approbation are to be found. We may then judge of their applicability to the Military Academy as at present organized. I am far from desiring to see this country destitute of a Military Academy; but I would have it a school of practice, and instruction, for officers actually in the service of the United States: not an institution for educating gratuitously, young gentlemen, who, on the completion of their term, or after a few months' leave of absence, resign their commissions and return to the pursuits of civil life. If any one doubts that this is the practical operation of your present system, I refer him to the annual list of resignations, to be found in the Adjutant General's office.

"Firmly as I am convinced of the necessity of a reorganization, I would take no step to create an unjust prejudice against the institution. All that I ask, and, so far as I know, all that any of the opponents of the institution ask, is, that after a full and impartial investigation, it shall stand or fall upon its merits. I know there are graduates of the institution who are ornaments to the army, and an honor to their country; but they, and not the seminary, are entitled to the credit. Here I would remark, once for all, that I do not reflect upon the officers or pupils of the Academy; it is to the principles of the institution itself, as at present organized, that I object. It is often said that the graduates leave the institution with sentiments that but ill accord with the feelings and opinions of the great mass of the people of that government from

which they derive the means of education, and that many who take commissions possess few qualifications for the command of men, either in war or in peace. Most of the members of this House have had more or less intercourse with these young gentlemen, and I leave it for each individual to form his own opinion of the correctness of the charges. Thus much I will say for myself, that I believe that these, and greater evils, are the natural, if not the inevitable, result of the principles in which this institution is founded; and any system of education, established upon similar principles, on government patronage alone, will produce like results, now and for ever. Sir, what are some of these results? By the report of the Secretary of War, dated January, 1831, we are informed that, "by an estimate of the last five years (preceding that date), it appears that the supply of the army from the corps of graduated cadets, has averaged about twenty-two annually, while those who graduated are about forty, making in each year an excess of eighteen. The number received annually into the Academy averages one hundred, of which only the number stated, to wit, forty, pass through the prescribed course of education at schools, and become supernumerary lieutenants in the army." By the report of the Secretary of War, December, 1830, we are informed, that "the number of promotions to the army from this corps, for the last five years, has averaged about twenty-two annually while the number of graduates has been at an average of forty. This excess, which is annually increasing, has placed eighty-seven in waiting until vacancies shall take place, and show that in the next year, probably, and in the succeeding one, certainly, there will be an excess beyond what the existing law authorizes to be commissioned. There will then be 106 supernumerary brevet second lieutenants appurtenant to the army, at an average annual expense of $80,000. Sir, that results here disclosed were not anticipated by Mr. Madison, is apparent from a recurrence to his messages of 1810 and 1811.

"In passing the law of 1812, both Congress and the President acted for the occasion, and they expected those who should succeed them to act in a similar manner. Their feelings of patriotism and resentment were aroused, by beholding the privileges of freemen wantonly invaded, our glorious stars and stripes disregarded, and national and individual rights trampled in the dust. The war was pending. The necessity for increasing the military force of the country was obvious and pressing, and the urgent occasion for increased facilities for military instruction, equally apparent. Sir, it was under circumstances like these, when we had not only enemies abroad, but, I blush to say, enemies at home, that the institution, as at present organized, had its origin. It will hardly be pretended that it was the original design of the law to augment the number of persons instructed, beyond the wants of the public service. Well, the report of the Secretary shows, that for five years prior to 1831, the Academy had furnished eighteen supernumeraries annually. A practical operation of this character has no sanction in the recommendation of Mr. Madison. The report demonstrates, further, the *fruitfulness* and *utility* of this institution, by showing the fact, that but two-fifths of those who enter the Academy graduate, and that but a fraction more than one-fifth enter the public service. This is not the fault of the administration of the Academy; it is not the fault of the young gentlemen who are *sent* there; on your present peace establishment there can be but little to stimulate them, particularly in the acquisition of military science. There can hardly be but one object in the mind of the student, and that would be to obtain an education for the purposes of civil life. The difficulty is, that the institution has outlived both the occasion that called it into existence, and its original design. I have before remarked, that the Academy was manifestly enlarged to correspond with the army and militia actually to be called into service. Look then for a moment at facts, and observe with how much wisdom, justice, and sound policy, you retain the provisions of the law of 1812. The total authorized force of 1813, after the declaration of war, was 58,254; and in October, 1814, the military establishment amounted to 62,428. By the act of March, 1815, the peace establishment was limited to 10,000, and now hardly exceeds that number. Thus you make a reduction of more than

50,000 in your actual military force, to accommodate the expenses of the government to its wants. And why do you refuse to do the same with your grand system of public education? Why does that remain unchanged? Why not reduce it at once, at least to the actual wants of the service, and dispense with your corps of supernumerary lieutenants? Sir, there is, there can be but one answer to the question, and that may be found in the war report of 1819, to which I have before had occasion to allude. The Secretary says, 'the cadets who cannot be provided for in the army will return to private life, but in the event of a war their knowledge will not be lost to the country.' Indeed, sir, these young gentlemen, if they could be *induced* to take the field, would, after a lapse of ten or fifteen years, come up from the bar, or it may be the pulpit, fresh in military science, and admirably qualified for command in the face of an enemy. The magazine of facts, to prove at the same glance the extravagance and unfruitfulness of this institution, is not easily exhausted: but I am admonished by the lateness of the hour to omit many considerations which I regard as both interesting and important. I will only detain the committee to make a single statement, placing side by side some aggregate results. There has already been expended upon the institution more than three millions three hundred thousand dollars. Between 1815, and 1821, thirteen hundred and eighteen students were admitted into the Academy; and of all the cadets who were ever there, only two hundred and sixty-five remained in the service at the end of 1830. Here are the expenses you have incurred, and the products you have realized.

"I leave them to be balanced by the people. But for myself, believing as I do, that the Academy stands forth as an anomaly among the institutions of this country; that it is at variance with the spirit, if not the letter of the constitution under which we live; so long as this House shall deny investigation into its principles and practical operation, I, as an individual member, will refuse to appropriate the first dollar for its support."

141. Expunging Resolution—Peroration Of Senator Benton's Second Speech

"The condemnation of the President, combining as it did all that illegality and injustice could inflict, had the further misfortune to be co-operative in its effect with the conspiracy of the Bank of the United States to effect the most wicked and universal scheme of mischief which the annals of modern times exhibit. It was a plot against the government, and against the property of the country. The government was to be upset, and property revolutionized. Six hundred banks were to be broken—the general currency ruined—myriads bankrupted—all business stopped—all property sunk in value—all confidence destroyed! that out of this wide spread ruin and pervading distress, the vengeful institution might glut its avarice and ambition, trample upon the President, take possession of the government, reclaim its lost deposits, and perpetuate its charter. These crimes, revolting and frightful in themselves, were to be accomplished by the perpetration of a whole system of subordinate and subsidiary crime! the people to be deceived and excited; the President to be calumniated; the effects of the bank's own conduct to be charged upon him; meetings got up; business suspended; distress deputations organized; and the Senate chamber converted into a theatre for the dramatic exhibition of all this fictitious woe. That it was the deep and sad misfortune of the Senate so to act, as to be co-operative in all this scene of mischief, is too fully proved by the facts known, to admit of denial. I speak of acts, not of motives. The effect of the Senate's conduct in trying the President and uttering alarm speeches; was to co-operate with the bank, and that secondarily, and as a subordinate performer; for it is incontestable that the bank began the whole affair; the little book of fifty pages proves that. The bank began it; the bank followed it up; the bank attends to it now. It is a case which might well be entered on our journal as a State is entered against a criminal in the docket of a court: the Bank of the United States *versus* President Jackson: on impeachment for removing the deposits. The entry would be justified by the facts, for these are the indubitable facts. The bank started the accusation; the Senate took it up. The bank furnished arguments; the Senate used them. The bank excited meetings; the Senate extolled them. The bank sent deputations; the senators received them with honor. The deputations reported answers for the President which he never gave; the Senate repeated and enforced these answers. Hand in hand throughout the whole process, the bank and the Senate acted together, and succeeded in getting up the most serious and afflicting panic ever known in this country. The whole country was agitated. Cities, towns, and villages, the entire country and the whole earth seemed to be in commotion against one man. A revolution was proclaimed! the overthrow of all law was announced! the substitution of one man's will for the voice of the whole government, was daily asserted! the public sense was astounded and bewildered with dire and portentous annunciations! In the midst of all this machinery of alarm and distress, many good citizens lost their reckoning; sensible heads went wrong; stout hearts quailed; old friends gave way; temporizing counsels came in; and the solitary defender of his country was urged to yield! Oh, how much depended upon that one man at that dread and awful point of time! If he had given way, then all was gone! An insolent, rapacious, and revengeful institution would have been installed in sovereign power. The federal and State governments, the Congress, the Presidency, the State legislatures, all would have fallen under the dominion of the bank; and all departments of the government would have been filled and administered by the debtors, pensioners, and attorneys of that institution. He did not yield, and the country was saved. The heroic patriotism of one man prevented all this calamity, and saved the Republic from becoming the appendage and fief of

a moneyed corporation. And what has been his reward? So far as the people are concerned, honor, gratitude, blessings, everlasting benedictions; so far as the Senate is concerned, dishonor, denunciation, stigma, infamy. And shall these two verdicts stand? Shall our journal bear the verdict of infamy, while the hearts of the people glow and palpitate with the verdict of honor?

"President Jackson has done more for the human race than the whole tribe of politicians put together; and shall he remain stigmatized and condemned for the most glorious action of his life? The bare attempt to stigmatize Mr. Jefferson was not merely expunged, but cut out from the journal; so that no trace of it remains upon the Senate records. The designs are the same in both cases; but the aggravations are inexpressibly greater in the case of President Jackson. Referring to the journals of the House of Representatives for the character of the attempt against President Jefferson, and the reasons for repulsing it, and it is seen that the attempt was made to criminate Mr. Jefferson, and to charge him upon the journals with a violation of the laws; and that this attempt was made at a time, and under circumstances insidiously calculated to excite unjust suspicion in the minds of the people against the Chief Magistrate. Such was precisely the character of the charge; and the effect of the charge against President Jackson, with the difference only that the proceeding against President Jackson, was many ten thousand times more revolting and aggravated; commencing as it did in the Bank, carried on by a violent political party, prosecuted to sentence and condemnation; and calculated, if believed, to destroy the President, to change the administration, and to put an end to popular representative government. Yes, sir, to put an end to elective and representative government! For what are all the attacks upon President Jackson's administration but attacks upon the people who elect and re-elect him, who approve his administration, and by approving, make it their own? To condemn such a President, thus supported, is to condemn the people, to condemn the elective principle, to condemn the fundamental principle of our government; and to establish the favorite dogma of the monarchists, that the people are incapable of self-government, and will surrender themselves as collared slaves into the hands of military chieftains.

"Great are the services which President Jackson has rendered his country. As a General he has extended her frontiers, saved a city, and carried her renown to the highest pitch of glory. His civil administration has rivalled and transcended his warlike exploits. Indemnities procured from the great powers of Europe for spoliations committed on our citizens under former administrations, and which, by former administrations were reclaimed in vain; peace and friendship with the whole world, and, what is more, the respect of the whole world; the character of our America exalted in Europe; so exalted that the American citizen, treading the continent of Europe, and contemplating the sudden and great elevation of the national character, might feel as if he himself was an hundred feet high. Such is the picture abroad! At home we behold a brilliant and grateful scene; the public debt paid,—taxes reduced,—the gold currency restored,—the Southern States released from a useless and dangerous population,—all disturbing questions settled,—a gigantic moneyed institution repulsed in its march to the conquest of the government,—the highest prosperity attained,—and the Hero Patriot now crowning the list of his glorious services by covering his country with the panoply of defence, and consummating his measures for the restoration and preservation of the currency of the constitution. We have had brilliant and prosperous administrations; but that of President Jackson eclipses, surpasses, and casts into the shade, all that have preceded it. And is he to be branded, stigmatized, condemned, unjustly and untruly condemned; and the records of the Senate to bear the evidence of this outrage to the latest posterity? Shall this President, so glorious in peace and in war, so successful at home and abroad, whose administration, now, hailed with applause and gratitude by the people, and destined to shine

for unnumbered ages in the political firmament of our history: shall this President, whose name is to live for ever, whose retirement from life and services will be through the gate that leads to the temple of everlasting fame; shall *he* go down to posterity with this condemnation upon him; and that for the most glorious action of his life?

"Mr. President, I have some knowledge of history, and some acquaintance with the dangers which nations have encountered, and from which heroes and statesmen have saved them. I have read much of ancient and modern history, and nowhere have I found a parallel to the services rendered by President Jackson in crushing the conspiracy of the Bank, but in the labors of the Roman Consul in crushing the conspiracy of Catiline. The two conspiracies were identical in their objects; both directed against the government, and the property of the country. Cicero extinguished the Catilinarean conspiracy, and saved Rome; President Jackson defeated the conspiracy of the Bank, and saved our America. Their heroic service was the same, and their fates have been strangely alike. Cicero was condemned for violating the laws and the constitution; so has been President Jackson. The consul was refused a hearing in his own defence: so has been President Jackson. The life of Cicero was attempted by two assassins; twice was the murderous pistol levelled at our President. All Italy, the whole Roman world, bore Cicero to the Capitol, and tore the sentence of the consul's condemnation from the *fasti* of the republic: a million of Americans, fathers and heads of families, now demand the expurgation of the sentence against the President. Cicero, followed by all that was virtuous in Rome, repaired to the temple of the tutelary gods, and swore upon the altar that he had saved his country: President Jackson, in the temple of the living God, might take the same oath, and find its response in the hearts of millions. Nor shall the parallel stop here; but after times, and remote posterities shall render the same honors to each. Two thousand years have passed, and the great actions of the consul are fresh and green in history. The school-boy learns them; the patriot studies them; the statesman applies them: so shall it be with our patriot President. Two thousand years hence,—ten thousand,—nay, while time itself shall last, for who can contemplate the time when the memory of this republic shall be lost? while time itself shall last, the name and fame of Jackson shall remain and flourish; and this last great act by which he saved the government from subversion, and property from revolution, shall stand forth as the seal and crown of his heroic services. And if any thing that I myself may do or say, shall survive the brief hour in which I live, it will be the part which I have taken, and the efforts which I have made, to sustain and defend the great defender of his country.

"Mr. President, I have now finished the view which an imperious sense of duty has required me to take of this subject. I trust that I have proceeded upon proofs and facts, and have left nothing unsustained which I feel it to be my duty to advance. It is not my design to repeat, or to recapitulate; but there is one further and vital consideration which demands the notice of a remark, and which I should be faithless to the genius of our government, if I should pretermit. It is known, sir, that ambition for office is the bane of free States, and the contentions of rivals the destruction of their country. These contentions lead to every species of injustice, and to every variety of violence, and all cloaked with the pretext of the public good. Civil wars and banishment at Rome; civil wars, and the ostracism at Athens; bills of attainder, star-chamber prosecutions, and impeachments In England; all to get rid of some envied, or hated rival, and all pretexted with the public good: such has been the history of free States for two thousand years. The wise men who framed our constitution were well aware of all this danger and all this mischief, and took effectual care, as they thought, to guard against it. Banishment, the ostracism, the star-chamber prosecutions, bills of attainder, all those summary and violent modes of hunting down a rival, which deprive the victim of defence by depriving him of the intervention of an accusing body to stand between the accuser and the trying body; all these

are proscribed by the genius of our constitution. Impeachments alone are permitted; and these would most usually occur for political offences, and be of a character to enlist the passions of many, and to agitate the country. An effectual guard, it was supposed, was provided against the abuse of the impeachment power, first, by requiring a charge to be preferred by the House of Representatives, as the grand Inquest of the nation; and *next*, in confining the trial to the Senate, and requiring a majority of two-thirds to convict. The gravity, the dignity, the age of the senators, and the great and various powers with which they were invested—greater and more various than are united in the same persons under any other constitutional government upon earth—these were supposed to make the Senate a safe depository for the impeachment power; and if the plan of the constitution is followed out it must be admitted to be so. But if a public officer can be arraigned by his rivals before the Senate for impeachable offences without the intervention of the House of Representatives, and if he can be pronounced guilty by a simple majority, instead of a majority of two-thirds, then has the whole frame of our government miscarried, and the door left wide open to the greatest mischief which has ever afflicted the people of free States. Then can rivals and competitors go on to do what it was intended they should never do; accuse, denounce, condemn, and hunt down each other! Great has been the weight of the American Senate. Time was when its rejections for office were fatal to character; time is when its rejections are rather passports to public favor. Why this sad and ominous decline? Let no one deceive himself. Public opinion is the arbiter of character in our enlightened day; it is the Areopagus from which there is no appeal! That arbiter has pronounced against the Senate. It has sustained the President, and condemned the Senate. If it had sustained the Senate, the President must have been ruined! as it has not, the Senate must be ruined, if it perseveres in its course, and goes on to brave public opinion!—as an institution, it must be ruined!”

142. Distribution Of The Land Revenue

“The great loss of the bank has been in the depreciation of the securities; and the only way to regain a capital is to restore their value. A large portion of them consists of State stocks, which are so far below their intrinsic worth that the present prices could not have been anticipated by any reasonable man. No doubt can be entertained of their ultimate payment. The States themselves, unaided, can satisfy every claim against them; they will do it speedily, if Congress adopt the measures contemplated for their relief. A division of the public lands among the States, which would enable them all to pay their debts—or a pledge of the proceeds of sales for that purpose—would be abundant security. Either of these acts would inspire confidence, and enhance the value of all kinds of property.” This paragraph appeared in the Philadelphia National Gazette, was attributed to Mr. Biddle, President of the Bank of the United States; and connects that institution with all the plans for distributing the public land money among the States, either in the shape of a direct distribution, or in the disguise of a deposit of the surplus revenue; and this for the purpose of enhancing the value of the State stocks held by it. That institution was known to have interfered in the federal legislation, to promote or to baffle the passage of laws, as deemed to be favorable or otherwise to her interests; and this resort to the land revenue through an act of Congress was an eminent instance of the spirit of interference. This distribution had become, very nearly, a party measure; and of the party of which the bank was a member, and Mr. Clay the chief. He was the author of the scheme—had introduced it at several sessions—and now renewed it. Mr. Webster also made a proposition to the same effect at this session. It was the summer of the presidential election; and great calculations were made by the party which favored the distribution upon its effect in adding to their popularity. Mr. Clay limited his plan of distribution to five years; but the limitation was justly considered as nothing—as a mere means of beginning the system of these distributions—which once began, would go on of themselves, while our presidential elections continued, and any thing to divide could be found in the treasury. Mr. Benton opposed the whole scheme, and confronted it with a proposition to devote the surplus revenue to the purposes of national defence; thereby making an issue, as he declared, between the plunder of the country and the defence of the country. He introduced an antagonistic bill, as he termed it, devoting the surplus moneys to the public defences; and showing by reports from the war and navy departments that seven millions a year for fifteen years would be required for the completion of the naval defences, and thirty millions to complete the military defences; of which nine millions per annum could be beneficially expended; and then went on to say:

“That the reports from which he had read, taken together, presented a complete system of preparation for the national defence; every arm and branch of defence was to be provided for; an increase of the navy, including steamships; appropriate fortifications, including steam batteries; armories, foundries, arsenals, with ample supplies of arms and munitions of war; an increase of troops for the West and Northwest; a line of posts and a military road from the Red River to the Wisconsin, in the rear of the settlements, and mounted dragoons to scour the country; every thing was considered; all was reduced to system, and a general, adequate, and appropriate plan of national defence was presented, sufficient to absorb all the surplus revenue, and wanting nothing but the vote of Congress to carry it into effect. In this great system of national defence the whole Union was equally interested; for the country, in all that concerned its defences, was but a unit, and every section was interested in the defence of every other section, and every individual citizen was interested in the defence of the whole population. It was in vain to say that the navy was on the sea, and the fortifications on the

seaboard, and that the citizens in the interior States, or in the valley of the Mississippi, had no interest in these remote defences. Such an idea was mistaken and delusive. The inhabitant of Missouri and of Indiana had a direct interest in keeping open the mouths of the rivers, defending the seaport towns, and preserving a naval force that would protect the produce of his labor in crossing the ocean, and arriving safely in foreign markets. All the forts at the mouth of the Mississippi were just as much for the benefit of the western States, as if those States were down at the mouth of that river. So of all the forts on the Gulf of Mexico. Five forts are completed in the delta of the Mississippi; two are completed on the Florida or Alabama coast; and seven or eight more are projected; all calculated to give security to western commerce in passing through the Gulf of Mexico. Much had been done for that frontier, but more remained to be done; and among the great works contemplated in that quarter were large establishments at Pensacola, Key West, or the Dry Tortugas. Large military and naval stations were contemplated at these points, and no expenditure or preparations could exceed in amount the magnitude of the interests to be protected. On the Atlantic board the commerce of the States found its way to the ocean through many outlets, from Maine to Florida; in the West, on the contrary, the whole commerce of the valley of the Mississippi, all that of the Alabama, of western Florida, and some part of Georgia, passes through a single outlet, and reaches the ocean by passing between Key West and Cuba. Here, then, is an immense commerce collected into one channel, compressed into one line, and passing, as it were, through one gate. This gives to Key West and the Dry Tortugas an importance hardly possessed by any point on the globe; for, besides commanding the commerce of the entire West, it will also command that of Mexico, of the West Indies, of the Caribbean sea, and of South America down to the middle of that continent at its most eastern projection, Cape Roque. To understand the cause of all this (Mr. B. said), it was necessary to look to the trade winds, which, blowing across the Atlantic between the tropics, strike the South American continent at Cape Roque, follow the retreating coast of that continent up to the Caribbean sea, and to the Gulf of Mexico, creating the gulf stream as they go, and by the combined effect of a current in the air and in the water, sweeping all vessels from this side Cape Roque into its stream, carrying them round west of Cuba and bringing them out between Key West and the Havana. These two positions, then, constitute the gate through which every thing must pass that comes from the valley of the Mississippi, from Mexico, and from South America as low down as Cape Roque. As the masters of the Mississippi, we should be able to predominate in the Gulf of Mexico; and, to do so, we must have great establishments at Key West and Pensacola. Such establishments are now proposed; and every citizen of the West should look upon them as the guardians of his own immediate interests, the indispensable safeguard to his own commerce; and to him the highest, most sacred, and most beneficial object to which surplus revenue could be applied. The Gulf of Mexico should be considered as the estuary of the Mississippi. A naval and military supremacy should be established in that gulf, cost what it might; for without that supremacy the commerce of the entire West would lie at the mercy of the fleets and privateers of inimical powers.

“Mr. B. returned to the immediate object of his remarks—to the object of showing that the defences of the country would absorb every surplus dollar that would ever be found in the treasury. He recapitulated the aggregates of those heads of expenditure; for the navy, about forty millions of dollars, embracing the increase of the navy, navy yards, ordnance, and repairs of vessels for a series of years; for fortifications, about thirty millions, reported by the engineer department; and which sum, after reducing the size of some of the largest class of forts, not yet commenced, would still be large enough, with the sum reported by the ordnance department, amounting to near thirty millions, to make a totality not much less than one hundred millions; and far more than sufficient to swallow up all the surpluses which will ever be found to exist in the treasury. Even after deducting much from these estimates, the

remainder will still go beyond any surplus that will actually be found. Every person knows that the present year is no criterion for estimating the revenue; excess of paper issues has inflated all business, and led to excess in all branches of the revenue; next year it will be down, and soon fall as much below the usual level as it now is above it. More than that; what is now called a surplus in the treasury is no surplus, but a mere accumulation for want of passing the appropriation bills. The whole of it is pledged to the bills which are piled upon our tables, and which we cannot get passed; for the opposition is strong enough to arrest the appropriations, to dam up the money in the treasury; and then call that a surplus which would now be in a course of expenditure, if the necessary appropriation bills could be passed.

"The public defences will require near one hundred millions of dollars; the annual amount required for these defences alone amount to thirteen or fourteen millions. The engineer department answers explicitly that it can beneficially expend six millions of dollars annually; the ordnance that it can beneficially expend three millions; the navy that it can beneficially expend several millions; and all this for a series of years. This distribution bill has five years to run, and in that time, if the money is applied to defence instead of distribution, the great work of national defence will be so far completed as to place the United States in condition to cause her rights and her interests, her flag and her soil, to be honored and respected by the whole world."

The bill was passed in the Senate, though by a vote somewhat close—25 to 20. The yeas were:

Messrs. Black, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Goldsborough, Hendricks, Kent, Knight, Leigh, McKean, Mangum, Naudain, Nicholas, Porter, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster White.

Nays.—Messrs. Benton, Calhoun, Cuthbert, Ewing of Illinois, Grundy, Hill, Hubbard, King of Alabama, King of Georgia, Linn, Moore, Morris, Niles, Rives, Robinson, Ruggles, Shepley, Tallmadge, Walker, Wright.

Being sent to the House for concurrence it became evident that it could not pass that body; and then the friends of distribution in the Senate fell upon a new mode to effect their object, and in a form to gain the votes of many members who held distribution to be a violation of the constitution—among them Mr. Calhoun;—who took the lead in the movement. There was a bill before the Senate to regulate the keeping of the public moneys in the deposit banks; and this was turned into distribution of the surplus public moneys with the States, in proportion to their representation in Congress, to be returned when Congress should call for it: and this was called a deposit with the States; and the faith of the States pledged for returning the money. The deposit was defended on the same argument on which Mr. Calhoun had proposed to amend the constitution two years before; namely that there was no other way to get rid of the surplus. And to a suggestion from Mr. Wright that the moneys, when once so deposited might never be got back again, Mr. Calhoun answered:

"But the senator from New-York objects to the measure, that it would, in effect, amount to a distribution, on the ground, as he conceives, that the States would never refund. He does not doubt but that they would, if called on to refund by the government; but he says that Congress will in fact never make the call. He rests this conclusion on the supposition that there would be a majority of the States opposed to it. He admits, in case the revenue should become deficient, that the southern or staple States would prefer to refund their quota, rather than to raise the imposts to meet the deficit; but he insists that the contrary would be the case with the manufacturing States, which would prefer to increase the imposts to refunding their

quota, on the ground that the increase of the duties would promote the interests of manufactures. I cannot agree with the senator that those States would assume a position so utterly untenable as to refuse to refund a deposit which their faith would be plighted to return, and rest the refusal on the ground of preferring to lay a tax, because it would be a bounty to them, and would consequently throw the whole burden of the tax on the other States. But, be this as it may, I can tell the senator that, if they should take a course so unjust and monstrous, he may be assured that the other States would most unquestionably resist the increase of the imposts; so that the government would have to take its choice, either to go without the money, or call on the States to refund the deposits."

Mr. Benton took an objection to this scheme of deposit, that it was a distribution under a false name, making a double disposition of the same money; that the land money was to be distributed under the bill already passed by the Senate: and he moved an amendment to except that money from the operation of the deposit to be made with the States. He said it was hardly to be supposed that, in the nineteenth century, a grave legislative body would pass two bills for dividing the same money; and it was to save the Senate from the ridicule of such a blunder that he called their attention to it, and proposed the amendment. Mr. Calhoun said there was a remedy for it in a few words, by adding a proviso of exception, if the land distribution bill became a law. Mr. Benton was utterly opposed to such a proviso—a proviso to take effect if the same thing did not become law in another bill. Mr. Morris also wished to know if the Senate was about to make a double distribution of the same money? As far it respected the action of the Senate the land bill was, to all intents and purposes, a law. It had passed the Senate, and they were done with it. It had changed its title from "bill" to "act." It was now the act of the Senate, and they could not know what disposition the House would make of it. Mr. Webster believed the land bill could not pass the House; that it was put to rest there; and therefore he had no objection to voting for the second one: thus admitting that, under the name of "distribution" the act could not pass the House, and that a change of name was indispensable. Mr. Wright made a speech of statements and facts to show that there would be no surplus; and taking up that idea, Mr. Benton spoke thus:

"About this time two years ago, the Senate was engaged in proclaiming the danger of a bankrupt Treasury, and in proving to the people that utter ruin must ensue from the removal of the deposits from the Bank of the United States. The same Senate, nothing abated in confidence from the failure of former predictions, is now engaged in celebrating the prosperity of the country, and proclaiming a surplus of forty, and fifty, and sixty millions of dollars in that same Treasury, which so short a time since they thought was going to be bankrupt. Both occupations are equally unfortunate. Our Treasury is in no more danger of bursting from distension now, than it was of collapsing from depletion then. The ghost of the panic was driven from this chamber in May, 1834, by the report of Mr. Taney, showing that all the sources of the national revenue were in their usual rich and bountiful condition; and that there was no danger of bankruptcy. The speech and statement, so brief and perspicuous, just delivered by the senator from New York [Mr. Wright], will perform the same office upon the distribution spirit, by showing that the appropriations of the session will require nearly as much money as the public Treasury will be found to contain. The present exaggerations about the surplus will have their day, as the panic about an empty Treasury had its day; and time, which corrects all things, will show the enormity of these errors which excite the public mind, and stimulate the public appetite, for a division of forty, fifty, and sixty millions of surplus treasure."

The bill being ordered to a third reading, with only six dissenting votes, the author of this View could not consent to let it pass without an attempt to stigmatize it, and render it odious to the people, as a distribution in disguise—as a deposit never to be reclaimed; as a miserable

evasion of the constitution; as an attempt to debauch the people with their own money; as plundering instead of defending the country; as a cheat that would only last till the presidential election was over; for there would be no money to deposit after the first or second quarter;—and as having the inevitable effect, if not the intention, to break the deposit banks; and, finally, as disappointing its authors in their schemes of popularity: in which he was prophetic; as, out of half a dozen aspirants to the presidency, who voted for it, no one of them ever attained that place. The following are parts of his speech:

"I now come, Mr. President (continued Mr. B.), to the second subject in the bill—the distribution feature—and to which the objections are, not of detail, but of principle; but which objections are so strong, in the mind of myself and some friends, that, far from shrinking from the contest, and sneaking away in our little minority of six, where we were left last evening, we come forward with unabated resolution to renew our opposition, and to signalize our dissent; anxious to have it known that we contended to the last against the seductions of a measure, specious to the view, and tempting to the taste, but fraught with mischief and fearful consequences to the character of this government, and to the stability and harmony of this confederacy.

"Stripping this enactment of statutory verbiage, and collecting the provisions of the section into a single view, they seem to be these: 1. The public moneys, above a specific sum, are to be deposited with the States, in a specified ratio; 2. The States are to give certificates of deposit, payable to the United States; but no time, or contingency, is fixed for the payment; 3. The Secretary of the Treasury is to sell and assign the certificates, limited to a ratable proportion of each, when necessary to meet appropriations made by Congress; 4. The certificates so assigned are to bear an interest of five per cent., payable half yearly; 5. To bear no interest before assignment; 6. The principal to be payable at the pleasure of the State.

"This, Mr. President, is the enactment; and what is such an enactment? Sir, I will tell you what it is. It is, in name, a deposit; in form, a loan; in essence and design, a distribution. Names cannot alter things; and it is as idle to call a gift a deposit, as it would be to call a stab of the dagger a kiss of the lips. It is a distribution of the revenues, under the name of a deposit, and under the form of a loan. It is known to be so, and is intended to be so; and all this verbiage about a deposit is nothing but the device and contrivance of those who have been for years endeavoring to distribute the revenues, sometimes by the land bill, sometimes by direct propositions, and sometimes by proposed amendments to the constitution. Finding all these modes of accomplishing the object met and frustrated by the constitution, they fall upon this invention of a deposit, and exult in the success of an old scheme under a new name. That it is no deposit, but a free gift, and a regular distribution, is clear and demonstrable, not only from the avowed principles, declared intentions, and systematic purposes of those who conduct the bill, but also from the means devised to effect their object. Names are nothing. The thing done gives character to the transaction; and the imposition of an erroneous name cannot change that character. This is no deposit. It has no feature, no attribute, no characteristic no quality of a deposit. A deposit is a trust requiring the consent of two parties, leaving to one the rights of ownership, and imposing on the other the duties of trustee. The depositor retains the right of property, and reserves the privilege of resumption; the depositary is bound to restore. But here the right of property is parted with; the privilege of resumption is surrendered; the obligation to render back is not imposed. On the contrary, our money is put where we cannot reach it. Our treasury warrant cannot pursue it. The States are to keep the money, free of interest, until it is needed to meet appropriations; and then the Secretary of the Treasury is—to do what?—call upon the State? No! but to sell and assign the certificate; and the State is to pay the assignee an interest half yearly, and the principal when it pleases. Now, these appropriations will never be made. The members of Congress are not

yet born—the race of representatives is not yet known—who will vote appropriations for national objects, to be paid out of their own State treasuries. Sooner will the tariff be revived, or the price of public land be raised. Sooner will the assignability of the certificate be repealed by law. The contingency will never arrive, on which the Secretary is to assign: so the deposit will stand as a loan for ever, without interest. At the end of some years, the nominal transaction will be rescinded; the certificates will all be cancelled by one general, unanimous, harmonious vote in Congress. The disguise of a deposit, like the mask after a play, will be thrown aside; and the delivery of the money will turn out to be, what it is now intended to be, a gift from the beginning. This will be the end of the first chapter. And now, how unbecoming in the Senate to practise this indirection, and to do by a false name what cannot be done by its true one. The constitution, by the acknowledgment of many who conduct this bill, will not admit of a distribution of the revenues. Not further back than the last session, and again at the commencement of the present session, a proposition was made to amend the constitution, to permit this identical distribution to be made. That proposition is now upon our calendar, for the action of Congress. All at once, it is discovered that a change of names will do as well as a change of the constitution. Strike out the word ‘distribute,’ and insert the word ‘deposit;’ and, incontinently, the impediment is removed: the constitution difficulty is surmounted; the division of the money can be made. This, at least, is quick work. It looks magical, though not the exploit of the magician. It commits nobody, though not the invention of the non-committal school. After all, it must be admitted to be a very compendious mode of amending the constitution, and such a one as the framers of that instrument never happened to think of. Is this fancy, or is it fact? Are we legislating, or amusing ourselves with phantasmagoria? Can we forget that we now have upon the calendar a proposition to amend the constitution, to effect this very distribution, and that the only difference between that resolution and this thirteenth section, is in substituting the word ‘deposit’ for the word ‘distribute?’

“Having shown this pretended deposit to be a distribution in disguise, and to be a mere evasion of the constitution, Mr. B. proceeded to examine its effects, and to trace its ruinous consequences upon the federal government and the States. It is brought forward as a temporary measure, as a single operation, as a thing to be done but once; but what career, either for good or for evil, ever stopped with the first step? It is the first step which costs the difficulty; that taken, the second becomes easy, and repetition habitual. Let this distribution, in this disguise, take effect; and future distribution will be common and regular. Every presidential election will bring them, and larger each time; as the consular elections in Rome, commencing with distributions of grain from the public granaries, went on to the exhibitions of games and shows, the remission of debts, largesses in money, lands, and provisions; until the rival candidates openly bid against each other, and the diadem of empire was put up at auction, and knocked down to the last and highest bidder. The purity of elections may not yet be affected in our young and vigorous country; but how long will it be before voters will look to the candidates for the magnitude of their distributions, instead of looking to them for the qualifications which the presidential office requires?

“The bad consequences of this distribution of money to the States are palpable and frightful. It is complicating the federal and State systems, and multiplying their points of contact and hazards of collision. Take it as ostensibly presented; that of a deposit or loan, to be repaid at some future time; then it is establishing the relation of debtor and creditor between them: a relation critical between friends, embarrassing between a State and its citizens; and eminently dangerous between confederate States and their common head. It is a relation always deprecated in our federal system. The land credit system was abolished by Congress, fifteen years ago, to get rid of the relation of debtor and creditor between the federal government and

the citizens of the States; and seven or eight millions of debt, principal and interest, was then surrendered. The collection of a large debt from numerous individual debtors, was found to he almost impossible. How much worse if the State itself becomes the debtor! and more, if all the States become indebted together! Any attempt to collect the debt would be attended, first with ill blood, then with cancellation. It must be the representatives of the States who are to enforce the collection of the debt. This they would not do. They would stand together against the creditor. No member of Congress could vote to tax his State to raise money for the general purposes of the confederacy. No one could vote an appropriation which was to become a charge on his own State treasury. Taxation would first be resorted to, and the tariff and the public lands would become the fountain of supply to the federal government. Taken as a real transaction—as a deposit with the States, or a loan to the States—as this measure professes to be, and it is fraught with consequences adverse to the harmony of the federal system, and fraught with new burdens upon the customs, and upon the lands; taken as a fiction to avoid the constitution, as a John Doe and Richard Roe invention to convey a gift under the name of a deposit, and to effect a distribution under the disguise of a loan, and it is an artifice which makes derision of the constitution, lets down the Senate from its lofty station; and provides a facile way for doing any thing that any Congress may choose to do in all time to come. It is only to depose one word and instal another—it is merely to change a name—and the frowning constitution immediately smiles on the late forbidden attempt.

"To the federal government the consequences of these distributions must be deplorable and destructive. It must be remitted to the helpless condition of the old confederacy, depending for its supplies upon the voluntary contributions of the States. Worse than depending upon the voluntary contributions, it will be left to the gratuitous leavings, to the eleemosynary crumbs, which remain upon the table after the feast of the States is over. God grant they may not prove to be the feasts of the Lapithæ and Centaurs! But the States will be served first; and what remains may go to the objects of common defence and national concern for which the confederacy was framed, and for which the power of raising money was confided to Congress. The distribution bills will be passed first, and the appropriation bills afterwards; and every appropriation will be cut down to the lowest point, and kept off to the last moment. To stave off as long as possible, to reduce as low as possible, to defeat whenever possible, will be the tactics of federal legislation; and when at last some object of national expenditure has miraculously run the gauntlet of all these assaults, and escaped the perils of these multiplied dangers, behold the enemy still ahead, and the recapture which awaits the devoted appropriation, in the shape of an unexpended balance, on the first day of January then next ensuing. Thus it is already; distribution has occupied us all the session. A proposition to amend the constitution, to enable us to make the division, was brought in in the first month of the session. The land bill followed, and engrossed months, to the exclusion of national defence. Then came the deposit scheme, which absorbs the remainder of the session. For nearly seven months we have been occupied with distribution, and the Senate has actually passed two bills to effect the same object, and to divide the same identical money. Two bills to divide money, while one bill cannot be got through for the great objects of national defence named in the constitution. We are now near the end of the seventh month of the session. The day named by the Senate for the termination of the session is long passed by; the day fixed by the two Houses is close at hand. The year is half gone, and the season for labor largely lost; yet what is the state of the general, national, and most essential appropriations? Not a shilling is yet voted for fortifications; not a shilling for the ordnance; nothing for filling the empty ranks of the skeleton army; nothing for the new Indian treaties; nothing for the continuation of the Cumberland road; nothing for rebuilding the burnt-down Treasury; nothing for the custom-house in New Orleans; nothing for extinguishing the rights of private corporators in the Louisville canal, and making that great thoroughfare free to the commerce

of the West; nothing for the western armory, and arsenals in the States which have none; nothing for the extension of the circuit court system to the new States of the West and Southwest; nothing for improving the mint machinery; nothing for keeping the mints regularly supplied with metals for coining; nothing for the new marine hospitals; nothing for the expenses of the visitors now gone to the Military Academy; nothing for the chain of posts and the military road along the Western and Northwestern frontier. All these, and a long list of other objects, remain without a cent to this day; and those who have kept them off now coolly turn upon us, and say the money cannot be expended if appropriated, and that, on the first of January, it must fall into the surplus fund to be divided. Of the bills passed, many of the most essential character have been delayed for months, to the great injury of individuals and of the public service. Clerks and salaried officers have been borrowing money at usury to support their families, while we, wholly absorbed with dividing surpluses, were withholding from them their stipulated wages. Laborers at Harper's Ferry Armory have been without money to go to market for their families, and some have lived three weeks without meat, because we must attend to the distribution bills before we can attend to the pay bills. Disbursing officers have raised money on their own account, to supply the want of appropriations. Even the annual Indian Annuity Bill has but just got through; the Indians even—the poor Indians, as they were wont to be called—even they have had to wait, in want and misery, for the annual stipends solemnly guarantied by treaties. All this has already taken place under the deplorable influence of the distribution spirit.

"The progress which the distribution spirit has made in advancing beyond its own pretensions, is a striking feature in the history of the case, and ominous of what may be expected from its future exactions. Originally the proposition was to divide the surplus. It was the surplus, and nothing but the surplus, which was to be taken; that bona fide and inevitable surplus which remained after all the defences were provided for, and all needed appropriations fully made. Now the defences are postponed and decried; the needful appropriations are rejected, stinted, and deferred, till they cannot be used; and, instead of the surplus, it is the integral revenue, it is the money in the Treasury, it is the money appropriated by law, which is to be seized upon and divided out. It is the unexpended balances which are now the object of all desire and the prize of meditated distribution. The word surplus is not in the bill! that word, which has figured in so many speeches, which has been the subject of so much speculation, which has been the cause of so much delusion in the public mind, and of so much excited hope; that word is not in the bill! It is carefully, studiously, systematically excluded, and a form of expression is adopted to cover all the money in the Treasury, a small sum excepted, although appropriated by law to the most sacred and necessary objects. A recapture of the appropriated money is intended; and thus the very identical money which we appropriate at this session is to be seized upon on the first day of January, torn away from the objects to which it was dedicated, and absorbed in the fund for general distribution. And why? because the cormorant appetite of distribution grows as it feeds, and becomes more ravenous as it gorges. It set out for the surplus; now it takes the unexpended balances, save five millions; next year it will take all. But it is sufficient to contemplate the thing as it is; it is sufficient to contemplate this bill as seizing upon the unexpended balances on the first day of January, regardless of the objects to which they are appropriated; and to witness its effect upon the laws, the policy, and the existence of the federal government.

"Such, then, is the progress of the distribution spirit; a cormorant appetite, growing as it feeds, ravening as it gorges; seizing the appropriated moneys, and leaving the federal government to starve upon crumbs, and to die of inanition. But this appetite is not the sole cause for this seizure. There is another reason for it, connected with the movements in this chamber, and founded in the deep-seated law of self-preservation. For six months the public

mind has been stimulated with the story of sixty millions of surplus money in the Treasury; and two months ago, the grave Senate of the United States carried the rash joke of that illusory asseveration so far as to pass a bill to commence the distribution of that vast sum. It was the land bill which was to do it, commencing its swelling dividends on the 1st day of July, dealing them out every ninety days, and completing the splendid distribution of prizes, in the sixty-four million lottery, in eighteen months from the commencement of the drawing. It was two months ago that we passed this bill; and all attempts then made to convince the people that they were deluded, were vain and useless. Sixty-four millions they were promised, sixty-four millions they were to have, sixty-four millions they began to want; and slates and pencils were just as busy then in figuring out the dividends of the sixty-four millions, to begin on the 1st of July, as they now are in figuring out the dividends under the forty, fifty, and sixty millions, which are to begin on the 1st of January next. And now behold the end of the first chapter. The 1st of July is come, but the sixty-four millions are not in the Treasury! It is not there; and any attempt to commence the distribution of that sum, according to the terms of the land bill, would bankrupt the Treasury, stop the government, and cause Congress to be called together, to levy taxes or make loans. So much for the land bill, which two months ago received all the praises which are now bestowed upon the deposit bill. So the drawing had to be postponed, the performance had to be adjourned, and the 1st of January was substituted for the 1st of July. This gives six months to go upon, and defers the catastrophe of the mountain in labor until the presidential election is over. Still the first of January must come; and the ridicule would be too great, if there was nothing, or next to nothing, to divide. And nothing, or next to nothing, there would be, if the appropriations were fairly made, and made in time, and if nothing but a surplus was left to divide. There would be no more in the deposit bank, in that event, than has usually been in the Bank of the United States—say ten, or twelve, or fourteen, or sixteen millions; and from which, in the hands of a single bank, none of those dangers to the country were then seen which are now discovered in like sums in three dozen unconnected and independent banks. Even after all the delays and reductions in the appropriations, the surplus will now be but a trifle—such a trifle as must expose to ridicule, or something worse, all those who have tantalized the public with the expectation of forty, fifty, or sixty millions to divide. To avoid this fate, and to make up something for distribution, then, the unexpended balances have been fallen upon; the law of 1795 is nullified; the fiscal year is changed; the policy of the government subverted; reason, justice, propriety outraged; all contracts, labor, service, salaries cut off, interrupted, or reduced; appropriations recaptured, and the government paralyzed. Sir, the people are deceived; they are made to believe that a surplus only, an unavoidable surplus, is to be divided, when the fact is that appropriated moneys are to be seized.

“Sir, I am opposed to the whole policy of this measure. I am opposed to it as going to sap the foundations of the Federal Government, and to undo the constitution, and that by evasion, in the very point for which the constitution was made. What is that point? A Treasury! a Treasury! a Treasury of its own, unconnected with, and independent of the States. It was for this that wise and patriotic men wrote, and spoke, and prayed for the fourteen years that intervened from the declaration of independence, in 1776, to the formation of the constitution in 1789. It was for this that so many appeals were made, so many efforts exerted, so many fruitless attempts so long repeated, to obtain from the States the power of raising revenue from imports. It was for this that the convention of 1787 met, and but for this they never would have met. The formation of a federal treasury, unconnected with the States, and independent of the States, was the cause of the meeting of that convention; it was the great object of its labors; it was the point to which all its exertions tended, and it was the point at which failure would have been the failure of the whole object of the meeting, of the whole frame of the general government, and of the whole design of the constitution. With infinite

labor, pains, and difficulty, they succeeded in erecting the edifice of the federal treasury; we, not builders, but destroyers, "architects of ruin," undo in a night what they accomplished in many years. We expunge the federal treasury; we throw the federal government back upon States for supplies; we unhinge and undo the constitution; and we effect our purpose by an artifice which derides, mocks, ridicules that sacred instrument, and opens the way to its perpetual evasion by every paltry performer that is able to dethrone one word, and exalt another in its place.

"I object to the time for another reason. There is no necessity to act at all upon this subject, at this session of Congress. The distribution is not to take effect until after we are in session again, and when the true state of the treasury shall be known. Its true state cannot be known now; but enough is known to make it questionable whether there will be any surplus, requiring a specific disposition, over and beyond the wants of the country. Many appropriations are yet behind; two Indian wars are yet to be finished; when the wars are over, the vanquished Indians are to be removed to the West; and when there, either the Federal Government or the States must raise a force to protect the people from them. Twenty-five thousand Creeks, seven thousand Seminoles, eighteen thousand Cherokees, and others, making a totality of seventy-two thousand, are to be removed; and the expenses of removal, and the year's subsistence afterwards, is close upon seventy dollars per head. It is a problem whether there will be any surplus worth disposing of. The surplus party themselves admit there will be a disappointment unless they go beyond the surplus, and seize the appropriated moneys. The Senator from New-York [Mr. Wright], has made an exposition, as candid and perspicuous as it is patriotic and unanswerable, showing that there will be an excess of appropriations over the money in the treasury on the day that we adjourn; and that we shall have to depend upon the accruing revenue of the remainder of the year to meet the demands which we authorize. This is the state of the surplus question: problematical, debatable; the weight of the evidence and the strength of the argument entirely against it; time enough to ascertain the truth, and yet a determination to reject all evidence, refuse all time, rush on to the object, and divide the money, cost what it may to the constitution, the government, the good of the States, and the purity of elections. The catastrophe of the land bill project ought certainly to be a warning to us. Two months ago it was pushed through, as the only means of saving the country, as the blessed act which was to save the republic. It was to commence on the first day of July its magnificent operations of distributing sixty four millions; now it lies a corpse in the House of Representatives, a monument of haste and folly, its very authors endeavoring to supersede it by another measure, because it could not take effect without ruining the country; and, what is equally important to them, ruining themselves.

"Admitting that the year produces more revenue than is wanting, is it wise, is it statesmanlike, is it consonant with our experience, to take fright at the event, and throw the money away? Did we not have forty millions of income in the year 1817? and did we not have an empty treasury in 1819? Instead of taking fright and throwing the money away, the statesman should look into the cause of things; he should take for his motto the prayer of Virgil: *Cognoscere causa rerum*. Let me know the cause of things; and, learning this cause, act accordingly. If the redundant supply is accidental and transient, it will quickly correct itself; if founded in laws, alter them. This is the part not merely of wisdom, but of common sense: it was the conduct of 1817, when the excessive supply was seen to be the effect of transient causes—termination of the war and efflorescence of the paper system—and left to correct itself, which it did in two years. It should be the conduct now, when the excessive income is seen to be the effect of the laws and the paper system combined, and when legislation or regulation is necessary to correct it. Reduction of the tariff; reduction of the price of land to actual settlers; rejection of bank paper from universal receivability for public

dues; these are the remedies. After all, the whole evil may be found in a single cause, and the whole remedy may be seen in a single measure. The public lands are exchangeable for paper. Seven hundred and fifty machines are at work striking off paper; that paper is performing the grand rounds, from the banks to the public lands, and from the lands to the banks. Every body, especially a public man, may take as much as his trunks can carry. The public domain is changing into paper; the public treasury is filling up with paper; the new States are deluged with paper; the currency is ruining with paper; farmers, settlers, cultivators, are outbid, deprived of their selected homes, or made to pay double for them, by public men loaded, not like Philip's ass, with bags of gold, but like bank advocates, with bales of paper. Sir, the evil is in the unbridled state of the paper system, and in the unchecked receivability of paper for federal dues. Here is the evil. Banks are our masters; not one, but seven hundred and fifty! and this splendid federal Congress, like a chained and chastised slave, lies helpless and powerless at their feet.

"Sir, I can see nothing but evil, turn on which side I may, from this fatal scheme of dividing money; not surplus money, but appropriated funds; not by an amendment, but by a derisory evasion of the constitution. Where is it to end? History shows us that those who begin revolutions never end them; that those who commence innovations never limit them. Here is a great innovation, constituting in reality—not in figure of speech, but in reality—a revolution in the form of our government. We set out to divide the surplus; we are now dividing the appropriated funds. To prevent all appropriations except to the powerful States, will be the next step; and the small States, in self-defence, must oppose all appropriations, and go for a division of the whole. They will have to stand together in the Senate, and oppose all appropriations. It will not do for the large States to take all the appropriations first, and the bulk of the distribution afterwards; and there will be no way to prevent it but to refuse all appropriations, divide out the money among the States, and let each State lay it out for itself. A new surplus party will supersede the present surplus party, as successive factions supersede each other in chaotic revolutions. They will make Congress the *quæstor* of provinces, to collect money for the States to administer. This will be their argument: the States know best what they need, and can lay out the money to the best advantage, and to suit themselves. One State will want roads and no canals; another canals and no roads; one will want forts, another troops; one wants ships, another steam-cars; one wants high schools, another low schools; one is for the useful arts, another is for the fine arts, for lyceums, athenæums, museums, arts, statuary, painting, music; and the paper State will want all for banks. Thus will things go on, and Congress will have no appropriation to make, except to the President, and his head clerks, and their under clerks. Even our own pay, like it was under the confederation, may be remitted to our own States. The eight dollars a day may be voted to them, and supported by the argument that they can get better men for four dollars a day; and so save half the money, and have the work better done. Such is the progress in this road to ruin. Sir, I say of this measure, as I said of its progenitor, the land bill: if I could be willing to let evil pass, that good might come of it, I should be willing to let this bill pass. A recoil, a reaction, a revulsion must take place. This confederacy cannot go to ruin. This Union has a place in the hearts of the people which will save it from nullification in disguise, as well as from nullification in arms. One word of myself. It is now ten years since schemes of distribution were broached upon this floor. They began with a senator from New Jersey, now Secretary of the navy (Mr. Dickerson). They were denounced by many, for their unconstitutionality, their corrupting tendencies, and their fatal effects upon the federal and State governments. I took my position then, have stood upon it during all the modifications of the original scheme; and continue standing upon it now. My answer then was, pay the public debt and reduce the taxes; my answer now is, provide for the public defences, reduce the taxes, and bridle the paper system.

On this ground I have stood—on this I stand; and never did I feel more satisfaction and more exultation in my vote, when triumphant in numbers, than I now do in a minority of six."

The bill went to the House, and was concurred in by a large majority—one hundred and fifty-five to thirty-eight—although, under the name of distribution, there was no chance for it to pass that House. Deeming the opposition of this small minority courageous as well as meritorious, and deserving to be held in honorable remembrance, their names are here set down; to wit:

Messrs. Michael W. Ash, James M. H. Beale, Benning M. Bean, Andrew Beaumont, John W. Brown, Robert Burns, John F. H. Claiborne, Walter Coles, Samuel Cushman, George C. Dromgoole, John Fairfield, William K. Fuller, Ransom H. Gillet, Joseph Hall, Thomas L. Hamer, Leonard Jarvis, Cave Johnson, Gerrit Y. Lansing, Gideon Lee, George Loyall, Abijah Mann, jr., John Y. Mason, James J. McKay, John McKeon, Isaac McKim, Gorham Parks, Franklin Pierce, Henry L. Pinckney, John Roane, James Rogers, Nicholas Sickles, William Taylor, Francis Thomas, Joel Turrill, Aaron Vanderpoel, Aaron Ward, Daniel Wardwell, Henry A. Wise.

The bill passed the House, and was approved by the President, but with a repugnance of feeling, and a recoil of judgment, which it required great efforts of friends to overcome; and with a regret for it afterwards which he often and publicly expressed. It was a grief that his name was seen to such an act. It was a most unfortunate act, a plain evasion of the constitution for a bad purpose—soon gave a sad overthrow to the democracy—and disappointed every calculation made upon it. Politically, it was no advantage to its numerous and emulous supporters—of no disservice to its few determined opponents—only four in number, in the Senate, the two senators from Mississippi voting against it, for reasons found in the constitution of their State. To the States, it was of no advantage, raising expectations which were not fulfilled, and upon which many of them acted as realities, and commenced enterprises to which they were inadequate. It was understood that some of Mr. Van Buren's friends favored the President's approval, and recommended him to sign it—induced by the supposed effect which its rejection might have on the democratic party in the election. The opponents of the bill did not visit the President to give him their opinions, nor had he heard their arguments. If they had seen him, their opinions concurring with his own feelings and judgment, his conduct might have been different, and the approval of the act withheld. It might not have prevented the act from becoming a law, as two thirds in each House might have been found to support it; but it would have deprived the bill of the odor of his name, and saved himself from subsequent regrets. In a party point of view, it was the commencement of calamities, being an efficient cause in that general suspension of specie payments, which quickly occurred, and brought so much embarrassment on the Van Buren administration, ending in the great democratic defeat of 1840. But of this hereafter.

143. Recharter Of The District Banks—Speech Of Mr. Benton: The Parts Of Local And Temporary Interest Omitted

“Mr. Benton rose to oppose the passage of the bill, notwithstanding it was at the third reading, and that it was not usual to continue opposition, which seemed to be useless, at that late stage. But there were occasions when he never took such things into calculation, and when he continued to resist pernicious measures, regardless of common usages, as long as the forms of parliamentary proceeding would allow him to go on. Thus he had acted at the passing of the United States Bank charter, in 1832; thus he did at the passing of the resolution against President Jackson, in 1834; and thus he did at the passing of the famous land bill, at the present session. He had continued to speak against all these measures, long after speaking seemed to be of any avail; and, far from regretting, he had reason to rejoice at the course that he had pursued. The event proved him to be right; for all these measures, though floated through this chamber upon the swelling wave of a resistless and impatient majority, had quickly run their brief career. Their day of triumph had been short. The bank charter perished at the first general election; the condemnatory resolution was received by the continent in a tempest of execration; and the land bill, that last hope of expiring party, has dropped an abortion from the Senate. It is dead even here, in this chamber, where it originated—where it was once so omnipotent that, to speak against it, was deemed by some to be an idle consumption of time, and by others to be an unparliamentary demonstration against the ascertained will of the House. Yet, that land bill is finished. That brief candle is out. The Senate has revoked that bill; has retracted, recanted, and sung its palinode over that unfortunate conception. It has sent out a committee—an extraordinary committee of nine—to devise some other scheme for dividing that same money which the land bill divides! and, in doing so, the Senate has authentically declared a change of opinion, and a revocation of its sentiments in favor of that bill. Thus it has happened, in recent and signal cases, that, by continuing the contest after the battle seemed to be lost, the battle was in fact gained; and so it may be again. These charters may yet be defeated; and whether they will be or not, is nothing to me. I believe them to be wrong—greatly, immeasurably wrong!—and shall continue to oppose them without regard to calculations, or consequences, until the rules of parliamentary proceeding shall put an end to the contest. Mr. B. said he had moved for a select committee, at the commencement of the session, to examine into the condition of these banks, and he had done so with no other object than to endeavor to provide some checks and guards for the security of the country against the abuses and excesses of the paper system. The select committee had not been raised. The standing Committee on the District of Columbia had been charged with the subject; and, seeing that they had made a report adverse to his opinions, and brought in a bill which he could not sanction, it would be his part to act upon the meagre materials which had been placed before the Senate and endeavor to accomplish as a member of that body, what could have been attempted, with better prospects of success, as a member of a committee which had had the management of the subject.

“Mr. B. said he had wished to have been on a select committee for the charter of these banks; he wished to have revived the idea of a bank without circulation, and to have disconnected the government from the banking of the district. He had failed in his attempt to raise such a committee; and, as an individual member of the Senate, he could now do no more than

mention in debate the ideas which he would have wished to have ripened into legislation through the instrumentality of a committee.

“Mr. B. said he had demonstrated that no bank of circulation ought to be authorized in this district; and, he would add, that none to furnish currency, except of large notes, ought to be authorized any where; yet what are we doing? We are breeding six little corporations at a birth, to issue $2,250,000 of paper currency: and on what terms? No bonus; no tax on the capital; none on the circulation; no reduction of interest in lieu of bonus or tax; no specie but what the stockholders please to put in; and no liability on the part of the stockholders for a failure of these corporations to redeem their notes and pay their debts. This is what we are doing; and now let us see what burdens and taxes these six corporations will impose upon the business part of the community—the productive classes among which they are to be perpetuated. First, there is the support of these six corporation governments; for every bank must have a government, like a State or kingdom; and the persons who administer these corporation governments must be paid, and paid by the people, and that according to the rates fixed by themselves and not by the people. Each of these six banks must have its president, cashier, clerks, and messengers; its notary public to protest notes; and its attorney to bring suits. The aggregate salaries, fees, and perquisites, of all these officers of the six banks will be the first tax on the people. Next comes the profits to the stockholders. The nett profits of banks are usually eight to ten per cent. at present; the gross profits are several per cent. more; and the gross profits are what the people pay. Assuming the gross profits to be twelve per cent., and the annual levy upon the community will be about $270,000. The third loss to the community will be on the fluctuations of prices of labor and property, and the rise and fall of stocks, from the expansions and contractions of currency, produced by making money plenty or scarce, as it suits the interest of the bank managers. This item cannot be calculated and depends entirely upon the moderation and consciences of the Neptunes who preside over the flux and reflux of the paper ocean; and to whom all tides, whether of ebb or flow, and all conditions of the sea, whether of calm or storm, are equally welcome, equally auspicious, and equally productive. Then come three other heads of loss to the community, and of profit to the bank: loss of notes from wear and tear, counterfeits imposed upon the people for good notes, and good notes rejected by the banks for counterfeits; and then the loss to the holders from the stoppage and failure of banks, and the shaving in of notes and stocks. Such are the burdens and taxes to be imposed upon the people to give them a paper currency, when, if the paper currency were kept away, and only large notes used, as in France, they would have a gold and silver currency without paying a tax to any body for it, and without being subject to any of the frightful evils resulting from the paper system.

“Objecting to all banks of circulation, but not able to suppress them entirely, Mr. B. suggested some ameliorations in the charters proposed to be granted to render them less dangerous to the community. 1. The liability of the stockholders for all the debts of the institution, as in the Scottish banks. 2. The bank stock to be subject to taxation, like other property. 3. To issue or receive no note of less than twenty dollars. 4. The charters to be repealable at the will of Congress: and he gave reasons for each of these improvements; and first for the liability of the stockholders. He said:

“Reasons for this liability were strong and palpable. A man that owes should pay while he has property to pay with; and it is iniquitous and unjustifiable that a bank director, or stockholder, should riot in wealth while the business part of the community should hold the bank notes which they have put into circulation, and be able to get nothing for them after the bank had closed its doors. Such exemptions are contrary to the rights of this community, and one of the great causes of the failure of banks. A liability in the stockbrokers is one of the best securities which the public can have for the correct management and solvency of the

institution. The famous Scottish banks, which, in upwards of one hundred years' operations, had neither once convulsed the country with contractions and expansions, nor once stopped payment, were constituted upon this principle. All the country banks in England, and all the bankers on the continent of Europe, were liable to a still greater degree; for in them each stockholder, or partner, was liable, individually, for the whole amount of the debts of the bank. The principle proposed to be incorporated in these charters strikes the just medium between the common law principle, which makes each partner liable for the whole debts of the firm; and the corporation principle in the United States, which absolves each from all liability, and leaves the penniless and soulless carcase of a defunct and eviscerated bank alone responsible to the community. Liability to the amount of the stock was an equitable principle, and with summary process for the recovery of the amounts of notes and deposits, and the invalidity of transfers of stock to avoid this liability, would be found a good remedy for a great evil. If the stockholders in the three banks which stopped payment in this city during the panic session had been thus liable, the notes would not have been shaved out of the hands of the holders; if the bank which stopped in Baltimore at the same time, had been subject to this principle, the riots, which have afflicted that city in consequence of that stoppage, would not have taken place. Instead of these losses and riots, law and remedy would have prevailed; every stockholder would have been summoned before a justice of the peace—judgment granted against him on motion—for the amount held by the complainant; and so on, until all were paid, or he could plead that he had paid up the whole amount of his stock."

The evil of small notes he classed under three general heads: 1. The banishment of gold and silver. 2. Encouragement to counterfeiting. 3. Throwing the burthens and losses of the paper system upon the laboring and small-dealing part of the community, who have no share in the profits of banking, and should not be made to bear its losses. On these points, he said:

"The instinct of banks to sink their circulation to the lowest denomination of notes which can be forced upon the community, is a trait in the system universally proved to exist wherever banks of circulation have been permitted to give a currency to a country; and the effect of that instinct has always been to banish gold and silver. When the Bank of England was chartered, in the year 1694, it could issue no note less than £100 sterling; that amount was gradually reduced by the persevering efforts of the bank, to £50; then to £20; then to £15; then to £10; at last to £5; and finally to £2 and £1. Those last denominations were not reached until the year 1797, or until one hundred and three years after the institution of the bank; and as the several reductions in the size of the notes, and the consequent increase of paper currency took place, gold became more and more scarce; and with the issue of the one and two pound notes, it totally disappeared from the country.

"This effect was foretold by all political economists, and especially by Mr. Burke, then aged and retired from public life, who wrote from his retreat, to Mr. Canning, to say to Mr. Pitt, the Prime Minister, these prophetic words: 'If this bill for the one and two pounds is permitted to pass, we shall never see another guinea in England.' The bill did pass, and the prediction was fulfilled; for not another guinea, half guinea, or sovereign, was seen in England, for circulation, until the bill was repealed two and twenty years afterwards! After remaining nearly a quarter of a century without a gold circulation, England abolished her one and two pound notes, limited her paper currency to £5 sterling, required all Bank of England notes to be paid in gold, and allowed four years for the act to take effect. Before the four years were out, the Bank of England reported to Parliament that it was ready to begin gold payments; and commenced accordingly, and has continued them ever since.

“The encouragement of counterfeiting was the next great evil which Mr. B. pointed out as belonging to a small note currency; and of all the denominations of notes, he said those of one and two pounds in England (corresponding with fives and tens in the United States), were those to which the demoralizing business of counterfeiting was chiefly directed! They were the chosen game of the forging depredator! and that, for the obvious reasons that fives and tens were small enough to pass currently among persons not much acquainted with bank paper, and large enough to afford some profit to compensate for the expense and labor of producing the counterfeit, and the risk of passing it. Below fives, the profits are too small for the labor and risk. Too many have to be forged and passed before an article of any value can be purchased; and the change to be got in silver, in passing one for a small article, is too little. Of twenty and upwards, though the profit is greater on passing them, yet the danger of detection is also greater. On account of its larger size, the note is not only more closely scrutinized before it is received, and the passer of it better remembered, but the circulation of them is more confined to business men and large dealers, and silver change will not be given for them in buying small articles. The fives and tens, then, in the United States, like the £1 and £2 in England, are the peculiar game of counterfeiters, and this is fully proved by the criminal statistics of the forgery department in both countries. According to returns made to the British Parliament for twenty-two years—from 1797 to 1819—the period in which the one and two pound notes were allowed to circulate, the whole number of prosecutions for counterfeiting, or passing counterfeit notes of the Bank of England, was 998: in that number there were 313 capital convictions; 530 inferior convictions; and 155 acquittals: and the sum of £249,900, near a million and a quarter of dollars, was expended by the bank in attending to prosecutions. Of this great number of prosecutions, the returns show that the mass of them were for offences connected with the one and two pound notes. The proportion may be distinctly seen in the number of counterfeit notes of different denominations detected at the Bank of England in a given period of time—from the 1st of January, 1812, to the 10th of April, 1818—being a period of six years and three months out of the twenty-two years that the one and two pound notes continued to circulate. The detections were, of one pound notes, the number of 107,238; of two pound notes, 17,787; of five pound notes, 5,826; of ten pound notes, 419; of twenty pound notes, 54. Of all above twenty pounds, 35. The proportion of ones and twos to the other sizes may be well seen in the tables for this brief period; but to have any idea of the mass of counterfeiting done upon those small notes, the whole period of twenty-two years must be considered, and the entire kingdom of Great Britain taken in; for the list only includes the number of counterfeits detected at the counter of the bank; a place to which the guilty never carry their forgeries, and to which a portion only of those circulating in and about London could be carried. The proportion of crime connected with the small notes is here shown to be enormously and frightfully great. The same results are found in the United States. Mr. B. had looked over the statistics of crime connected with the counterfeiting of bank notes in the United States, and found the ratio between the great and small notes to be about the same that it was in England. He had had recourse to the most authentic data—Bicknell’s Counterfeit Detector—and there found the editions of counterfeit notes of the local or State banks, to be eight hundred and eighteen, of which seven hundred and fifty-six were of ten dollars and under; and sixty-two editions only were of twenty dollars and upwards. Of the Bank of the United States and its branches, he found eighty-two editions of fives; seventy-one editions of tens; twenty-six editions of twenties; and two editions of fifties; still showing that in the United States, as well as in England, on local banks as well as that of the United States, the course of counterfeiting was still the same; and that the whole stress of the crime fell upon the five and ten dollar notes in this country, and their corresponding classes, the one and two pound notes in England. Mr. B. also exhibited the pages of Bicknell’s Counterfeit Detector, a pamphlet covered over column after column with

its frightful lists, nearly all under twenty dollars; and he called upon the Senate in the sacred name of the morals of the country—in the name of virtue and morality—to endeavor to check the fountain of this crime, by stopping the issue of the description of notes on which it exerted nearly its whole force.

"Mr. B. could not quit the evils of the crime of counterfeiting in the United States without remarking that the difficulty of legal detection and punishment was so great, owing to the distance at which the counterfeits were circulated from the banks purporting to issue them, and the still greater difficulty (in most cases impossible) of getting witnesses to attend in person, in States in which they do not reside, the counterfeiters all choosing to practise their crime and circulate their forgeries in States which do not contain the banks whose paper they are imitating. So difficult is it to obtain the attendance of witnesses in other States, that the crime of counterfeiting is almost practised with impunity. The notes under $20 feed and supply this crime; let them be stopped, and ninety-nine hundredths of this crime will stop with them.

"A third objection which Mr. B. urged against the notes under twenty dollars was, that nearly the whole evils of that part of the paper system fell upon the laboring and small dealing part of the community. Nearly all the counterfeits lodged in their hands, or were shaved out of their hands. When a bank failed, the mass of its circulation being in small notes, sunk upon their hands. The gain to the banks from the wear and tear of small notes, came out of them; the loss from the same cause, falling upon them. The ten or twelve percent. annual profit for furnishing a currency in place of gold and silver (for which no interest would be paid to the mint or the government), chiefly falls upon them; for the paper currency is chiefly under twenty dollars. These evils they almost exclusively bear, while they have, over and above all these, their full proportion of all the evils resulting from the expansions and contractions which are incessantly going on, totally destroying the standard of value, periodically convulsing the country; and in every cycle of five or six years making a lottery of all property, in which all the prizes are drawn by bank managers and their friends.

"He wished the basis of circulation throughout the country to be in hard money. Farmers, laborers, and market people, ought to receive their payments in hard money. They ought not to be put to the risk of receiving bank notes in all their small dealings. They are no judges of good or bad notes. Counterfeits are sure to fall upon their hands; and the whole business of counterfeiting was mainly directed to such notes as they handle—those under twenty dollars.

"Mr. B. said he here wished to fix the attention of those who were in favor of a respectable paper currency—a currency of respectable-sized notes of twenty dollars and upwards—on the great fact, that the larger the specie basis, the larger and safer would be the superstructure of paper which rested upon it; the smaller that specie basis, the smaller and more unsafe must be the paper which rested on it. The currency of England is $300,000,000, to wit: £8,000,000 sterling (near $40,000,000) in silver; £22,000,000 sterling (above $100,000,000) in gold; and about £30,000,000 sterling (near $150,000,000) in bank notes. The currency of the United States is difficult to be ascertained, from the multitude of banks, and the incessant ebb and flow of their issues; calculations vary; but all put the paper circulation at less than $100,000,000; and the proportion of specie and paper, at more than one half paper. This is agreed upon all hands, and is sufficient for the practical result, that an increase of our specie to $100,000,000, and the suppression of small notes, will give a larger total circulation than we now have, and a safer one. The total circulation may then be $200,000,000, in the proportions of half paper and half specie; and the specie, half gold and half silver. This would be an immense improvement upon our present condition, both in quantity and in quality; the paper part would become respectable from the suppression of notes under twenty dollars,

which are of no profit except to the banks which issue them, and the counterfeiters who imitate them; the specie part would be equally improved by becoming one half gold. Mr. B. could not quit this important point, namely, the practicability of soon obtaining a specie currency of $100,000,000, and the one half gold, without giving other proofs to show the facility with which it has been every where done when attempted. He referred to our own history immediately after the Revolution, when the disappearance of paper money was instantly followed, as if by magic, by the appearance of gold and silver; to France, where the energy of the great Napoleon, then first consul, restored an abundant supply of gold and silver in one year; to England, where the acquisition of gold was at the rate of $24,000,000 per annum for four years after the notes under five pounds were ordered to be suppressed; and he referred with triumph to our own present history, when, in defiance of an immense and powerful political and moneyed combination against gold, we will have acquired about $20,000,000 of that metal in the two concluding years of President Jackson's administration.

"Mr. B. took this occasion to express his regret that the true idea of banks seemed to be lost in this country, and that here we had but little conception of a bank, except as an issuer of currency. A bank of discount and deposit, in contradistinction to a bank of circulation, is hardly thought of in the United States; and it may be news to some bank projectors, who suppose that nothing can be done without banks to issue millions of paper, to learn that the great bankers in London and Paris, and other capitals of Europe, issue no paper; and, still more, it may be news to them to learn that Liverpool and Manchester, two cities which happen to do about as much business as a myriad of such cities as this our Washington put together, also happen to have no banks to issue currency for them. They use money and bills of exchange, and have banks of discount and deposit, but no banks of circulation. Mr. Gallatin, in his Essay upon Currency, thus speaks of them:

"'There are, however, even in England, where incorporated country banks issuing paper are as numerous, and have been attended with the same advantages, and the same evils, as our country banks, some extensive districts, highly industrious and prosperous, where no such bank does exist, and where that want is supplied by bills of exchange drawn on London. This is the case in Lancashire, which includes Liverpool and Manchester, and where such bills, drawn at ninety days after date, are indorsed by each successive holder, and circulate through numerous persons before they reach their ultimate destination, and are paid by the drawee.'

"Mr. B. greatly regretted that such banks as those in Liverpool and Manchester were not in vogue in the United States. They were the right kind of banks. They did great good, and were wholly free from mischief. They lent money; they kept money; they transferred credits on books; they bought and sold bills of exchange; and these bills, circulating through many hands, and indorsed by each, answered the purpose of large bank notes, without their dangers, and became stronger every time they were passed. To the banks it was a profitable business to sell them, because they got both exchange and interest. To the commercial community they were convenient, both as a remittance and as funds in hand. To the community they were entirely safe. Banks of discount and deposit in the United States, issuing no currency, and issuing no bank note except of $100 and upwards, and dealing in exchange, would be entitled to the favor and confidence of the people and of the federal government. Such banks only should be the depositories of the public moneys.

"It is the faculty of issuing paper currency which makes banks dangerous to the country, and the height to which this danger has risen in the United States, and the progress which it is making, should rouse and alarm the whole community. It is destroying all standard of value. It is subjecting the country to demoralizing and ruinous fluctuations of price. It is making a lottery of property, and making merchandise of money, which has to be bought by the ticket

holders in the great lottery at two and three per cent. a month. It is equivalent to the destruction of weights and measures, and like buying and selling without counting, weighing, or measuring. It is the realization, in a different form, of the debasement and arbitrary alteration of the value of coins practised by the kings of Europe in former ages, and now by the Sultan of Turkey. It is extinguishing the idea of fixed, moderate, annual interest. Great duties are thus imposed upon the legislator; and the first of these duties is to revive and favor the class of banks of discount and deposit; banks to make loans, keep money, transfer credits on books, buy and sell exchange, deal in bullion; but to issue no paper. This class of banks should be revived and favored; and the United States could easily revive them by confiding to them the public deposits. The next great duty of the legislator is to limit the issues of banks of circulation, and make them indemnify the community in some little degree, by refunding, in annual taxes, some part of their undue gains.

"The progress of the banking business is alarming and deplorable in the United States. It is now computed that there are 750 banks and their branches in operation, all having authority to issue currency; and, what is worse, all that currency is receivable by the federal government. The quantity of chartered bank capital, as it is called, is estimated at near $800,000,000; the amount of this capital reported by the banks to have been paid in is about $300,000,000; and the quantity of paper money which they are authorized by their charters to issue is about $750,000,000. How much of this is actually issued can never be known with any precision; for such are the fluctuations in the amount of a paper currency, flowing from 750 fountains, that the circulation of one day cannot be relied upon for the next. The amount of capital, reported to be paid in, is, however, well ascertained, and that is fixed at $300,000,000. This, upon its face, and without recourse to any other evidence, is proof that our banking system, as a whole, is unsolid and delusive, and a frightful imposition upon the people. Nothing but specie can form the capital of a bank; there are not above sixty or seventy millions of specie in the country, and, of that, the banks have not the one half. Thirty millions in specie is the extent; the remainder of the capital must have been made up of that undefinable material called 'specie funds,' or 'funds equivalent to specie,' the fallacy of which is established by the facts already stated, and which show that all the specie in the country put together is not sufficient to meet the one fifth part of these 'specie funds,' or 'funds equivalent to specie.' The equivalent, then, does not exist! credit alone exists; and any general attempt to realize these 'specie funds,' and turn them into specie, would explode the whole banking system, and cover the country with ruin. There may be some solid and substantial banks in the country, and undoubtedly there are better and worse among them; but as a whole—and it is in that point of view the community is interested—as a whole, the system is unsolid and delusive; and there is no safety for the country until great and radical reforms are effected.

"The burdens which these 750 banks impose upon the people were then briefly touched by Mr. B. It was a great field, which he had not time to explore, but which could not, in justice, be entirely passed by. First, there were the salaries and fees of 750 sets of bank officers: presidents, cashiers, clerks, messengers, notaries public to protest notes, and attorneys to sue on them; all these had salaries, and good salaries, paid by the people, though the people had no hand in fixing these salaries: next, the profits to the stockholders, which, at an average of ten per centum gross would give thirty millions of dollars, all levied upon the people; then came the profits to the brokers, first cousins to the bankers, for changing notes for money, or for other notes at par; then the gain to the banks and their friends on speculations in property, merchandise, produce, and stocks, during the periodical visitations of the expansions and contractions of the currency; then the gain from the wear and tear of notes, which is so much loss to the people; and, finally, the great chapter of counterfeiting which, without being

profitable to the bank, is a great burden to the people, on whose hands all the counterfeits sink. The amount of these burdens he could not compute; but there was one item about which there was no dispute—the salaries to the officers and the profits to the stockholders—and this presented an array of names more numerous, and an amount of money more excessive, than was to be found in the 'Blue Book,' with the Army and Navy Register inclusive.

"Mr. B. said this was a faint sketch of the burdens of the banking system as carried on in the United States, where every bank is a coiner of paper currency, and where every town, in some States, must have its banks of circulation, while such cities as Liverpool and Manchester have no such banks, and where the paper money of all these machines receive wings to fly over the whole continent, and to infest the whole land, from their universal receivability by the federal government in payment of all dues at their custom-houses, land-offices, post-offices, and by all the district attorneys, marshals, and clerks, employed under the federal judiciary. The improvidence of the States, in chartering such institutions, is great and deplorable; but their error was trifling, compared to the improvidence of the federal government in taking the paper coinage of all these banks for the currency of the federal government, maugre that clause in the constitution which recognizes nothing but gold and silver for currency, and which was intended for ever to defend and preserve this Union from the evils of paper money.

"Mr. B. averred, with a perfect knowledge of the fact, that the banking system of the United States was on a worse footing than it was in any country upon the face of the earth; and that, in addition to its deep and dangerous defects, it was also the most expensive and burdensome, and gave the most undue advantages to one part of the community over another. He had no doubt but that this banking system was more burdensome to the free citizens of the United States than ever the feudal system was to the villeins, and serfs, and peasants of Europe. And what did they get in return for this vast burden? A pestiferous currency of small paper! when they might have a gold currency without paying interest, or suffering losses, if their banks, like those in Liverpool and Manchester, issued no currency except as bills of exchange; or, like the Bank of France, issued no notes but those of 500 and 1,000 francs (say $100 and $500); or even, like the Bank of England, issued no note under £5 sterling, and payable in gold. And with how much real capital is this banking system, so burdensome to the people of the United States, carried on? About $30,000,000! Yes; on about $30,000,000 of specie rests the $300,000,000 paid in, and on which the community are paying interest, and giving profits to bankers, and blindly yielding their faith and confidence, as if the whole $300,000,000 was a solid bed of gold and silver, instead of being, as it is, one tenth part specie, and nine tenths paper credit!"

Other senators spoke against the recharter of these banks, without the amelioration of their charters which the public welfare required; but without effect. The amendments were all rejected, and the bill passed for the recharter of the whole six by a large vote—26 to 14. The yeas and nays were:

Yeas.—Messrs. Black, Buchanan, Calhoun, Clay, Crittenden, Cuthbert, Davis, Ewing of Ohio, Goldsborough, Hendricks, Hubbard, Kent, King of Alabama, Knight, Leigh, Naudain, Nicholas, Porter, Prentiss, Rives, Southard, Swift, Tallmadge, Tomlinson, Walker, Webster.

Nays.—Messrs. Benton, Ewing of Illinois, King of Georgia, Linn, McKean, Mangum, Morris, Niles, Robinson, Ruggles, Shepley, Wall, White, Wright.

144. Independence Of Texas

During several months memorials had been coming in from public meetings in different cities in favor of acknowledging the independence of Texas—the public feeling in behalf of the people of that small revolted province, strong from the beginning of the contest, now inflamed into rage from the massacres of the Alamo and of Goliad. Towards the middle of May news of the victory of San Jacinto arrived at Washington. Public feeling no longer knew any bounds. The people were exalted—Congress not less so—and a feeling for the acknowledgment of Texian independence, if not universal, almost general. The sixteenth of May—the first sitting of the Senate after this great news—Mr. Mangum, of North Carolina, presented the proceedings of a public meeting in Burke county, of that State, praying Congress to acknowledge the independence of the young republic. Mr. Preston said: "The effects of that victory had opened up a curtain to a most magnificent scene. This invader had come at the head of his forces, urged on by no ordinary impulse—by an infuriate fanaticism—by a superstitious catholicism, goaded on by a miserable priesthood, against that invincible Anglo-Saxon race, the van of which now approaches the *del Norte*. It was at once a war of religion and of liberty. And when that noble race engaged in a war, victory was sure to perch upon their standard. This was not merely the retribution of the cruel war upon the Alamo, but that tide which was swollen by this extraordinary victory would roll on; and it was not in the spirit of prophecy to say where it would stop." Mr. Walker, of Mississippi, said:

"He had, upon the 22d of April last, called the attention of the Senate to the struggle in Texas, and suggested the reservation of any surplus that might remain in the treasury, for the purpose of acquiring Texas from whatever government might remain the government *de facto* of that country. At that period (said Mr. W.) no allusion had been made, he believed, by any one in either House of Congress to the situation of affairs in Texas. And now (said Mr. W.), upon the very day that he had called the attention of the Senate to this subject, it appeared that Santa Anna had been captured, and his army overthrown. Mr. W. said he had never doubted this result. When on the 22d of April last, resolutions were introduced before the Senate by the senator from Ohio (Mr. Morris), requesting Congress to recognize the independence of Texas, he (Mr. W.) had opposed laying these resolutions on the table, and advocated their reference to a committee of the Senate. Mr. W. said he had addressed the Senate then under very different circumstances from those which now existed. The cries of the expiring prisoners at the Alamo were then resounding in our ears; the victorious usurper was advancing onward with his exterminating warfare, and, in the minds of many, all was gloom and despondency; but Mr. W. said that the published report of our proceedings demonstrated that he did not for a moment despond; that his confidence in the rifle of the West was firm and unshaken; and that he had then declared that the sun was not more certain to set in the western horizon, than that Texas would maintain her independence; and this sentiment he had taken occasion to repeat in the debate on this subject in the Senate on the 9th of May last. Mr. W. said that what was then prediction was now reality; and his heart beat high, and his pulse throbbed with delight, in contemplating this triumph of liberty. Sir (said Mr. W.), the people of the valley of the Mississippi never could have permitted Santa Anna and his myrmidons to retain the dominion of Texas."

Mr. Walker afterwards moved the reference of all the memorials in relation to Texas to the Committee on Foreign Relations. If the accounts received from Texas had been official (for as yet there were nothing but newspaper accounts of the great victory), he would have moved

for the immediate recognition of the Texian independence. Being unofficial, he could only move the reference to the committee in the expectation that they would investigate the facts and bring the subject before the Senate in a suitable form for action. Mr. Webster said:

"That if the people of Texas had established a government *de facto*, it was undoubtedly the duty of this government to acknowledge their independence. The time and manner of doing so, however, were all matters proper for grave and mature consideration. He should have been better satisfied, had this matter not been moved again till all the evidence had been collected, and until they had received official information of the important events that had taken place in Texas. As this proceeding had been moved by a member of the administration party, he felt himself bound to understand that the Executive was not opposed to take the first steps now, and that in his opinion this proceeding was not dangerous or premature. Mr. W. was of opinion that it would be best not to act with precipitation. If this information was true, they would doubtless before long hear from Texas herself; for as soon as she felt that she was a country, and had a country, she would naturally present her claims to her neighbors, to be recognized as an independent nation. He did not say that it would be necessary to wait for this event, but he thought it would be discreet to do so. He would be one of the first to acknowledge the independence of Texas, on reasonable proof that she had established a government. There were views connected with Texas which he would not now present, as it would be premature to do so; but he would observe that he had received some information from a respectable source, which turned his attention to the very significant expression used by Mr. Monroe in his message of 1822, that no European Power should ever be permitted to establish a colony on the American continent. He had no doubt that attempts would be made by some European government to obtain a cession of Texas from the government of Mexico."

Mr. King, of Alabama, counselled moderation and deliberation, although he was aware that in the present excited feeling in relation to Texas, every prudent and cautious course would be misunderstood, and a proper reserve be probably construed into hostility to Texian independence: but he would, so long as he remained a member on that floor, be regardless of every personal consideration, and place himself in opposition to all measures which he conceived were calculated to detract from the exalted character of this country for good faith, and for undeviating adherence to all its treaty stipulations. He then went on to say:

"He knew not whether the information received of the extraordinary successes of the Texans was to be relied on or not; he sincerely hoped it might prove true; no man here felt a deeper detestation of the bloodthirsty wretches who had cruelly butchered their defenceless prisoners, than he did; but, whether true or false, did it become wise, discreet, prudent men, bound by the strongest considerations to preserve the honor and faith of the country, to be hurried along by the effervescence of feeling, and at once abandon the course, and, he would say, the only true course, which this government has invariably, heretofore, pursued towards foreign powers? We have uniformly (said Mr. K.) recognized the existing governments—the governments *de facto*; we have not stopped to inquire whether it is a despotic or constitutional government; whether it is a republic or a despotism. All we ask is, does a government actually exist? and, having satisfied ourselves of that fact, we look no further, but recognize it as it is. It was on this principle (said Mr. K.)—this safe, this correct principle, that we recognized what was called the Republic of France, founded on the ruins of the old monarchy; then, the consular government; a little after, the imperial; and when that was crushed by a combination of all Europe, and that extraordinary man who wielded it was driven into exile, we again acknowledged the kingly government of the House of Bourbon, and now the constitutional King Louis Philippe of Orleans.

“Sir (said Mr. K.), we take things as they are; we ask not how governments are established—by what revolutions they are brought into existence. Let us see an independent government in Texas, and he would not be behind the senator from Mississippi nor the senator from South Carolina in pressing forward to its recognition, and establishing with it the most cordial and friendly relations.”

Mr. Calhoun went beyond all other speakers, and advocated not only immediate recognition of the independence of Texas, but her simultaneous admission into the Union; was in favor of acting on both questions together, and at the present session; and saw an interest in the slaveholding States in preventing Texas from having the power to annoy them. And he said:

“He was of opinion that it would add more strength to the cause of Texas, to wait for a few days, until they received official confirmation of the victory and capture of Santa Anna, in order to obtain a more unanimous vote in favor of the recognition of Texas. He had been of but one opinion, from the beginning, that, so far from Mexico being able to reduce Texas, there was great danger of Mexico, herself, being conquered by the Texans. The result of one battle had placed the ruler of Mexico in the power of the Texans; and they were now able, either to dictate what terms they pleased to him, or to make terms with the opposition in Mexico. This extraordinary meeting had given a handful of brave men a most powerful control over the destinies of Mexico; he trusted they would use their victory with moderation. He had made up his mind not only to recognize the independence of Texas, but for her admission into this Union; and if the Texans managed their affairs prudently, they would soon be called upon to decide that question. No man could suppose for a moment that that country could ever come again under the dominion of Mexico; and he was of opinion that it was not for our interests that there should be an independent community between us and Mexico. There were powerful reasons why Texas should be a part of this Union. The Southern States, owning a slave population, were deeply interested in preventing that country from having the power to annoy them; and the navigating and manufacturing interests of the North and the East were equally interested in making it a part of this Union. He thought they would soon be called on to decide these questions; and when they did act on it, he was for acting on both together—for recognizing the independence of Texas, and for admitting her into the Union. Though he felt the deepest solicitude on this subject, he was for acting calmly, deliberately, and cautiously, but at the same time with decision and firmness. They should not violate their neutrality; but when they were once satisfied that Texas had established a government, they should do as they had done in all other similar cases: recognize her as an independent nation; and if her people, who were once citizens of this Republic, wished to come back to us, he would receive them with open arms. If events should go on as they had done, he could not but hope that, before the close of the present session of Congress, they would not only acknowledge the independence of Texas, but admit her into the Union. He hoped there would be no unnecessary delay, for, in such cases, delays were dangerous; but that they would act with unanimity, and act promptly.”

The author of this View did not reply to Mr. Calhoun, being then on ill terms with him; but he saw in the speech much to be considered and remembered—the shadowings forth of coming events; the revelation of a new theatre for the slavery agitation; and a design to make the Texas question an element in the impending election. Mr. Calhoun had been one of Mr. Monroe’s cabinet, at the time that Texas was ceded to Spain, and for reasons (as Mr. Monroe stated to General Jackson, in the private letter heretofore quoted) of internal policy and consideration; that is to say, to conciliate the free States, by amputating slave territory, and preventing their opposition to future Southern presidential candidates. He did not use those

precise words, but that was the meaning of the words used. The cession of Texas was made in the crisis of the Missouri controversy; and both Mr. Monroe and Mr. Calhoun received the benefit of the conciliation it produced: Mr. Monroe in the re-election, almost unanimous, of 1820; and Mr. Calhoun in the vice-presidential elections of 1824 and 1828; in which he was so much a favorite of the North as to get more votes than Mr. Adams received in the free States, and owed to them his honorable election by the people, when all others were defeated, on the popular vote. Their justification (that of Mr. Monroe's cabinet) for this cession of a great province, was, that the loss was temporary—"that it could be got back again whenever it was wanted"—but the victory of San Jacinto was hardly foreseen at that time. It was these reasons (Northern conciliation, and getting it back when we pleased) that reconciled General Jackson to the cession, at the time it was made. One of the foremost to give away Texas, Mr. Calhoun was the very foremost to get her back; and at an immense cost to our foreign relations and domestic peace. The immediate admission of Texas into the Union, was his plan. She was at war with Mexico—we at peace: to incorporate her into the Union, was to adopt her war. We had treaties of amity with Mexico: to join Texas in the war, was to be faithless to those treaties. We had a presidential election depending; and to discuss the question of Texian admission into our Union, was to bring that element into the canvass, in which all prudent men who were adverse to the admission (as Mr. Van Buren and his friends were), would be thrown under the force of an immense popular current; while all that were in favor of it would expect to swim high upon the waves of that current. The proposition was incredibly rash, tending to involve us in war and dishonor; and also disrespectful to Texas herself, who had not asked for admission; and extravagantly hasty, in being broached before there was any official news of the great victory. Before the debate was over, the author of this View took an opportunity to reply, without reference to other speakers, and to give reasons against the present admission of Texas. But there was one of Mr. Calhoun's reasons for immediate admission, which to him was enigmatical, and at that time, incomprehensible; and that was, the prevention of Texas "from having the power to annoy" the Southern slave States. We had just been employed in suppressing, or exploding, this annoyance, in the Northeast; and, in the twinkling of an eye, it sprung up in the Southwest, two thousand miles off, and quite diagonally from its late point of apparition. That sudden and so distant re-appearance of the danger, was a puzzle, remaining unsolved until the Tyler administration, and the return of Mr. Duff Green from London, with the discovery of the British abolition plot; which was to be planted in Texas, spread into the South, and blow up its slavery. Mr. Bedford Brown, and others, answered Mr. Calhoun. Mr. Brown said:

"He regarded our national character as worth infinitely more than all the territorial possessions of Mexico, her wealth, or the wealth of all other nations added together. We occupied a standing among the nations of the earth, of which we might well be proud, and which we ought not to permit to be tarnished. We have, said Mr. B., arrived at that period of our history, as a nation, when it behooves us to act with the greatest wisdom and circumspection. But a few years since as a nation, we were comparatively in a state of infancy; we were now, in the confidence of youth, and with the buoyancy of spirit incident to this period of our existence as a nation, about to enter on 'man's estate.' Powerful in resources, and conscious of our strength, let us not forget the sacred obligations of justice and good faith, which form the indispensable basis of a nation's character—greatness and freedom; and without which, no people could long preserve the blessings of self-government. Republican government was based on the principles of justice; and for it to be administered on any other, either in its foreign or domestic affairs, was to undermine its foundation and to hasten its overthrow."

Mr. Rives concurred in the necessity for caution; and said:

“This government should act with moderation, calmness, and dignity; and, because he wished the Senate to act with that becoming moderation, calmness, and dignity, which ought to characterize its deliberations on international subjects, it was his wish that the subject might be referred. If it was postponed, it would come up again for discussion, from morning to morning, to the exclusion of most of the business of the Senate, as there was nothing to prevent the presentation of petitions every morning, to excite discussion. It was for the purpose of avoiding these discussions, that he should vote to refer it at once to the Committee on Foreign Relations. A prominent member of that committee had been long and intimately acquainted with the subject of our foreign relations, and there were members on it representing all the different sections of the country, to whose charge he believed the subject could be safely committed. It would seem, from the course of debate this morning, that gentlemen supposed the question of the recognition of the independence of Texas, or its admission into this Union, was directly before the Senate; and some gentlemen had volunteered their opinions in advance of the report of the committee. He did not vote to refer it to the committee to receive its quietus, but that they might give their views upon it; nor did he feel as if he were called upon to express an opinion upon the propriety of the measure. It was strange that senators, who stated that their opinions were made up, should oppose the reference.”

Mr. Niles, of Connecticut, was entirely in favor of preserving the national faith inviolate, and its honor untarnished, and ourselves from the imputation of base motives in our future conduct in relation to Texas, and said:

“This was a case in which this government should act with caution. In ordinary cases of this kind the question was only one of fact, and was but little calculated to compromit the interests or honor of the United States; but the question in regard to Texas was very different, and vastly more important. That is a country on our own borders, and its inhabitants, most of them, emigrants from the United States; and most of the brave men constituting its army, who are so heroically fighting to redeem the province, are citizens of the United States, who have engaged in this bold enterprise as volunteers. Were this government to be precipitate in acknowledging the independence of Texas, might it not be exposed to a suspicion of having encouraged these enterprises of its citizens? There is another consideration of more importance. Should the independence of Texas be followed by its annexation to the United States, the reasons for suspicions derogatory to the national faith might be still stronger. If we, by our own act, contribute to clothe the constituted authorities of the province with the power of sovereignty over it, and then accept a cession of the country from those authorities, might there not be some reason to charge us with having recognized the independence of the country as a means of getting possession of it? These and other considerations require that this government should act with caution; yet, when the proper time arrives it will be our duty to act, and to act promptly. But he trusted that all would feel the importance of preserving the national faith and national honor. They should not only be kept pure, but free from injurious suspicions, being more to be prized than any extension of territory, wealth, population, or other acquisition, which enters into the elements of national prosperity or power.”

The various memorials were referred to the committee on foreign relations, consisting of Mr. Clay, Mr. King of Georgia, Mr. Tallmadge, Mr. Mangum, and Mr. Porter of Louisiana; which reported early, and unanimously, in favor of the recognition of the independence of Texas, as soon as satisfactory information should be received, showing that she had a civil government in operation capable of performing the duties and fulfilling the obligations of a civilized power. In the report which accompanied the Resolution, its author, Mr. Clay, said:

"Sentiments of sympathy and devotion to civil liberty, which have always animated the people of the United States, have prompted the adoption of the resolution, and other manifestations of popular feeling which have been referred to the committee, recommending an acknowledgment of the independence of Texas. The committee shares fully in all these sentiments; but a wise and prudent government should not act solely on the impulse of feeling, however natural and laudable it may be. It ought to avoid all precipitation, and not adopt so grave a measure as that of recognizing the independence of a new Power, until it has satisfactory information, and has fully deliberated.

"The committee has no information respecting the recent movements in Texas, except such as is derived from the public prints. According to that, the war broke out in Texas last autumn. Its professed object, like that of our revolutionary contest in the commencement, was not separation and independence, but a redress of grievances. In March last, independence was proclaimed, and a constitution and form of government were established. No means of ascertaining accurately the exact amount of the population of Texas are at the command of the committee. It has been estimated at some sixty or seventy thousand souls. Nor are the precise limits of the country which passes under the denomination of Texas known to the committee. They are probably not clearly defined, but they are supposed to be extensive, and sufficiently large, when peopled, to form a respectable Power."

Mr. Southard concurred in the views and conclusion of the report, but desired to say a few words in reply to that part of Mr. Calhoun's speech which looked to the "balance of power, and the perpetuation of our institutions," as a reason for the speedy admission of Texas into the Union, and said:

"I should not have risen to express these notions, if I had not understood the Senator from South Carolina [Mr. Calhoun] to declare that he regarded the acknowledgment of the independence of Texas as important, and principally important, because it prepared the way for the speedy admission of that State as a member of our Union; and that he looked anxiously to that event, as conducing to a proper balance of power, and to the perpetuation of our institutions. I am not now, sir, prepared to express an opinion on that question—a question which all must foresee will embrace interests as wide as our Union, and as lasting in their consequences as the freedom which our institutions secure. When it shall be necessarily presented to me, I shall endeavor to meet it in a manner suitable to its magnitude, and to the vital interests which it involves; but I will not, on the present resolution, anticipate it; nor can I permit an inference, as to my decision upon it, to be drawn from the vote which I now give. That vote is upon this resolution alone, and confined to it, founded upon principles sustained by the laws of nations, upon the unvarying practice of our government, and upon the facts as they are now known to exist. It relates to the independence of Texas, not to the admission of Texas into this Union. The achievement of the one, at the proper time, may be justified; the other may be found to be opposed by the highest and strongest considerations of interest and duty. I discuss neither at this time; nor am I willing that the remarks of the senator should lead, in or out of this chamber, to the inference that all those who vote for the resolution concur with him in opinion. The question which he has started should be left perfectly open and free."

The vote in favor of the Resolution reported by Mr. Clay was unanimous—39 senators present and voting. In the House of Representatives a similar resolution was reported from the House Committee of foreign relations, Mr. John Y. Mason, of Virginia, chairman; and adopted by a vote of 113 to 22. The nays were: Messrs. John Quincy Adams, Heman Allen, Jeremiah Bailey, Andrew Beaumont, James W. Bouldin, William Clark, Walter Coles, Edward Darlington, George Grennell, jr., Hiland Hall, Abner Hazeltine, William Hiester,

Abbott Lawrence, Levi Lincoln, Thomas C. Love, John J. Milligan, Dutee J. Pearce, Stephen C. Phillips, David Potts, jr., John Reed, David Russell, William Slade.

It is remarkable that in the progress of this Texas question both Mr. Adams and Mr. Calhoun reversed their positions—the former being against, and the latter in favor, of its alienation in 1819; the former being against, and the latter in favor of its recovery in 1836-'44.—Mr. Benton was the last speaker in the Senate in favor of the recognition of independence; and his speech being the most full and carefully historical of any one delivered, it is presented entire in the next chapter; and, it is believed, that in going more fully than other speakers did into the origin and events of the Texas Revolution, it will give a fair and condensed view of that remarkable event, so interesting to the American people.

145. Texas Independence—Mr. Benton's Speech

'Mr. Benton rose and said he should confine himself strictly to the proposition presented in the resolution, and should not complicate the practical question of recognition with speculations on the future fate of Texas. Such speculations could have no good effect upon either of the countries interested; upon Mexico, Texas, or the United States. Texas has not asked for admission into this Union. Her independence is still contested by Mexico. Her boundaries and other important points in her political condition, are not yet adjusted. To discuss the question of her admission into this Union, under these circumstances, is to treat her with disrespect, to embroil ourselves with Mexico, to compromise the disinterestedness of our motives in the eyes of Europe; and to start among ourselves prematurely, and without reason, a question which, whenever it comes, cannot be without its own intrinsic difficulties and perplexities.

"Since the three months that the affairs of Texas have been the subject of repeated discussion in this chamber, I have imposed on myself a reserve, not the effect of want of feeling, but the effect of strong feeling, and some judgment combined, which has not permitted me to give utterance to the general expression of my sentiments. Once only have I spoken, and that at the most critical moment of the contest, and when the reported advance of the Mexicans upon Nacogdoches, and the actual movement of General Gaines and our own troops in that direction, gave reason to apprehend the encounter of flags, or the collision of arms, which might compromise individuals or endanger the peace of nations. It was then that I used those words, not entirely enigmatical, and which have since been repeated by some, without the prefix of their important qualifications, namely; that while neutrality was the obvious line of our duty and of our interest, yet there might be emergencies in which the obligation of duty could have no force, and the calculations of interest could have no place; when, in fact, a man should have no head to think! nothing but a heart to feel! and an arm to strike! and I illustrated this sentiment. It was after the affair of Goliad, and the imputed order to unpeople the country, with the supposititious case of prisoners assassinated, women violated, and children slaughtered; and these horrors to be perpetrated in the presence or hearing of an American army. In such a case I declared it to be my sentiment—and I now repeat it, for I feel it to be in me—in such a case, I declared it to be my sentiment, that treaties were nothing, books were nothing, laws were nothing! that the paramount law of God and nature was every thing! and that the American soldier, hearing the cries of helplessness and weakness, and remembering only that he was a man, and born of woman, and the father of children, should fly to the rescue, and strike to prevent the perpetration of crimes which shock humanity and dishonor the age. I uttered this sentiment not upon impulsion, but with consideration; not for theatrical effect, but as a rule for action; not as vague declamation, but with an eye to possible or probable events, and with a view to the public justification of General Gaines and his men, if, under circumstances appalling to humanity, they should nobly resolve to obey the impulsions of the heart instead of coldly consulting the musty leaves of books and treaties.

"Beyond this I did not go, and, except in this instance, I do not speak. Duty and interest prescribed to the United States a rigorous neutrality; and this condition she has faithfully fulfilled. Our young men have gone to Texas to fight; but they have gone without the sanction of the laws, and against the orders of the Government. They have gone upon that impulsion which, in all time, has carried the heroic youth of all ages to seek renown in the perils and glories of distant war. Our foreign enlistment law is not repealed. Unlike England, in the civil war now raging in Spain, we have not licensed interference by repealing our

penalties: we have not stimulated action by withdrawing obstacles. No member of our Congress, like General Evans in the British Parliament, has left his seat to levy troops in the streets of the metropolis, and to lead them to battle and to victory in the land torn by civil discord. Our statute against armaments to invade friendly powers is in full force. Proclamations have attested our neutral dispositions. Prosecutions have been ordered against violators of law. A naval force in the gulf, and a land force on the Sabine, have been directed to enforce the policy of the government; and so far as acts have gone, the advantage has been on the side of Mexico; for the Texian armed schooner Invincible has been brought into an American port by an American ship of war. If parties and individuals still go to Texas to fight, the act is particular, not national, compromising none but the parties themselves, and may take place on one side as well as on the other. The conduct of the administration has been strictly neutral; and, as a friend to that administration, and from my own convictions, I have conformed to its policy, avoiding the language which would irritate, and opposing the acts which might interrupt pacific and commercial communications. Mexico is our nearest neighbor, dividing with us the continent of North America, and possessing the elements of a great power. Our boundaries are co-terminous for more than two thousand miles. We have inland and maritime commerce. She has mines; we have ships. General considerations impose upon each power the duties of reciprocal friendship; especial inducements invite us to uninterrupted commercial intercourse. As a western senator, coming from the banks of the Mississippi, and from the State of Missouri, I cannot be blind to the consequences of interrupting that double line of inland and maritime commerce, which, stretching to the mines of Mexico, brings back the perennial supply of solid money which enriches the interior, and enables New Orleans to purchase the vast accumulation of agricultural produce of which she is the emporium. Wonderful are the workings of commerce, and more apt to find out its own proper channels by its own operations than to be guided into them by the hand of legislation. New Orleans now is what the Havana once was—the entrepot of the Mexican trade, and the recipient of its mineral wealth. The superficial reader of commercial statistics would say that Mexico but slightly encourages our domestic industry; that she takes nothing from our agriculture, and but little from our manufactures. On the contrary, the close observer would see a very different picture. He would see the products of our soil passing to all the countries of Europe, exchanging into fine fabrics, and these returning in the ships of many nations, our own predominant, to the city of New Orleans; and thence going off in small Mexican vessels to Matamoros, Tampico, Vera Cruz, and other Mexican ports. The return from these ports is in the precious metals; and, to confine myself to a single year, as a sample of the whole, it may be stated that, of the ten millions and three quarters of silver coin and bullion received in the United States, according to the custom-house returns during the least year, eight millions and one quarter of it came from Mexico alone, and the mass of it through the port of New Orleans. This amount of treasure is not received for nothing, nor, as it would seem on the commercial tables, for foreign fabrics unconnected with American industry, but, in reality, for domestic productions changed into foreign fabrics, and giving double employment to the navigation of the country. New Orleans has taken the place of the Havana; it has become the entrepot of this trade; and many circumstances, not directed by law, or even known to lawgivers, have combined to produce the result. First, the application of steam power to the propulsion of vessels, which, in the form of towboats, has given to a river city a prompt and facile communication with the sea; then the advantage of full and assorted cargoes, which brings the importing vessel to a point where she delivers freight for two different empires; then the marked advantage of a return cargo, with cheap and abundant supplies, which are always found in the grand emporium of the great West; then the discriminating duties in Mexican ports in favor of Mexican vessels, which makes it advantageous to the importer to stop and transship at New Orleans; finally, our enterprise, our police, and our free

institutions, our perfect security, under just laws, for life, liberty, person and property. These circumstances, undirected by government, and without the knowledge of government, have given to New Orleans the supreme advantage of being the entrepot of the Mexican trade; and have presented the unparalleled spectacle of the noblest valley in the world, and the richest mines in the world, sending their respective products to meet each other at the mouth of the noblest river in the world; and there to create in lapse of time, the most wonderful city which any age or country has ever beheld. A look upon the map of the great West, and a tolerable capacity to calculate the aggregate of geographical advantages, must impress the beholder with a vast opinion of the future greatness of New Orleans; but he will only look upon one half of the picture unless he contemplates this new branch of trade which is making the emporium of the Mississippi the entrepot of Mexican commerce, and the recipient of the Mexican mines, and which, though now so great, is still in its infancy. Let not government mar a consummation so auspicious in its aspect, and teeming with so many rich and precious results. Let no unnecessary collision with Mexico interrupt our commerce, turn back the streams of three hundred mines to the Havana, and give a wound to a noble city which must be felt to the head-spring and source of every stream that pours its tribute into the King of Floods.

"Thus far Mexico has no cause of complaint. The conduct of our government has been that of rigorous neutrality. The present motion does not depart from that line of conduct; for the proposed recognition is not only contingent upon the *de facto* independence of Texas, but it follows in the train, and conforms to the spirit, of the actual arrangements of the President General Santa Anna, for the complete separation of the countries. We have authentic information that the President General has agreed to an armistice; that he has directed the evacuation of the country; that the Mexican army is in full retreat; that the Rio Grande, a limit far beyond the discovery and settlement of La Salle, in 1684, is the provisional boundary; and that negotiations are impending for the establishment of peace on the basis of separation. Mexico has had the advantage of these arrangements, though made by a captive chief, in the unmolested retreat and happy extrication of her troops from their perilous position. Under these circumstances, it can be no infringement of neutrality for the Senate of the United States to adopt a resolution for the contingent and qualified acknowledgment of Texian independence. Even after the adoption of the resolution, it will remain inoperative upon the hands of the President until he shall have the satisfactory information which shall enable him to act without detriment to any interest, and without infraction of any law.

"Even without the armistice and provisional treaty with Santa Anna, I look upon the separation of the two countries as being in the fixed order of events, and absolutely certain to take place. Texas and Mexico are not formed for union. They are not homogeneous. I speak of Texas as known to La Salle, the bay of St. Bernard—(Matagorda)—and the waters which belong to it, being the western boundary. They do not belong to the same divisions of country, nor to the same systems of commerce, nor to the same pursuits of business. They have no affinities—no attractions—no tendencies to coalesce. In the course of centuries, and while Mexico has extended her settlements infinitely further in other directions—to the head of the Rio Grande in the north, and to the bay of San Francisco in the northwest; yet no settlement had been extended east, along the neighboring coast of the Gulf of Mexico. The rich and deep cotton and sugar lands of Texas, though at the very door of Mexico, yet requiring the application of a laborious industry to make them productive, have presented no temptation to the mining and pastoral population of that empire. For ages this beautiful agricultural and planting region had lain untouched. Within a few years, and by another race, its settlement has begun; and the presence of this race has not smoothed, but increased, the obstacles to union presented by nature. Sooner or later, separation would be inevitable; and

the progress of human events has accelerated the operation of natural causes. Goliad has torn Texas from Mexico; Goliad has decreed independence; San Jacinto has sealed it! What the massacre decreed, the victory has sealed; and the day of the martyrdom of prisoners must for ever be regarded as the day of disunion between Texas and Mexico. I speak of it politically, not morally; that massacre was a great political blunder, a miscalculation, an error, and a mistake. It was expected to put an end to resistance, to subdue rebellion, to drown revolt in blood, and to extinguish aid in terror. On the contrary, it has given life and invincibility to the cause of Texas. It has fired the souls of her own citizens, and imparted to their courage the energies of revenge and despair. It has given to her the sympathies and commiseration of the civilized world. It has given her men and money, and claims upon the aid and a hold upon the sensibilities of the human race. If the struggle goes on, not only our America, but Europe will send its chivalry to join in the contest. I repeat it; that cruel morning of the Alamo, and that black day of Goliad, were great political faults. The blood of the martyr is the seed of the church. The blood of slaughtered patriots is the dragon's teeth sown upon the earth, from which heroes, full grown and armed, leap into life, and rush into battle. Often will the Mexican, guiltless of that blood, feel the Anglo-American steel for the deed of that day, if this war continues. Many were the innocent at San Jacinto, whose cries, in broken Spanish, abjuring Goliad and the Alamo, could not save their devoted lives from the avenging remembrance of the slaughtered garrison and the massacred prisoners.

"Unhappy day, for ever to be deplored, that Sunday morning, March 6, 1836, when the undaunted garrison of the Alamo, victorious in so many assaults over twenty times their number perished to the last man by the hands of those, part of whom they had released on parole two months before, leaving not one to tell how they first dealt out to multitudes that death which they themselves finally received. Unhappy day that Palm Sunday, March 27, when the five hundred and twelve prisoners at Goliad, issuing from the sally port at dawn of day, one by one, under the cruel delusion of a return to their families, found themselves enveloped in double files of cavalry and infantry, marched to a spot fit for the perpetration of the horrid deed—and there, without an instant to think of parents, country, friends, and God—in the midst of the consternation of terror and surprise, were inhumanly set upon, and pitilessly put to death, in spite of those moving cries which reached to heaven, and regardless of those supplicating hands, stretched forth for mercy, from which arms had been taken under the perfidious forms of a capitulation. Five hundred and six perished that morning—young, vigorous, brave, sons of respectable families, and the pride of many a parent's heart—and their bleeding bodies, torn with wounds, and many yet alive, were thrown in heaps upon vast fires, for the flames to consume what the steel had mangled. Six only escaped, and not by mercy, but by miracles. And this was the work of man upon his brother; of Christian upon Christian; of those upon those who adore the same God, invoke the same heavenly benediction, and draw precepts of charity and mercy from the same divine fountain. Accursed be the ground on which the dreadful deed was done! Sterile, and set apart, let it for ever be! No fruitful cultivation should ever enrich it; no joyful edifice should ever adorn it; but shut up, and closed by gloomy walls, the mournful cypress, the weeping willow, and the inscriptive monument, should for ever attest the foul deed of which it was the scene, and invoke from every passenger the throb of pity for the slain, and the start of horror for the slayer. And you, neglected victims of the Old Mission and San Patricio, shall you be forgotten because your numbers were fewer, and your hapless fate more concealed? No! but to you also justice shall be done. One common fate befell you all; one common memorial shall perpetuate your names, and embalm your memories. Inexorable history will sit in judgment upon all concerned, and will reject the plea of government orders, even if those orders emanated from the government, instead of being dictated to it. The French National Convention, in 1793, ordered all the English prisoners who should be taken in battle to be put

to death. The French armies refused to execute the decree. They answered, that French soldiers were the protectors, not the assassins of prisoners; and all France, all Europe, the whole civilized world, applauded the noble reply.

"But let us not forget that there is some relief to this black and bloody picture—some alleviation to the horror of its appalling features. There was humanity, as well as cruelty, at Goliad—humanity to deplore what it could not prevent. The letter of Colonel Fernandez does honor to the human heart. Doubtless many other officers felt and mourned like him, and spent the day in unavailing regrets. The ladies, Losero and others, of Matamoros, saving the doomed victims in that city, from day to day, by their intercessions, appear like ministering angels. Several public journals, and many individuals, in Mexico, have given vent to feelings worthy of Christians, and of the civilization of the age; and the poor woman on the Gaudaloupe, who succored and saved the young Georgian (Hadaway), how nobly she appears! He was one of the few that escaped the fate of the Georgia battalion sent to the Old Mission. Overpowered by famine and despair, without arms and without comrades, he entered a solitary house filled with Mexican soldiers hunting the fugitives of his party. His action amazed them; and, thinking it a snare, they stepped out to look for the armed body of which he was supposed to be the decoy. In that instant food was given him by the humane woman, and instant flight to the swamp was pointed out. He fled, receiving the fire of many guns as he went; and, escaping the perils of the way, the hazards of battle at San Jacinto, where he fought, and of Indian massacre in the Creek nation, when the two stages were taken and part of his travelling companions killed, he lives to publish in America that instance of devoted humanity in the poor woman of the Gaudaloupe. Such acts as all these deserve to be commemorated. They relieve the revolting picture of military barbarity—soften the resentments of nations—and redeem a people from the offence of individuals.

"Great is the mistake which has prevailed in Mexico, and in some parts of the United States, on the character of the population which has gone to Texas. It has been common to disparage and to stigmatize them. Nothing could be more unjust; and, speaking from knowledge either personally or well acquired (for it falls to my lot to know, either from actual acquaintance or good information the mass of its inhabitants), I can vindicate them from erroneous imputations, and place their conduct and character on the honorable ground which they deserve to occupy. The founder of the Texian colony was Mr. Moses Austin, a respectable and enterprising native of Connecticut, and largely engaged in the lead mines of Upper Louisiana when I went to the Territory of Missouri in 1815. The present head of the colony, his son, Mr. Stephen F. Austin, then a very young man, was a member of the Territorial Legislature, distinguished for his intelligence, business habits, and gentlemanly conduct. Among the grantees we distinguish the name of Robertson, son of the patriarchal founder and first settler of West Tennessee. Of the body of the emigrants, most of them are heads of families or enterprising young men, gone to better their condition by receiving grants of fine land in a fine climate, and to continue to live under the republican form of government to which they had been accustomed. There sits one of them (pointing to Mr. Carson, late member of Congress from North Carolina, and now Secretary of State for Texas). We all know him; our greetings on his appearance in this chamber attest our respect; and such as we know him to be, so do I know the multitude of those to be who have gone to Texas. They have gone, not as intruders, but as grantees; and to become a barrier between the Mexicans and the marauding Indians who infested their borders.

"Heartless is the calumny invented and propagated, not from this floor, but elsewhere, on the cause of the Texian revolt. It is said to be a war for the extension of slavery. It had as well be said that our own Revolution was a war for the extension of slavery. So far from it, that no revolt, not even our own, ever had a more just and a more sacred origin. The settlers in Texas

went to live under the form of government which they had left behind in the United States—a government which extends so many guarantees for life, liberty, property, and the pursuit of happiness, and which their American and English ancestors had vindicated for so many hundred years. A succession of violent changes in government, and the rapid overthrow of rulers, annoyed and distressed them; but they remained tranquil under every violence which did not immediately bear on themselves. In 1822 the republic of 1821 was superseded by the imperial diadem of Iturbide. In 1823 he was deposed and banished, returned and was shot, and Victoria made President. Mentuno and Bravo disputed the presidency with Victoria; and found, in banishment, the mildest issue known among Mexicans to unsuccessful civil war. Pedraza was elected in 1828; Guerrero overthrew him the next year. Then Bustamente overthrew Guerrero; and, quickly, Santa Anna overthrew Bustamente, and, with him, all the forms of the constitution, and the whole frame of the federative government. By his own will, and by force, Santa Anna dissolved the existing Congress, convened another, formed the two Houses into one, called it a convention; and made it the instrument for deposing, without trial, the constitutional Vice-President, Gomez Farias, putting Barragan into his place, annihilating the State governments, and establishing a consolidated government, of which he was monarch, under the retained republican title of President. Still, the Texians did not take up arms: they did not acquiesce, but they did not revolt. They retained their State government in operation, and looked to the other States, older and more powerful than Texas, to vindicate the general cause, and to re-establish the federal constitution of 1824. In September, 1835, this was still her position. In that month, a Mexican armed vessel appeared off the coast of Texas, and declared her ports blockaded. At the same time, General Cos appeared in the West with an army of fifteen hundred men, with orders to arrest the State authorities, to disarm the inhabitants, leaving one gun to every five hundred souls; and to reduce the State to unconditional submission. Gonzales was the selected point for the commencement of the execution of these orders; and the first thing was the arms, those trusty rifles which the settlers had brought with them from the United States, which were their defence against savages, their resource for game, and the guard which converted their houses into castles stronger than those ‘which the king cannot enter.’ A detachment of General Cos’s army appeared at the village of Gonzales, on the 28th of September, and demanded the arms of the inhabitants; it was the same demand, and for the same purpose, which the British detachment, under Major Pitcairn had made at Lexington, on the 19th of April 1775. It was the same demand! and the same answer was given—resistance—battle—victory! for the American blood was at Gonzales as it had been at Lexington; and between using their arms, and surrendering their arms, that blood can never hesitate. Then followed the rapid succession of brilliant events, which, in two months, left Texas without an armed enemy in her borders, and the strong forts of Goliad and the Alamo, with their garrisons and cannon, the almost bloodless prizes of a few hundred Texian rifles. This was the origin of the revolt; and a calumny more heartless can never be imagined than that which would convert this just and holy defence of life, liberty, and property, into an aggression for the extension of slavery.

“Just in its origin, valiant and humane in its conduct, sacred in its object, the Texian revolt has illustrated the Anglo-Saxon character, and given it new titles to the respect and admiration of the world.

“It shows that liberty, justice, valor—moral, physical, and intellectual power—discriminate that race wherever it goes. Let our America rejoice, let Old England rejoice, that the Brassos and Colorado, new and strange names—streams far beyond the western bank of the Father of Floods—have felt the impress, and witnessed the exploits of a people sprung from their loins, and carrying their language, laws, and customs, their *magna charta* and its glorious privileges, into new regions and far distant climes. Of the individuals who have purchased

lasting renown in this young war, it would be impossible, in this place to speak in detail, and invidious to discriminate; but there is one among them whose position forms an exception, and whose early association with myself justifies and claims the tribute of a particular notice. I speak of him whose romantic victory has given to the Jacinto[11] that immortality in grave and serious history which the diskos of Apollo had given to it in the fabulous pages of the heathen mythology. General Houston was born in the State of Virginia, county of Rockbridge: he was appointed an ensign in the army of the United States, during the late war with Great Britain, and served in the Creek campaign under the banners of Jackson. I was the lieutenant colonel of the regiment to which he belonged, and the first field officer to whom he reported. I then marked in him the same soldierly and gentlemanly qualities which have since distinguished his eventful career: frank, generous, brave; ready to do, or to suffer, whatever the obligations of civil or military duty imposed; and always prompt to answer the call of honor, patriotism, and friendship. Sincerely do I rejoice in his victory. It is a victory without alloy, and without parallel, except at New Orleans. It is a victory which the civilization of the age, and the honor of the human race, required him to gain: for the nineteenth century is not the age in which a repetition of the Goliad matins could be endured. Nobly has he answered the requisition; fresh and luxuriant are the laurels which adorn his brow.

"It is not within the scope of my present purpose, to speak of military events, and to celebrate the exploits of that vanguard of the Anglo-Saxons who are now on the confines of the ancient empire of Montezuma; but that combat of the San Jacinto! it must for ever remain in the catalogue of military miracles. Seven hundred and fifty citizens, miscellaneously armed with rifles, muskets, belt pistols, and knives, under a leader who had never seen service, except as a subaltern, march to attack near double their numbers—march in open day across a clear prairie, to attack upwards of twelve hundred veterans, the élite of an invading army of seven thousand, posted in a wood, their flanks secured, front intrenched; and commanded by a general trained in civil wars, victorious in numberless battles; and chief of an empire of which no man becomes chief except as conqueror. In twenty minutes, the position is forced. The combat becomes a carnage. The flowery prairie is stained with blood; the hyacinth is no longer blue, but scarlet. Six hundred Mexicans are dead; six hundred more are prisoners, half wounded; the President General himself is a prisoner; the camp and baggage all taken; and the loss of the victors, six killed and twenty wounded. Such are the results, and which no European can believe, but those who saw Jackson at New Orleans. Houston is the pupil of Jackson; and he is the first self-made general, since the time of Mark Antony, and the King Antigonus, who has taken the general of the army and the head of the government captive in battle. Different from Antony, he has spared the life of his captive, though forfeited by every law, human and divine.

"I voted, in 1821, to acknowledge the absolute independence of Mexico; I vote now to recognize the contingent and expected independence of Texas. In both cases, the vote is given upon the same principle—upon the principle of disjunction where conjunction is impossible or disastrous. The Union of Mexico and Spain had become impossible; that of Mexico and Texas is no longer desirable or possible. A more fatal present could not be made than that of the future incorporation of the Texas of La Salle with the ancient empire of Montezuma. They could not live together, and extermination is not the genius of the age; and, besides, is more easily talked of than done. Bloodshed only could be the fruit of their conjunction; and every drop of that blood would be the dragon's teeth sown upon the earth. No wise Mexican should wish to have this Trojan horse shut up within their walls."

[11] Hyacinth; hyacinthus; huakinthos; water flower.

146. The Specie Circular

The issue of the Treasury order, known as the “Specie Circular,” was one of the events which marked the foresight, the decision, and the invincible firmness of General Jackson. It was issued immediately after the adjournment of Congress, and would have been issued before the adjournment, except for the fear that Congress would counteract it by law. It was an order to all the land-offices to reject paper money, and receive nothing but gold and silver in payment of the public lands; and was issued under the authority of the resolution of the year 1816 which, in giving the Secretary of the Treasury discretionary authority to receive the notes of specie paying banks in revenue payments, gave him also the right to reject them. The number of these banks had now become so great, the quantity of notes issued so enormous, the facility of obtaining loans so universal, and the temptation to converting shadowy paper into real estate, so tempting, that the rising streams of paper from seven hundred and fifty banks took their course towards the new States, seat of the public domain—discharging in accumulated volume there collected torrents upon the different land-offices. The sales were running up to five millions a month, with the prospect of unbounded increase after the rise of Congress; and it was this increase from the land sales which made that surplus which the constitution had been burlesqued to divide among the States. And there was no limit to this conversion of public land into inconvertible paper. In the custom-house branch of the revenue there was a limit in the amount to be received—limited by the amount of duties to be paid: but in the land-office branch there was no limit. It was therefore at that point that the remedy was wanted; and, for that reason, the “Specie Circular” was limited in its application to the land-offices; and totally forbade the sale of the public lands for any thing but hard money. It was an order of incalculable value to the United States, and issued by President Jackson in known disregard of the will both of the majority of Congress and of his cabinet.

Before the adjournment of Congress, and in concert with the President, the author of this View had attempted to get an act of Congress to stop the evil; and in support of his motion to that effect gave his opinion of the evil itself, and of the benefits which would result from its suppression. He said:

“He was able to inform the Senate how it happened that the sales of the public lands had deceived all calculations, and run up from four millions a year to five millions a quarter; it was this: speculators went to banks, borrowed five, ten, twenty, fifty thousand dollars in paper, in small notes, usually under twenty dollars, and engaged to carry off these notes to a great distance, sometimes five hundred or a thousand miles; and there laid them out for public lands. Being land-office money, they would circulate in the country; many of these small notes would never return at all, and their loss would be a clear gain to the bank; others would not return for a long time; and the bank would draw interest on them for years before they had to redeem them. Thus speculators, loaded with paper, would outbid settlers and cultivators, who had no undue accommodations from banks, and who had nothing but specie to give for lands, or the notes which were its real equivalent. Mr. B. said that, living in a new State, it came within his knowledge that such accommodations as he had mentioned were the main cause of the excessive sales which had taken place in the public lands, and that the effect was equally injurious to every interest concerned—except the banks and the speculators: it was injurious to the treasury, which was filling up with paper; to the new States, which were flooded with paper; and to settlers and cultivators, who were outbid by speculators, loaded with this borrowed paper. A return to specie payments for lands is the remedy for all these evils.”

Having exposed the evil, and that to the country generally as well as to the federal treasury, Mr. B. went on to give his opinion of the benefits of suppressing it; and said:

"It would put an end to every complaint now connected with the subject, and have a beneficial effect upon every public and private interest. Upon the federal government its effect would be to check the unnatural sale of the public lands to speculators for paper; it would throw the speculators out of market, limit the sales to settlers and cultivators, stop the swelling increases of paper surpluses in the treasury, put an end to all projects for disposing of surpluses; and relieve all anxiety for the fate of the public moneys in the deposit banks. Upon the new States, where the public lands are situated, its effects would be most auspicious. It would stop the flood of paper with which they are inundated, and bring in a steady stream of gold and silver in its place. It would give them a hard-money currency, and especially a share of the gold currency; for every emigrant could then carry gold to the country. Upon the settler and cultivator who wished to purchase land its effect would be peculiarly advantageous. He would be relieved from the competition of speculators; he would not have to contend with those who received undue accommodations at banks, and came to the land-offices loaded with bales of bank notes which they had borrowed upon condition of carrying them far away, and turning them loose where many would be lost, and never get back to the bank that issued them. All these and many other good effects would thus be produced, and no hardship or evil of any kind could accrue to the meritorious part of the country; for the settler and cultivator who wishes to buy land for use, or for a settlement for his children, or to increase his farm, would have no difficulty in getting hard money to make his purchase. He has no undue accommodations from banks. He has no paper but what is good; such as he can readily convert into specie. To him the exaction of specie payments from all purchasers would be a rule of equality, which would enable him to purchase what he needs without competition with fictitious and borrowed capital."

Mr. B. gave a view of the actual condition of the paper currency, which he described as hideous and appalling, doomed to a catastrophe; and he advised every prudent man, as well as the government, to fly from its embrace. His voice, and his warning, answered no purpose. He got no support for his motion. A few friends were willing to stand by him, but the opposition senators stood out in unbroken front against it, reinforced largely by the friends of the administration: but it is in vain to attribute the whole opposition to the measure merely to the mistaken opinions of friends, and the resentful policy of foes. There was another cause operating to the same effect; and the truth of history requires it to be told. There were many members of Congress engaged in these land speculations, upon loans of bank paper; and who were unwilling to see a sudden termination of so profitable a game. The rejection of the bill it was thought would be sufficient; and on the news of it the speculation redoubled its activity. But there was a remedy in reserve for the cure of the evil which they had not foreseen, and which was applied the moment that Congress was gone. Jackson was still President! and he had the nerve which the occasion required. He saw the public lands fleeting away—saw that Congress would not interfere—and knew the majority of his cabinet to be against his interference. He did as he had often done in councils of war—called the council together to hear a decision. He summoned his cabinet—laid the case before them—heard the majority of adverse opinions:—and directed the order to issue. His private Secretary, Mr. Donelson, was directed to prepare a draught of the order. The author of this View was all the while in the office of this private Secretary. Mr. Donelson came to him, with the President's decision, and requested him to draw up the order. It was done—the rough draught carried back to the council—put into official form—signed—issued. It was a second edition of the removal of the deposits scene, and made an immense sensation. The disappointed speculators raged. Congress was considered insulted, the cabinet defied, the banks disgraced. But the

vindication of the measure soon came, in the discovery of the fact, that some tens of millions of this bank paper was on its way to the land-offices to be changed into land—when overtaken by this fatal “Specie Circular,” and turned back to the sources from which it came.

147. Death Of Mr. Madison, Fourth President Of The United States

He died in the last year of the second term of the presidency of General Jackson, at the advanced age of eighty-six, his mind clear and active to the last, and greatly occupied with solicitous concern for the safety of the Union which he had contributed so much to establish. He was a patriot from the beginning. “When the first blood was shed in the streets of Boston, he was a student in the process of his education at Princeton College, where the next year, he received the degree of Bachelor of Arts. He was even then so highly distinguished by the power of application and the rapidity of progress, that he performed all the exercises of the two senior collegiate years in one—while at the same time his deportment was so exemplary, that Dr. Witherspoon, then at the head of the college, and afterwards himself one of the most eminent patriots and sages of our revolution, always delighted in bearing testimony to the excellency of his character at that early stage of his career; and said to Thomas Jefferson long afterwards, when they were all colleagues in the revolutionary Congress, that in the whole career of Mr. Madison at Princeton, he had never known him say, or do, an indiscreet thing.” So wrote Mr. John Quincy Adams in his discourse upon the “Life of James Madison,” written at the request of the two Houses of Congress: and in this germ of manhood is to be seen all the qualities of head and heart which mature age, and great events, so fully developed, and which so nobly went into the formation of national character while constituting his own: the same quick intellect, the same laborious application, the same purity of morals, the same decorum of deportment. He had a rare combination of talent—a speaker, a writer, a counsellor. In these qualities of the mind he classed with General Hamilton; and was, perhaps, the only eminent public man of his day who so classed, and so equally contended in three of the fields of intellectual action. Mr. Jefferson was accustomed to say he was the only man that could answer Hamilton. Perspicuity, precision, closeness of reasoning, and strict adherence to the unity of his subject, were the characteristics of his style; and his speeches in Congress, and his dispatches from the State Department, may be equally studied as models of style, diplomatic and parliamentary as sources of information, as examples of integrity in conducting public questions: and as illustrations of the amenity with which the most earnest debate, and the most critical correspondence, can be conducted by good sense, good taste, and good temper. Mr. Madison was one of the great founders of our present united federal government, equally efficient in the working convention which framed the constitution and the written labors which secured its adoption. Co-laborer with General Hamilton in the convention and in the Federalist—both members of the old Congress and of the convention at the same time, and working together in both bodies for the attainment of the same end, until the division of parties in Washington’s time began to estrange old friends, and to array against each other former cordial political co-laborers. As the first writer of one party, General Hamilton wrote some leading papers, which, as the first writer of the other party, Mr. Madison was called upon to answer: but without forgetting on the part of either their previous relations, their decorum of character, and their mutual respect for each other. Nothing that either said could give an unpleasant personal feeling to the other; and, though writing under borrowed names, their productions were equally known to each other and the public; for none but themselves could imitate themselves. Purity, modesty, decorum—a moderation, temperance, and virtue in everything—were the characteristics of Mr. Madison’s life and manners; and it is grateful to look back upon such elevation and beauty of personal character in the illustrious and venerated founders of our Republic, leaving such virtuous private

characters to be admired, as well as such great works to be preserved. The offer of this tribute to the memory of one of the purest of public men is the more gratefully rendered, private reasons mixing with considerations of public duty. Mr. Madison is the only President from whom he ever asked a favor, and who granted immediately all that was asked—a lieutenant-colonelcy in the army of the United States in the late war with Great Britain.

148. Death Of Mr. Monroe, Fifth President Of The United States

He died during the first term of the administration of President Jackson, and is appropriately noticed in this work next after Mr. Madison, with whom he had been so long and so intimately associated, both in public and in private life; and whose successor he had been in successive high posts, including that of the presidency itself. He is one of our eminent public characters which have not attained their due place in history; nor has any one attempted to give him that place but one—Mr. John Quincy Adams—in his discourse upon the life of Mr. Monroe. Mr. Adams, and who could be a more competent judge? places him in the first line of American statesmen, and contributing, during the fifty years of his connection with the public affairs, a full share in the aggrandisement and advancement of his country. His parts were not shining, but solid. He lacked genius, but he possessed judgment: and it was the remark of Dean Swift, well illustrated in his own case and that of his associate friends, Harley and Bolingbroke (three of the rarest geniuses that ever acted together, and whose cause went to ruin notwithstanding their wit and eloquence), that genius was not necessary to the conducting of the affairs of state: that judgment, diligence, knowledge, good intentions, and will, were sufficient. Mr. Monroe was an instance of the soundness of this remark, as well as the three brilliant geniuses of Queen Anne's time, and on the opposite side of it. Mr. Monroe had none of the mental qualities which dazzle and astonish mankind; but he had a discretion which seldom committed a mistake—an integrity that always looked to the public good—a firmness of will which carried him resolutely upon his object—a diligence that mastered every subject—and a perseverance that yielded to no obstacle or reverse. He began his patriotic career in the military service, at the commencement of the war of the revolution—went into the general assembly of his native State at an early age—and thence, while still young, into the continental Congress. There he showed his character, and laid the foundation of his future political fortunes in his uncompromising opposition to the plan of a treaty with Spain by which the navigation of the Mississippi was to be given up for twenty-five years in return for commercial privileges. It was the qualities of judgment, and perseverance, which he displayed on that occasion, which brought him those calls to diplomacy in which he was afterwards so much employed with three of the then greatest European powers—France, Spain, Great Britain. And it was in allusion to this circumstance that President Jefferson afterwards, when the right of deposit at New Orleans had been violated by Spain, and when a minister was wanted to recover it, said, "Monroe is the man: the defence of the Mississippi belongs to him." And under this appointment he had the felicity to put his name to the treaty which secured the Mississippi, its navigation and all the territory drained by its western waters, to the United States for ever. Several times in his life he seemed to miscarry, and to fall from the top to the bottom of the political ladder: but always to reascend as high, or higher than ever. Recalled by Washington from the French mission, to which he had been appointed from the Senate of the United States, he returned to the starting point of his early career—the general assembly of his State—served as a member from his county—was elected Governor; and from that post restored by Jefferson to the French mission, soon to be followed by the embassies to Spain and England. Becoming estranged from Mr. Madison about the time of that gentleman's first election to the presidency, and having returned from his missions a little mortified that Mr. Jefferson had rejected his British treaty without sending it to the Senate, he was again at the foot of the political ladder, and apparently out of favor with those who were at its top. Nothing despairing, he went back to the old starting

point—served again in the Virginia general assembly—was again elected Governor: and from that post was called to the cabinet of Mr. Madison, to be his double Secretary of State and War. He was the effective power in the declaration of war against Great Britain. His residence abroad had shown him that unavenged British wrongs was lowering our character with Europe, and that war with the "mistress of the seas" was as necessary to our respectability in the eyes of the world, as to the security of our citizens and commerce upon the ocean. He brought up Mr. Madison to the war point. He drew the war report which the committee on foreign relations presented to the House—that report which the absence of Mr. Peter B. Porter, the chairman, and the hesitancy of Mr. Grundy, the second on the committee, threw into the hands of Mr. Calhoun, the third on the list and the youngest of the committee; and the presentation of which immediately gave him a national reputation. Prime mover of the war, he was also one of its most efficient supporters, taking upon himself, when adversity pressed, the actual duties of war minister, financier, and foreign secretary at the same time. He was an enemy to all extravagance, to all intrigue, to all indirection in the conduct of business. Mr. Jefferson's comprehensive and compendious eulogium upon him, as brief as true, was the faithful description of the man—"honest and brave." He was an enemy to nepotism, and no consideration or entreaty—no need of the support which an office would give, or intercession from friends—could ever induce him to appoint a relative to any place under the government. He had opposed the adoption of the constitution until amendments were obtained; but these had, he became one of its firmest supporters, and labored faithfully, anxiously and devotedly, to administer it in its purity. He was the first President under whom the author of this View served, commencing his first senatorial term with the commencement of the second presidential term of this last of the men of the revolution who were spared to fill the office in the great Republic which they had founded.

149. Death Of Chief Justice Marshall

He died in the middle of the second term of General Jackson's presidency, having been chief justice of the Supreme Court of the United States full thirty-five years, presiding all the while (to use the inimitable language of Mr. Randolph), "with native dignity and unpretending grace." He was supremely fitted for high judicial station:—a solid judgment, great reasoning powers, acute and penetrating mind: with manners and habits to suit the purity and the paucity of the ermine:—attentive, patient, laborious: grave on the bench, social in the intercourse of life: simple in his tastes, and inexorably just. Seen by a stranger come into a room, and he would be taken for a modest country gentleman, without claims to attention, and ready to take the lowest place in company, or at table, and to act his part without trouble to any body. Spoken to, and closely observed, he would be seen to be a gentleman of finished breeding, of winning and prepossessing talk, and just as much mind as the occasion required him to show. Coming to man's estate at the beginning of the revolution he followed the current into which so many young men, destined to become eminent, so ardently entered; and served in the army, and with notice and observation, under the eyes of Washington. Elected to Congress at an early age he served in the House of Representatives in the time of the elder Mr. Adams, and found in one of the prominent questions of the day a subject entirely fitted to his acute and logical turn of mind—the case of the famous Jonathan Robbins, claiming to be an American citizen, reclaimed by the British government as a deserter, delivered up, and hanged at the yard-arm of an English man-of-war. Party spirit took up the case, and it was one to inflame that spirit. Mr. Marshall spoke in defence of the administration, and made the master speech of the day, when there were such master speakers in Congress as Madison, Gallatin, William B. Giles, Edward Livingston, John Randolph. It was a judicial subject, adapted to the legal mind of Mr. Marshall, requiring a legal pleading: and well did he plead it. Mr. Randolph has often been heard to say that it distanced competition—leaving all associates and opponents far behind, and carrying the case. Seldom has one speech brought so much fame, and high appointment to any one man. When he had delivered it his reputation was in the zenith: in less than nine brief months thereafter he was Secretary at War, Secretary of State, Minister to France, and Chief Justice of the Supreme Court of the United States. Politically, he classed with the federal party, and was one of those high-minded and patriotic men of that party, who, acting on principle, commanded the respect of those even who deemed them wrong.

150. Death Of Col. Burr, Third Vice-President Of The United States

He was one of the few who, entering the war of independence with ardor and brilliant prospects, disappointed the expectations he had created, dishonored the cause he had espoused, and ended in shame the career which he had opened with splendor. He was in the adventurous expedition of Arnold through the wilderness to Quebec, went ahead in the disguise of a priest to give intelligence of the approach of aid to General Montgomery, arrived safely through many dangers, captivated the General by the courage and address which he had shown, was received by him into his military family; and was at his side when he was killed. Returning to the seat of war in the Northern States he was invited by Washington, captivated like Montgomery by the soldierly and intellectual qualities he had shown, to his headquarters, with a view to placing him on his staff; but he soon perceived that the brilliant young man lacked principle; and quietly got rid of him. The after part of his life was such as to justify the opinion which Washington had formed of him; but such was his address and talent as to rise to high political distinction: Attorney General of New-York, Senator in Congress, and Vice-President of the United States. At the close of the presidential election of 1800, he stood equal with Mr. Jefferson in the vote which he received, and his undoubted successor at the end of Mr. Jefferson's term. But there his honors came to a stand, and took a downward turn, nor ceased descending until he was landed in the abyss of shame, misery, and desolation. He intrigued with the federalists to supplant Mr. Jefferson—to get the place of President, for which he had not received a single vote—was suspected, detected, baffled—lost the respect of his party, and was thrown upon crimes to recover a position, or to avenge his losses. The treasonable attempt in the West, and the killing of General Hamilton, ended his career in the United States. But although he had deceived the masses, and reached the second office of the government, with the certainty of attaining the first if he only remained still, yet there were some close observers whom he never deceived. The early mistrust of Washington has been mentioned: it became stronger as Burr mounted higher in the public favor; and in 1794, when a senator in Congress, and when the republican party had taken him for their choice for the French mission in the place of Mr. Monroe recalled, and had sent a committee of which Mr. Madison was chief to ask his nomination from Washington, that wise and virtuous man peremptorily refused it, giving as a categorical reason, that his rule was invariable, never to appoint an immoral man to any office. Mr. Jefferson had the same ill opinion of him, and, notwithstanding his party zeal, always considered him in market when the federalists had any high office to bestow. But General Hamilton was most thoroughly imbued with a sense of his unworthiness, and deemed it due to his country to balk his election over Jefferson; and did so. His letters to the federal members of Congress painted Burr in his true character, and dashed far from his grasp, and for ever, the gilded prize his hand was touching. For that frustration of his hopes, four years afterwards, he killed Hamilton in a duel, having on the part of Burr the spirit of an assassination—cold-blooded, calculated, revengeful, and falsely-pretexted. He alleged some trivial and recent matter for the challenge, such as would not justify it in any code of honor; and went to the ground to kill upon an old grudge which he was ashamed to avow. Hard was the fate of Hamilton—losing his life at the early age of forty-two for having done justice to his country in the person of the man to whom he stood most politically opposed, and the chief of the party by which he had been constrained to retire from the scene of public life at the age of thirty-four—the age at which most others begin it—he having accomplished gigantic

works. He was the man most eminently and variously endowed of all the eminent men of his day—at once soldier and statesman, with a head to conceive, and a hand to execute: a writer, an orator, a jurist: an organizing mind, able to grasp the greatest system; and administrative, to execute the smallest details: wholly turned to the practical business of life, and with a capacity for application and production which teemed with gigantic labors, each worthy to be the sole product of a single master intellect; but lavished in litters from the ever teeming fecundity of his prolific genius. Hard his fate, when, withdrawing from public life at the age of thirty-four, he felt himself constrained to appeal to posterity for that justice which contemporaries withheld from him. And the appeal was not in vain. Statues rise to his memory: history embalms his name: posterity will do justice to the man who at the age of twenty was “the principal and most confidential aid of Washington,” who retained the love and confidence of the Father of his country to the last; and to whom honorable opponents, while opposing his systems of policy, accorded honor, and patriotism, and social affections, and transcendental abilities.—This chapter was commenced to write a notice of the character of Colonel Burr; but that subject will not remain under the pen. At the appearance of that name, the spirit of Hamilton starts up to rebuke the intrusion—to drive back the foul apparition to its gloomy abode—and to concentrate all generous feeling on itself.

151. Death Of William B. Giles, Of Virginia

He also died under the presidency of General Jackson. He was one of the eminent public men coming upon the stage of action with the establishment of the new constitution—with the change from a League to a Union; from the confederation to the unity of the States—and was one of the most conspicuous in the early annals of our Congress. He had that kind of speaking talent which is most effective in legislative bodies, and which is so different from set-speaking. He was a debater; and was considered by Mr. Randolph to be, in our House of Representatives, what Charles Fox was admitted to be in the British House of Commons: the most accomplished debater which his country had ever seen. But their acquired advantages were very different, and their schools of practice very opposite. Mr. Fox perfected himself in the House, speaking on every subject; Mr. Giles out of the House, talking to every body. Mr. Fox, a ripe scholar, addicted to literature, and imbued with all the learning of all the classics in all time; Mr. Giles neither read nor studied, but talked incessantly with able men, rather debating with them all the while: and drew from this source of information, and from the ready powers of his mind, the ample means of speaking on every subject with the fulness which the occasion required, the quickness which confounds an adversary, and the effect which a lick in time always produces. He had the kind of talent which was necessary to complete the circle of all sorts of ability which sustained the administration of Mr. Jefferson. Macon was wise, Randolph brilliant, Gallatin and Madison able in argument; but Giles was the ready champion, always ripe for the combat—always furnished with the ready change to meet every bill. He was long a member of the House; then senator, and governor; and died at an advanced age, like Patrick Henry, without doing justice to his genius in the transmission of his labors to posterity; because, like Henry, he had been deficient in education and in reading. He was the intimate friend of all the eminent men of his day, which sufficiently bespeaks him a gentleman of manners and heart, as well as a statesman of head and tongue.

152. Presidential Election Of 1836

Mr. Van Buren was the candidate of the democratic party; General Harrison the candidate of the opposition; and Mr. Hugh L. White that of a fragment of the democracy. Mr. Van Buren was elected, receiving one hundred and seventy electoral votes, to seventy-three given to General Harrison, and twenty-six given to Mr. White. The States voting for each, were:—Mr. Van Buren: Maine, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, Virginia, North Carolina, Louisiana, Mississippi, Illinois, Alabama, Missouri, Michigan, Arkansas. For General Harrison: Vermont, New Jersey, Delaware, Maryland, Kentucky, Ohio, Indiana. For Mr. White: Georgia and Tennessee. Massachusetts complimented Mr. Webster by bestowing her fourteen votes upon him; and South Carolina, as in the two preceding elections, threw her vote away upon a citizen not a candidate, and not a child of her soil—Mr. Mangum of North Carolina—disappointing the expectations of Mr. White's friends, whose standing for the presidency had been instigated by Mr. Calhoun, to divide the democratic party and defeat Mr. Van Buren. Colonel Richard M. Johnson, of Kentucky, was the democratic candidate for the vice-presidency, and received one hundred and forty-seven votes, which, not being a majority of the whole number of votes given, the election was referred to the Senate, to choose between the two highest on the list; and that body being largely democratic, he was duly elected: receiving thirty-three out of forty-nine senatorial votes. The rest of the vice-presidential vote, in the electoral colleges, had been between Mr. Francis Granger, of New York, who received seventy-seven votes; Mr. John Tyler, of Virginia, who received forty-seven; and Mr. William Smith, of South Carolina, complimented by Virginia with her twenty-three votes. Mr. Granger, being the next highest on the list, after Colonel Johnson, was voted for as one of the two referred to the Senate; and received sixteen votes. A list of the senators voting for each will show the strength of the respective parties in the Senate, at the approaching end of President Jackson's administration; and how signally all the efforts intended to overthrow him had ended in the discomfiture of their authors, and converted an absolute majority of the whole Senate into a meagre minority of one third. The votes for Colonel Johnson were: Mr. Benton of Missouri; Mr. Black of Mississippi; Mr. Bedford Brown of North Carolina; Mr. Buchanan of Pennsylvania; Mr. Cuthbert of Georgia; Mr. Dana of Maine; Mr. Ewing of Illinois; Mr. Fulton of Arkansas; Mr. Grundy of Tennessee; Mr. Hendricks of Indiana; Mr. Hubbard of Maine; Mr. William Rufus King of Alabama; Mr. John P. King of Georgia; Mr. Louis F. Linn of Missouri; Mr. Lucius Lyon of Michigan Mr. McKean of Pennsylvania; Mr. Gabriel Moore of Alabama; Mr. Morris of Ohio; Mr. Alexander Mouton of Louisiana; Mr. Wilson C. Nicholas of Louisiana; Mr. Niles of Connecticut; Mr. John Norvell of Michigan; Mr. John Page of New Hampshire; Mr. Richard E. Parker of Virginia; Mr. Rives of Virginia; Mr. John M. Robinson of Illinois; Mr. Ruggles of Maine; Mr. Ambrose H. Sevier of Arkansas; Mr. Peleg Sprague of Maine; Mr. Robert Strange of North Carolina; Mr. Nathaniel P. Talmadge of New York; Mr. Tipton of Indiana; Mr. Robert J. Walker of Mississippi; Mr. Silas Wright of New York. Those voting for Mr. Francis Granger were: Mr. Richard H. Bayard of Delaware; Mr. Clay; Mr. John M. Clayton of Delaware; Mr. John Crittenden of Kentucky; Mr. John Davis of Massachusetts; Mr. Thomas Ewing of Ohio; Mr. Kent of Maryland; Mr. Nehemiah Knight of Rhode Island; Mr. Prentiss of Vermont; Mr. Asher Robbins of Rhode Island; Mr. Samuel L. Southard of New Jersey; Mr. John S. Spence of Maryland; Mr. Swift of Vermont; Mr. Gideon Tomlinson of Connecticut; Mr. Wall of New Jersey; Mr. Webster. South Carolina did not vote, neither in the person of Mr. Calhoun nor in that of his colleague, Mr. Preston: an omission which could not be attributed to absence or accident, as both were present; nor fail to be remarked and

considered ominous in the then temper of the State, and her refusal to vote in the three preceding presidential elections.

153. Last Annual Message Of President Jackson

At the opening of the second Session of the twenty-fourth Congress, President Jackson delivered his last Annual Message, and under circumstances to be grateful to his heart. The powerful opposition in Congress had been broken down, and he saw full majorities of ardent and tried friends in each House. We were in peace and friendship with all the world, and all exciting questions quieted at home. Industry in all its branches was prosperous. The revenue was abundant—too much so. The people were happy. His message, of course, was first a recapitulation of this auspicious state of things, at home and abroad; and then a reference to the questions of domestic interest and policy which required attention, and might call for action. At the head of these measures stood the deposit act of the last session—the act which under the insidious and fabulous title of a deposit of a surplus of revenue with the States—made an actual distribution of that surplus; and was intended by its contrivers to do so. His notice of this measure went to two points—his own regrets for having signed the act, and his misgivings in relation to its future observation. He said:

"The consequences apprehended, when the deposit act of the last session received a reluctant approval, have been measurably realized. Though an act merely for the deposit of the surplus moneys of the United States in the State Treasuries, for safe keeping, until they may be wanted for the service of the general government, it has been extensively spoken of as an act to give the money to the several States, and they have been advised to use it as a gift, without regard to the means of refunding it when called for. Such a suggestion has doubtless been made without a due consideration of the obligation of the deposit act, and without a proper attention to the various principles and interests which are affected by it. It is manifest that the law itself cannot sanction such a suggestion, and that, as it now stands, the States have no more authority to receive and use these deposits without intending to return them, than any deposit bank, or any individual temporarily charged with the safe-keeping or application of the public money, would now have for converting the same to their private use, without the consent and against the will of the government. But, independently of the violation of public faith and moral obligation which are involved in this suggestion, when examined in reference to the terms of the present deposit act, it is believed that the considerations which should govern the future legislation of Congress on this subject, will be equally conclusive against the adoption of any measure recognizing the principles on which the suggestion has been made."

This misgiving was well founded. Before the session was over there was actually a motion to release the States from their obligation to restore the money—to lay which motion on the table there were seventy-three resisting votes—an astonishing number in itself, and the more so as given by the same members, sitting in the same seats, who had voted for the act as a deposit a few months before. Such a vote was ominous of the fate of the money; and that fate was not long delayed. Akin to this measure, and in fact the parent of which it was the bastard progeny, was distribution itself, under its own proper name; and which it was evident was soon to be openly attempted, encouraged as its advocates were by the success gained in the deposit act. The President, with his characteristic frankness and firmness, impugned that policy in advance; and deprecated its effects under every aspect of public and private justice, and of every consideration of a wise or just policy. He said:

"To collect revenue merely for distribution to the States, would seem to be highly impolitic, if not as dangerous as the proposition to retain it in the Treasury. The shortest reflection must satisfy every one that to require the people to pay taxes to the government merely that they

may be paid back again, is sporting with the substantial interests of the country, and no system which produces such a result can be expected to receive the public countenance. Nothing could be gained by it, even if each individual who contributed a portion of the tax could receive back promptly the same portion. But it is apparent that no system of the kind can ever be enforced, which will not absorb a considerable portion of the money, to be distributed in salaries and commissions to the agents employed in the process, and in the various losses and depreciations which arise from other causes; and the practical effect of such an attempt must ever be to burden the people with taxes, not for purposes beneficial to them, but to swell the profits of deposit banks, and support a band of useless public officers. A distribution to the people is impracticable and unjust in other respects. It would be taking one man's property and giving it to another. Such would be the unavoidable result of a rule of equality (and none other is spoken of, or would be likely to be adopted), inasmuch as there is no mode by which the amount of the individual contributions of our citizens to the public revenue can be ascertained. We know that they contribute *unequally*, and a rule therefore that would distribute to them *equally*, would be liable to all the objections which apply to the principle of an equal division of property. To make the general government the instrument of carrying this odious principle into effect, would be at once to destroy the means of its usefulness, and change the character designed for it by the framers of the constitution."

There was another consideration connected with this policy of distribution which the President did not name, and could not, in the decorum and reserve of an official communication to Congress: it was the intended effect of these distributions—to debauch the people with their own money, and to gain presidential votes by lavishing upon them the spoils of their country. To the honor of the people this intended effect never occurred; no one of those contriving these distributions ever reaching the high object of their ambition. Instead of distribution—instead of raising money from the people to be returned to the people, with all the deductions which the double operation of collecting and dividing would incur, and with the losses which unfaithful agents might inflict—instead of that idle and wasteful process, which would have been childish if it had not been vicious, he recommended a reduction of taxes on the comforts and necessaries of life, and the levy of no more money than was necessary for the economical administration of the government; and said:

"In reducing the revenue to the wants of the government, your particular attention is invited to those articles which constitute the necessaries of life. The duty on salt was laid as a war tax, and was no doubt continued to assist in providing for the payment of the war debt. There is no article the release of which from taxation would be felt so generally and so beneficially. To this may be added all kinds of fuel and provisions. Justice and benevolence unite in favor of releasing the poor of our cities from burdens which are not necessary to the support of our government, and tend only to increase the wants of the destitute."

The issuance of the "Treasury Circular" naturally claimed a place in the President's message; and received it. The President gave his reason for the measure in the necessity of saving the public domain from being exchanged for bank paper money, which was not wanted, and might be of little value or use when wanted; and expressed himself thus:

"The effects of an extension of bank credits, and over-issues of bank paper, have been strikingly illustrated in the sales of the public lands. From the returns made by the various registers and receivers in the early part of last summer it was perceived that the receipts arising from the sales of the public lands, were increasing to an unprecedented amount. In effect, however, these receipts amounted to nothing more than credits in bank. The banks lent out their notes to speculators; they were paid to the receivers, and immediately returned to the banks, to be lent out again and again; being mere instruments to transfer to speculators the

most valuable public land, and pay the government by a credit on the books of the banks. Those credits on the books of some of the western banks, usually called deposits, were already greatly beyond their immediate means of payment, and were rapidly increasing. Indeed each speculation furnished means for another; for no sooner had one individual or company paid in the notes, than they were immediately lent to another for a like purpose; and the banks were extending their business and their issues so largely, as to alarm considerate men, and render it doubtful whether these bank credits, if permitted to accumulate, would ultimately be of the least value to the government. The spirit of expansion and speculation was not confined to the deposit banks, but pervaded the whole multitude of banks throughout the Union, and was giving rise to new institutions to aggravate the evil. The safety of the public funds, and the interest of the people generally, required that these operations should be checked; and it became the duty of every branch of the general and State governments to adopt all legitimate and proper means to produce that salutary effect. Under this view of my duty, I directed the issuing of the order which will be laid before you by the Secretary of the Treasury, requiring payment for the public lands sold to be made in specie, with an exception until the 15th of the present month, in favor of actual settlers. This measure has produced many salutary consequences. It checked the career of the Western banks, and gave them additional strength in anticipation of the pressure which has since pervaded our Eastern as well as the European commercial cities. By preventing the extension of the credit system, it measurably cut off the means of speculation, and retarded its progress in monopolizing the most valuable of the public lands. It has tended to save the new States from a non-resident proprietorship, one of the greatest obstacles to the advancement of a new country, and the prosperity of an old one. It has tended to keep open the public lands for the entry of emigrants at government prices, instead of their being compelled to purchase of speculators at double or treble prices. And it is conveying into the interior large sums in silver and gold, there to enter permanently into the currency of the country, and place it on a firmer foundation. It is confidently believed that the country will find in the motives which induced that order, and the happy consequences which will have ensued, much to commend and nothing to condemn."

The people were satisfied with the Treasury Circular; they saw its honesty and good effects; but the politicians were not satisfied with it. They thought they saw in it a new exercise of illegal power in the President—a new tampering with the currency—a new destruction of the public prosperity; and commenced an attack upon it the moment Congress met, very much in the style of the attack upon the order for the removal of the deposits; and with fresh hopes from the resentment of the "thousand banks," whose notes had been excluded, and from the discontent of many members of Congress whose schemes of speculation had been balked. And notwithstanding the democratic majorities in the two Houses, the attack upon the "Circular" had a great success, many members being interested in the excluded banks, and partners in schemes for monopolizing the lands. A bill intended to repeal the Circular was actually passed through both Houses; but not in direct terms. That would have been too flagrant. It was a bad thing, and could not be fairly done, and therefore gave rise to indirection and ambiguity of provisions, and complication of phrases, and a multiplication of amphibologies, which brought the bill to a very ridiculous conclusion when it got to the hands of General Jackson. But of this hereafter.

The intrusive efforts made by politicians and missionaries, first, to prevent treaties from being formed with the Indians to remove from the Southern States, and then to prevent the removal after the treaties were made, led to serious refusals on the part of some of these tribes to emigrate; and it became necessary to dispatch officers of high rank and reputation, with regular troops, to keep down outrages and induce peaceable removal. Major General Jesup

was sent to the Creek nation, where he had a splendid success in a speedy and bloodless accomplishment of his object. Major General Scott was sent to the Cherokees, where a pertinacious resistance was long encountered, but eventually and peaceably overcome. The Seminole hostilities in Florida were just breaking out; and the President, in his message, thus notices all these events:

"The military movements rendered necessary by the aggressions of the hostile portions of the Seminole and Creek tribes of Indians, and by other circumstances, have required the active employment of nearly our whole regular force, including the marine corps, and of large bodies of militia and volunteers. With all these events, so far as they were known at the seat of government before the termination of your last session, you are already acquainted; and it is therefore only needful in this place to lay before you a brief summary of what has since occurred. The war with the Seminoles during the summer was, on our part, chiefly confined to the protection of our frontier settlements from the incursions of the enemy; and, as a necessary and important means for the accomplishment of that end, to the maintenance of the posts previously established. In the course of this duty several actions took place, in which the bravery and discipline of both officers and men were conspicuously displayed, and which I have deemed it proper to notice in respect to the former, by the granting of brevet rank for gallant services in the field. But as the force of the Indians was not so far weakened by these partial successes as to lead them to submit, and as their savage inroads were frequently repeated, early measures were taken for placing at the disposal of Governor Call, who, as commander-in-chief of the territorial militia, had been temporarily invested with the command, an ample force, for the purpose of resuming offensive operations in the most efficient manner, so soon as the season should permit. Major General Jesup was also directed, on the conclusion of his duties in the Creek country, to repair to Florida, and assume the command. Happily for the interests of humanity, the hostilities with the Creeks were brought to a close soon after your adjournment, without that effusion of blood, which at one time was apprehended as inevitable. The unconditional submission of the hostile party was followed by their speedy removal to the country assigned them west of the Mississippi. The inquiry as to the alleged frauds in the purchase of the reservations of these Indians, and the causes of their hostilities, requested by the resolution of the House of Representatives of the 1st of July last to be made by the President, is now going on, through the agency of commissioners appointed for that purpose. Their report may be expected during your present session. The difficulties apprehended in the Cherokee country have been prevented, and the peace and safety of that region and its vicinity effectually secured, by the timely measures taken by the war department, and still continued."

The Bank of the United States was destined to receive another, and a parting notice from General Jackson, and greatly to its further discredit, brought upon it by its own lawless and dishonest course. Its charter had expired, and it had delayed to refund the stock paid for by the United States, or to pay the back dividend; and had transferred itself with all its effects, and all its subscribers except the United States, to a new corporation, under the same name, created by a *proviso* to a road bill in the General Assembly of Pennsylvania, obtained by bribery, as subsequent legislative investigation proved. This transfer, or transmigration, was a new and most amazing procedure. The metempsychosis of a bank was a novelty which confounded and astounded the senses, and set the wits of Congress to work to find out how it could legally be done. The President, though a good lawyer and judge of law, did not trouble himself with legal subtleties and disquisitions. He took the broad, moral, practical, business view of the question; and pronounced it to be dishonest, unlawful, and irresponsible; and recommended to Congress to look after its stock. The message said:

“The conduct and present condition of that bank, and the great amount of capital vested in it by the United States, require your careful attention. Its charter expired on the third day of March last, and it has now no power but that given in the 21st section, ‘to use the corporate name, style, and capacity, for the purpose of suits, for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed, and not for any other purpose, or in any other manner whatsoever, nor for a period exceeding two years after the expiration of the said term of incorporation.’ Before the expiration of the charter, the stockholders of the bank obtained an act of incorporation from the legislature of Pennsylvania, excluding only the United States. Instead of proceeding to wind up their concerns, and pay over to the United States the amount due on account of the stock held by them, the president and directors of the old bank appear to have transferred the books, papers, notes, obligations, and most or all of its property, to this new corporation, which entered upon business as a continuation of the old concern. Amongst other acts of questionable validity, the notes of the expired corporation are known to have been used as its own, and again put in circulation. That the old bank had no right to issue or reissue its notes after the expiration of its charter, cannot be denied; and that it could not confer any such right on its substitute, any more than exercise it itself, is equally plain. In law and honesty, the notes of the bank in circulation, at the expiration of its charter, should have been called in by public advertisement, paid up as presented, and, together with those on hand, cancelled and destroyed. Their re-issue is sanctioned by no law, and warranted by no necessity. If the United States be responsible in their stock for the payment of these notes, their re-issue by the new corporation, for their own profit, is a fraud on the government. If the United States is not responsible, then there is no legal responsibility in any quarter, and it is a fraud on the country. They are the redeemed notes of a dissolved partnership, but, contrary to the wishes of the retiring partner, and without his consent, are again re-issued and circulated. It is the high and peculiar duty of Congress to decide whether any further legislation be necessary for the security of the large amount of public property now held and in use by the new bank, and for vindicating the rights of the government, and compelling a speedy and honest settlement with all the creditors of the old bank, public and private, or whether the subject shall be left to the power now possessed by the executive and judiciary. It remains to be seen whether the persons, who, as managers of the old bank, undertook to control the government, retained the public dividends, shut their doors upon a committee of the House of Representatives, and filled the country with panic to accomplish their own sinister objects, may now, as managers of a new Bank, continue with impunity to flood the country with a spurious currency, use the seven millions of government stock for their own profit, and refuse to the United States all information as to the present condition of their own property, and the prospect of recovering it into their own possession. The lessons taught by the bank of the United States cannot well be lost upon the American people. They will take care never again to place so tremendous a power in irresponsible hands, and it will be fortunate if they seriously consider the consequences which are likely to result on a smaller scale from the facility with which corporate powers are granted by their State government.”

This novel and amazing attempt of the bank to transmigrate into the body of another bank with all its effects, was a necessity of its position—the necessity which draws a criminal to even insane acts to prevent the detection, exposure, and ruin from which guilt recoils in not less guilty contrivances. The bank was broken, and could not wind up, and wished to postpone, or by chance avert the dreaded discovery. It was in the position of a glass vase, cracked from top to bottom, and ready to split open if touched, but looking as if whole while sitting unmoved on the shelf. The great bank was in this condition, and therefore untouchable, and saw no resource except in a metempsychosis—a difficult process for a soulless institution—and thereby endeavoring to continue its life without a change of name,

form, or substance. The experiment was a catastrophe, as might have been expected beforehand; and as was soon seen afterwards.

The injury resulting to the public service from the long delay in making the appropriations at the last session—delayed while occupied with distribution bills until the season for labor had well passed away. On this point the message said:

"No time was lost, after the making of the requisite appropriations, in resuming the great national work of completing the unfinished fortifications on our seaboard, and of placing them in a proper state of defence. In consequence, however, of the very late day at which those bills were passed, but little progress could be made during the season which has just closed. A very large amount of the moneys granted at your last session accordingly remains unexpended; but as the work will be again resumed at the earliest moment in the coming spring, the balance of the existing appropriations, and, in several cases which will be laid before you, with the proper estimates, further sums for the like objects, may be usefully expended during the next year."

Here was one of the evils of dividing the public money, and of factious opposition to the government. The session of 1834-'5 had closed without a dollar for the military defences, leaving half finished works unfinished, and finished works unarmed; and that in the presence of a threatening collision with France; and at the subsequent session of 1835-6, the appropriations were not made until the month of July and when they could not be used or applied.

Scarcely did the railroad system begin to spread itself along the highways of the United States than the effects of the monopoly and extortion incident to moneyed corporations, began to manifest itself in exorbitant demands for the transportation of the mails, and in capricious refusals to carry them at all except on their own terms. President Jackson was not the man to submit to an imposition, or to capitulate to a corporation. He brought the subject before Congress, and invited particular attention to it in a paragraph of his message; in which he said:

"Your particular attention is invited to the subject of mail contracts with railroad companies. The present laws providing for the making of contracts are based upon the presumption that competition among bidders will secure the service at a fair price. But on most of the railroad lines there is no competition in that kind of transportation, and advertising is therefore useless. No contract can now be made with them, except such as shall be negotiated before the time of offering or afterwards, and the power of the Postmaster-general to pay them high prices is, practically, without limitation. It would be a relief to him, and no doubt would conduce to the public interest, to prescribe by law some equitable basis upon which such contracts shall rest, and restrict him by a fixed rule of allowance. Under a liberal act of that sort, he would undoubtedly be able to secure the services of most of the railroad companies, and the interest of the Department would be thus advanced."

The message recommended a friendly supervision over the Indian tribes removed to the West of the Mississippi, with the important suggestion of preventing intestine war by military interference, as well as improving their condition by all the usual means. On these points, it said:

"The national policy, founded alike in interest and in humanity, so long and so steadily pursued by this government, for the removal of the Indian tribes originally settled on this side of the Mississippi, to the west of that river, may be said to have been consummated by the conclusion of the late treaty with the Cherokees. The measures taken in the execution of that treaty, and in relation to our Indian affairs generally, will fully appear by referring to the

accompanying papers. Without dwelling on the numerous and important topics embraced in them, I again invite your attention to the importance of providing a well-digested and comprehensive system for the protection, supervision and improvement of the various tribes now planted in the Indian country. The suggestions submitted by the commissioner of Indian affairs, and enforced by the secretary, on this subject, and also in regard to the establishment of additional military posts in the Indian country, are entitled to your profound consideration. Both measures are necessary for the double purpose of protecting the Indians from intestine war, and in other respects complying with our engagements to them, and of securing our Western frontier against incursions, which otherwise will assuredly be made on it. The best hopes of humanity, in regard to the aboriginal race, the welfare of our rapidly extending settlements, and the honor of the United States, are all deeply involved in the relations existing between this government and the emigrating tribes. I trust, therefore, that the various matters submitted in the accompanying documents, in respect to those relations, will receive your early and mature deliberation; and that it may issue in the adoption of legislative measures adapted to the circumstances and duties of the present crisis."

This suggestion of preventing intestine wars (as they are called) in the bosoms of the tribes, is founded equally in humanity to the Indians and duty to ourselves. Such wars are nothing but massacres, assassinations and confiscations. The stronger party oppress a hated, or feared minority or chief; and slay with impunity (in some of the tribes), where the assumption of a form of government, modelled after that of the white race, for which they have no capacity, gives the justification of executions to what is nothing but revenge and assassination. Under their own ancient laws, of blood for blood, and for the slain to avenge the wrong, this liability of personal responsibility restrained the killings to cases of public justifiable necessity. Since the removal of that responsibility, revenge, ambition, plunder, take their course: and the consequence is a series of assassinations which have been going on for a long time; and still continue. To aggravate many of these massacres, and to give their victims a stronger claim upon the protection of the United States, they are done upon those who are friends to the United States, upon accusations of having betrayed the interest of the tribe in some treaty for the sale of lands. The United States claim jurisdiction over their country, and exercise it in the punishment of some classes of criminals; and it would be good to extend it to the length recommended by President Jackson.

The message would have been incomplete without a renewal of the standing recommendation to take the presidential election out of the hands of intermediate bodies, and give it directly to the people. He earnestly urged an amendment to the constitution to that effect; but that remedy being of slow, difficult, and doubtful attainment, the more speedy process by the action of the people becomes the more necessary. Congressional caucuses were put down by the people in the election of 1824: their substitute and successor—national conventions—ruled by a minority, and managed by intrigue and corruption, are about as much worse than a Congress caucus as Congress itself would be if the members appointed, or contrived the appointment, of themselves, instead of being elected by the people. The message appropriately concluded with thanks to the people for the high honors to which they had lifted him, and their support under arduous circumstances, and said:

"Having now finished the observations deemed proper on this, the last occasion I shall have of communicating with the two Houses of Congress at their meeting, I cannot omit an expression of the gratitude which is due to the great body of my fellow citizens, in whose partiality and indulgence I have found encouragement and support in the many difficult and trying scenes through which it has been my lot to pass during my public career. Though deeply sensible that my exertions have not been crowned with a success corresponding to the degree of favor bestowed upon me, I am sure that they will be considered as having been

directed by an earnest desire to promote the good of my country; and I am consoled by the persuasion that whatever errors have been committed will find a corrective in the intelligence and patriotism of those who will succeed us. All that has occurred during my administration is calculated to inspire me with increased confidence in the stability of our institutions, and should I be spared to enter upon that retirement which is so suitable to my age and infirm health, and so much desired by me in other respects, I shall not cease to invoke that beneficent Being to whose providence we are already so signally indebted for the continuance of his blessings on our beloved country."

154. Final Removal Of The Indians

At the commencement of the annual session of 1836-’37, President Jackson had the gratification to make known to Congress the completion of the long-pursued policy of removing all the Indians in the States, and within the organized territories of the Union, to their new homes west of the Mississippi. It was a policy commencing with Jefferson, pursued by all succeeding Presidents, and accomplished by Jackson. The Creeks and Cherokees had withdrawn from Georgia and Alabama; the Chickasaws and Choctaws from Mississippi and Alabama; the Seminoles had stipulated to remove from Florida; Louisiana, Arkansas and Missouri had all been relieved of their Indian population; Kentucky and Tennessee, by earlier treaties with the Chickasaws, had received the same advantage. This freed the slave States from an obstacle to their growth and prosperity, and left them free to expand, and to cultivate, to the full measure of their ample boundaries. All the free Atlantic States had long been relieved from their Indian populations, and in this respect the northern and southern States were now upon an equality. The result has been proved to be, what it was then believed it would be, beneficial to both parties; and still more so to the Indians than to the whites. With them it was a question of extinction, the time only the debatable point. They were daily wasting under contact with the whites, and had before their eyes the eventual but certain fate of the hundreds of tribes found by the early colonists on the Roanoke, the James River, the Potomac, the Susquehannah, the Delaware, the Connecticut, the Merrimac, the Kennebec and the Penobscot. The removal saved the southern tribes from that fate; and in giving them new and unmolested homes beyond the verge of the white man’s settlement, in a country temperate in climate, fertile in soil, adapted to agriculture and to pasturage, with an outlet for hunting, abounding with salt water and salt springs—it left them to work out in peace the problem of Indian civilization. To all the relieved States the removal of the tribes within their borders was a great benefit—to the slave States transcendently and inappreciably great. The largest tribes were within their limits, and the best of their lands in the hands of the Indians, to the extent, in some of the States, as Georgia, Alabama and Mississippi, of a third or a quarter of their whole area. I have heretofore shown, in the case of the Creeks and the Cherokees in Georgia, that the ratification of the treaties for the extinction of Indian claims within her limits, and which removed the tribes which encumbered her, received the cordial support of northern senators; and that, in fact, without that support these great objects could not have been accomplished. I have now to say the same of all the other slave States. They were all relieved in like manner. Chickasaws and Choctaws in Mississippi and Alabama; Chickasaw claims in Tennessee and Kentucky; Seminoles in Florida; Caddos and Quapaws in Louisiana and in Arkansas; Kickapoos, Delawares, Shawnees, Osages, Iowas, Pinkeshaws, Weas, Peorias, in Missouri; all underwent the same process, and with the same support and result. Northern votes, in the Senate, came to the ratification of every treaty, and to the passage of every necessary appropriation act in the House of Representatives. Northern men may be said to have made the treaties, and passed the acts, as without their aid it could not have been done, constituting, as they did, a large majority in the House, and being equal in the Senate, where a vote of two-thirds was wanting. I do not go over these treaties and laws one by one, to show their passage, and by what votes. I did that in the case of the Creek treaty and the Cherokee treaty, for the removal of these tribes from Georgia; and showed that the North was unanimous in one case, and nearly so in the other, while in both treaties there was a southern opposition, and in one of them (the Cherokee), both Mr. Calhoun and Mr. Clay in the negative: and these instances may stand for an illustration of the whole. And thus the area of slave population has been almost doubled in the slave States, by sending away the Indians

to make room for their expansion; and it is unjust and cruel—unjust and cruel in itself, independent of the motive—to charge these Northern States with a design to abolish slavery in the South. If they had harbored such design—if they had been merely unfriendly to the growth and prosperity of these Southern States, there was an easy way to have gratified their feelings, without committing a breach of the constitution, or an aggression or encroachment upon these States: they had only to sit still and vote against the ratification of the treaties, and the enactment of the laws which effected this great removal. They did not do so—did not sit still and vote against their Southern brethren. On the contrary, they stood up and spoke aloud, and gave to these laws and treaties an effective and zealous support. And I, who was the Senate's chairman of the committee of Indian affairs at this time, and know how these things were done, and who was so thankful for northern help at the time; I, who know the truth and love justice, and cherish the harmony and union of the American people, feel it to be my duty and my privilege to note this great act of justice from the North to the South, to stand in history as a perpetual contradiction of all imputed design in the free States to abolish slavery in the slave States. I speak of States, not of individuals or societies.

I have shown that this policy of the universal removal of the Indians from the East to the West of the Mississippi originated with Mr. Jefferson, and from the most humane motives, and after having seen the extinction of more than forty tribes in his own State of Virginia; and had been followed up under all subsequent administrations. With General Jackson it was nothing but the continuation of an established policy, but one in which he heartily concurred, and of which his local position and his experience made him one of the safest of judges; but, like every other act of his administration, it was destined to obloquy and opposition, and to misrepresentations, which have survived the object of their creation, and gone into history. He was charged with injustice to the Indians, in not protecting them against the laws and jurisdiction of the States; with cruelty, in driving them away from the bones of their fathers; with robbery, in taking their lands for paltry considerations. Parts of the tribes were excited to resist the execution of the treaties, and it even became necessary to send troops and distinguished generals—Scott to the Cherokees, Jesup to the Creeks—to effect their removal; which, by the mildness and steadiness of these generals, and according to the humane spirit of their orders, was eventually accomplished without the aid of force. The outcry raised against General Jackson, on account of these measures, reached the ears of the French traveller and writer on American democracy (De Tocqueville), then sojourning among us and collecting materials for his work, and induced him to write thus in his chapter 18:

"The ejectment of the Indians very often takes place, at the present day, in a regular, and, as it were, legal manner. When the white population begins to approach the limit of a desert inhabited by a savage tribe, the government of the United States usually dispatches envoys to them, who assemble the Indians in a large plain, and having first eaten and drunk with them, accost them in the following manner: 'What have you to do in the land of your fathers? Before long you must dig up their bones in order to live. In what respect is the country you inhabit better than another? Are there no woods, marshes or prairies, except where you dwell? and can you live nowhere but under your own sun? Beyond those mountains, which you see at the horizon—beyond the lake which bounds your territory on the west—there lie vast countries where beasts of chase are found in great abundance. Sell your lands to us, and go and live happily in those solitudes.'

"After holding this language, they spread before the eyes of the Indians fire-arms, woollen garments, kegs of brandy, glass necklaces, bracelets of tinsel, ear-rings, and looking-glasses. If, when they have beheld all these riches, they still hesitate, it is insinuated that they have not the means of refusing their required consent, and that the government itself will not long have the power of protecting them in their rights. What are they to do? Half convinced, half

compelled, they go to inhabit new deserts, where the importunate whites will not permit them to remain ten years in tranquillity. In this manner do the Americans obtain, at a very low price, whole provinces, which the richest sovereigns in Europe could not purchase."

The Grecian Plutarch deemed it necessary to reside forty years in Rome, to qualify himself to write the lives of some Roman citizens; and then made mistakes. European writers do not deem it necessary to reside in our country at all in order to write our history. A sojourn of some months in the principal towns—a rapid flight along some great roads—the gossip of the steamboat, the steam-car, the stage-coach, and the hotel—the whispers of some earwigs—with the reading of the daily papers and the periodicals, all more or less engaged in partisan warfare—and the view of some debates, or scene, in Congress, which may be an exception to its ordinary decorum and intelligence: these constitute a modern European traveller's qualifications to write American history. No wonder that they commit mistakes, even where the intent is honest. And no wonder that Mons. de Tocqueville, with admitted good intentions, but with no "forty years" residence among us, should be no exception to the rule which condemns the travelling European writer of American history to the compilation of facts manufactured for partisan effect, and to the invention of reasons supplied from his own fancy. I have already had occasion, several times, to correct the errors of Mons. de Tocqueville. It is a compliment to him, implicative of respect, and by no means extended to others, who err more largely, and of purpose, but less harmfully. His error in all that he has here written is profound! and is injurious, not merely to General Jackson, to whom his mistakes apply, but to the national character, made up as it is of the acts of individuals; and which character it is the duty of every American to cherish and exalt in all that is worthy, and to protect and defend from all unjust imputation. It was in this sense that I marked this passage in De Tocqueville for refutation as soon as his book appeared, and took steps to make the contradiction (so far as the alleged robbery and cheating of the Indians was concerned) authentic and complete and as public and durable as the archives of the government itself. In this sense I had a call made for a full, numerical, chronological and official statement of all our Indian purchases, from the beginning of the federal government in 1789 to that day, 1840—tribe by tribe, cession by cession, year by year—for the fifty years which the government had existed; with the number of acres acquired at each cession, and the amount paid for each.

The call was made in the Senate of the United States, and answered by document No. 616, 1st session, 26th Congress, in a document of thirteen printed tabular pages, and authenticated by the signatures of Mr. Van Buren, President; Mr. Poinsett, Secretary at War; and Mr. Hartley Crawford, Commissioner of Indian Affairs. From this document it appeared, that the United States had paid to the Indians eighty-five millions of dollars for land purchases up to the year 1840! to which five or six millions may be added for purchases since—say ninety millions. This is near six times as much as the United States gave the great Napoleon for Louisiana, the whole of it, soil and jurisdiction; and nearly three times as much as all three of the great foreign purchases—Louisiana, Florida and California—cost us! and that for soil alone, and for so much as would only be a fragment of Louisiana or California. Impressive as this statement is in the gross, it becomes more so in the detail, and when applied to the particular tribes whose imputed sufferings have drawn so mournful a picture from Mons. de Tocqueville. These are the four great southern tribes—Creeks, Cherokees, Chickasaws and Choctaws. Applied to them, and the table of purchases and payments stands thus: To the Creek Indians twenty-two millions of dollars for twenty-five millions of acres; which is seven millions more than was paid France for Louisiana, and seventeen millions more than was paid Spain for Florida. To the Choctaws, twenty-three millions of dollars (besides reserved tracts), for twenty millions of acres, being three millions more than was paid for Louisiana

and Florida. To the Cherokees, for eleven millions of acres, was paid about fifteen millions of dollars, the exact price of Louisiana or California. To the Chickasaws, the whole net amount for which this country sold under the land system of the United States, and by the United States land officers, three millions of dollars for six and three-quarter millions of acres, being the way the nation chose to dispose of it. Here are fifty-six millions to four tribes, leaving thirty millions to go to the small tribes whose names are unknown to history, and which it is probable the writer on American democracy had never heard of when sketching the picture of their fancied oppressions.

I will attend to the case of these small remote tribes, and say that, besides their proportion of the remaining thirty-six millions of dollars, they received a kind of compensation suited to their condition, and intended to induct them into the comforts of civilized life. Of these I will give one example, drawn from a treaty with the Osages, in 1839; and which was only in addition to similar benefits to the same tribe, in previous treaties, and which were extended to all the tribes which were in the hunting state. These benefits were, to these Osages, two blacksmith's shops, with four blacksmiths, with five hundred pounds of iron and sixty pounds of steel annually; a grist and a saw mill, with millers for the same; 1,000 cows and calves; two thousand breeding swine; 1,000 ploughs; 1,000 sets of horse-gear; 1,000 axes; 1,000 hoes; a house each for ten chiefs, costing two hundred dollars apiece; to furnish these chiefs with six good wagons, sixteen carts, twenty-eight yokes of oxen, with yokes and log-chain; to pay all claims for injuries committed by the tribe on the white people, or on other Indians, to the amount of thirty thousand dollars; to purchase their reserved lands at two dollars per acre; three thousand dollars to reimburse that sum for so much deducted from their annuity, in 1825, for property taken from the whites, and since returned; and, finally, three thousand dollars more for an imputed wrongful withholding of that amount, for the same reason, in the annuity payment of the year 1829. In previous treaties, had been given seed grains, and seed vegetables, with fruit seeds and fruit trees; domestic fowls; laborers to plough up their ground and to make their fences, to raise crops and to save them, and teach the Indians how to farm; with spinning, weaving, and sewing implements, and persons to show their use. Now, all this was in one single treaty, with an inconsiderable tribe, which had been largely provided for in the same way in six different previous treaties! And all the rude tribes—those in the hunting state, or just emerging from it—were provided for in the same manner, the object of the United States being to train them to agriculture and pasturage—to conduct them from the hunting to the pastoral and agricultural state; and for that purpose, and in addition to all other benefits, are to be added the support of schools, the encouragement of missionaries, and a small annual contribution to religious societies who take charge of their civilization.

Besides all this, the government keeps up a large establishment for the special care of the Indians, and the management of their affairs; a special bureau, presided over by a commissioner at Washington City; superintendents in different districts; agents, sub-agents, and interpreters, resident with the tribe; and all charged with seeing to their rights and interests—seeing that the laws are observed towards them; that no injuries are done them by the whites; that none but licensed traders go among them; that nothing shall be bought from them which is necessary for their comfort, nor any thing sold to them which may be to their detriment. Among the prohibited articles are spirits of all kinds; and so severe are the penalties on this head, that forfeiture of the license, forfeiture of the whole cargo of goods, forfeiture of the penalty of the bond, and immediate suit in the nearest federal court for its recovery, expulsion from the Indian country, and disability for ever to acquire another license, immediately follow every breach of the laws for the introduction of the smallest quantity of any kind of spirits. How unfortunate, then, in M. de Tocqueville to write, that kegs of brandy are spread before the Indians to induce them to sell their lands! How

unfortunate in representing these purchases to be made in exchange for woollen garments, glass necklaces, tinsel bracelets, ear-rings, and looking-glasses! What a picture this assertion of his makes by the side of the eighty-five millions of dollars at that time actually paid to those Indians for their lands, and the long and large list of agricultural articles and implements—long and large list of domestic animals and fowls—the ample supply of mills and shops, with mechanics to work them and teach their use—the provisions for schools and missionaries, for building fences and houses—which are found in the Osage treaty quoted, and which are to be found, more or less, in every treaty with every tribe emerging from the hunter state. The fact is, that the government of the United States has made it a fixed policy to cherish and protect the Indians, to improve their condition, and turn them to the habits of civilized life; and great is the wrong and injury which the mistake of this writer has done to our national character abroad, in representing the United States as cheating and robbing these children of the forest.

But Mons. de Tocqueville has quoted names and documents, and particular instances of imposition upon Indians, to justify his picture; and in doing so has committed the mistakes into which a stranger and sojourner may easily fall. He cites the report of Messrs. Clark and Cass, and makes a wrong application—an inverted application—of what they reported. They were speaking of the practices of disorderly persons in trading with the Indians for their skins and furs. They were reporting to the government an abuse, for correction and punishment. They were not speaking of United States commissioners, treating for the purchase of lands, but of individual traders, violating the laws. They were themselves those commissioners and superintendents of Indian affairs, and governors of Territories, one for the northwest, in Michigan, the other for the far west, in Missouri; and both noted for their justice and humanity to the Indians, and for their long and careful administration of their affairs within their respective superintendencies. Mons. de Tocqueville has quoted their words correctly, but with the comical blunder of reversing their application, and applying to the commissioners themselves, in their land negotiations for the government, the cheateries which they were denouncing to the government, in the illicit traffic of lawless traders. This was the comic blunder of a stranger: yet this is to appear as American history in Europe, and to be translated into our own language at home, and commended in a preface and notes.

155. Recision Of The Treasury Circular

Immediately upon the opening of the Senate and the organization of the body, Mr. Ewing, of Ohio, gave notice of his intention to move a joint resolution to rescind the treasury circular; and on hearing the notice, Mr. Benton made it known that he would oppose the resolution at the second reading—a step seldom resorted to, except when the measure to be so opposed is deemed too flagrantly wrong to be entitled to the honor of rejection in the usual forms of legislation. The debate came on promptly, and upon the lead of the mover of the resolution, in a prepared and well-considered speech, in which he said:

"This extraordinary paper was issued by the Secretary of the Treasury on the 11th of July last, in the form of a circular to the receivers of public money in the several land offices in the United States, directing them, after the 15th of August then next, to receive in payment for public lands nothing but gold and silver and certificates of deposits, signed by the Treasurer of the United States, with a saving in favor of actual settlers, and bona fide residents in the State in which the land happened to lie. This saving was for a limited time, and expires, I think, to-morrow. The professed object of this order was to check the speculations in public lands; to check excessive issues of bank paper in the West, and to increase the specie currency of the country; and the necessity of the measure was supported, or pretended to be supported, by the opinions of members of this body and the other branch of Congress. But, before I proceed to examine in detail this paper, its character, and its consequences, I will briefly advert to the state of things out of which it grew. I am confident, and I believe I can make the thing manifest, that the avowed objects were not the only, nor even the leading objects for which this order was framed; they may have influenced the minds of some who advised it, but those who planned, and those who at last virtually executed it, were governed by other and different motives, which I shall proceed to explain. It was foreseen, prior to the commencement of the last session of Congress, that there would be a very large surplus of money in the public treasury beyond the wants of the country for all their reasonable expenditures. It was also well understood that the land bill, or some other measure for the distribution of this fund, would be again presented to Congress; and, if the true condition of the public sentiment were known and understood, that its distribution, in some form or other, would be demanded by the country. On the other hand, it seems to have been determined by the party, and some of those who act with it thoroughly, that the money should remain where it was in the deposit banks, so that it could be wielded at pleasure by the executive. This order grew out of the contest to which I have referred. It was issued not by the advice of Congress or under the sanction of any law. It was delayed until Congress was fairly out of the city, and all possibility of interference by legislation was removed; and then came forth this new and last expedient. It was known that these funds, received for public lands, had become a chief source of revenue, and it may have occurred to some that the passage of a treasury order of this kind would have a tendency to embarrass the country; and as the bill for the regulation of the deposits had just passed, the public might be brought to believe that all the mischief occasioned by the order was the effect of the distribution bill. It has, indeed, happened, that this scheme has failed; the public understand it rightly, but that was not by any means certain at the time the measure was devised. It was not then foreseen that the people would as generally see through the contrivance as it has since been found that they do. There may have been various other motives which led to the measure. Many minds were probably to be consulted; for it is not to be presumed that a step like this was taken without consultation, and guided by the will of a single individual alone. That is not the way in which these things are done. No doubt one effect hoped for by some was, that a check would be put to the sales of

the public lands. The operation of the order would naturally be, to raise the price of land by raising the price of the currency in which it was to be paid for. But, while this would be the effect on small buyers, those who purchased on a large scale would be enabled to sell at an advance of ten or fifteen per cent. over what would have been given if the United States lands had been open to purchasers in the ordinary way. Those who had borrowed money of the deposit banks and paid it out for lands, would thus be enabled to make sales to advantage; and by means of such sales make payment to the banks who found it necessary to call in their large loans, in order to meet the provisions of the deposit bill. The order, therefore, was likely to operate to the common benefit of the deposit banks and the great land dealers, while it counteracted the effect of the obnoxious deposit bill. There may have been yet another motive actuating some of those who devised this order. There was danger that the deposit banks, when called upon to refund the public treasure, would be unable to do it: indeed, it was said on this floor that the immediate effect of the distribution bill would be to break those banks. How this treasury order would operate to collect the specie of the country into the land offices, whence it would immediately go into the deposit banks, and would prove an acceptable aid to them while making the transfers required by law. These seem to me to have been among the real motives which led to the adoption of that order."

Mr. Ewing then argued at length against the legality of the treasury circular, quoting the joint resolution of 1816, and insisting that its provisions had been violated; also insisting on the largeness of the surplus, and that it had turned out to be much larger than was admitted by the friends of the administration; which latter assertion was in fact true, because the appropriations for the public service (the bills for which were in the hands of the opposition members) had been kept off till the middle of the summer, and could not be used; and so left some fifteen millions in the treasury of appropriated money which fell under the terms of the deposit act, and became divisible as surplus.

Mr. Benton replied to Mr. Ewing, saying:

"In the first of these objects the present movement is twin brother to the famous resolution of 1833, but without its boldness; for that resolution declared its object upon its face, while this one eschews specification, and insidiously seeks a judgment of condemnation by inference and argument. In the second of these objects every body will recognize the great design of the second branch of the same famous resolution of 1833, which, in the restoration of the deposits to the Bank of the United States, clearly went to the establishment of the paper system, and its supremacy over the federal government. The present movement, therefore, is a second edition of the old one, but a lame and impotent affair compared to that. Then, we had a magnificent panic; now, nothing but a miserable starveling! For though the letter of the president of the Bank of the United States announced, early in November, that the meeting of Congress was the time for the new distress to become intense, yet we are two weeks deep in the session, and no distress memorial, no distress deputation, no distress committees, to this hour! Nothing, in fact, in that line, but the distress speech of the gentleman from Ohio [Mr. Ewing]; so that the new panic of 1836 has all the signs of being a lean and slender affair—a mere church-mouse concern—a sort of dwarfish, impish imitation of the gigantic spectre which stalked through the land in 1833."

Mr. Benton then showed that this subaltern and Lilliputian panic was brought upon the stage in the same way, and by the same managers, with its gigantic brother of 1833-'34; and quoted from a published letter of Mr. Biddle in November preceding, and a public speech of Mr. Clay in the month of September preceding, in which they gave out the programme for the institution of the little panic; and the proceeding against the President for violating the laws; and against the treasury order itself as the cause of the new distress. Mr. Biddle in his

publication said: “Our pecuniary condition seems to be a strange anomaly. When Congress adjourned, it left the country with abundant crops, and high prices for them—with every branch of industry flourishing, and with more specie than we ever had before—with all the elements of universal prosperity. None of these have undergone the slightest change; yet, after a few months, Congress will re-assemble, and find the whole country suffering intense pecuniary distress. The occasion of this, and the remedy for it, will occupy our thoughts. In my judgment, the main cause of it is the mismanagement of the revenue—mismanagement in two respects: the mode of executing the distribution law, and the order requiring specie for the payment of the public lands—an act which seems to me a most wanton abuse of power, if not a flagrant usurpation. The remedy follows the causes of the evils. The first measure of relief, therefore, should be the instant repeal of the treasury order requiring specie for lands; the second, the adoption of a proper system to execute the distribution law. These measures would restore confidence in twenty-four hours, and repose in at least as many days. If the treasury will not adopt them voluntarily, Congress should immediately command it.” This was the recommendation, or mandate, of the president of the Bank of the United States, still acting as a part of the national legislative power even in its new transformation, and keeping an eye upon that distribution which Congress passed as a deposit, which he had recommended as raising the price of the State stocks held by the bank; and the delay in the delivery of which he considers as one of the causes which had brought on the new distress. Mr. Clay in his Lexington speech had taken the same grounds; and speaking of the continued tampering with the currency by the administration, went on to say:

“One rash, lawless, and crude experiment succeeds another. He considered the late treasury order, by which all payments for public lands were to be in specie, with one exception, for a short duration, a most ill-advised, illegal, and pernicious measure. In principle it was wrong, in practice it will favor the very speculation which it professes to endeavor to suppress. The officer who issued it, as if conscious of its obnoxious character, shelters himself behind the name of the President. But the President and Secretary had no right to promulgate any such order. The law admits of no such discrimination. If the resolution of the 30th of April, 1816, continued in operation (and the administration on the occasion of the removal of the deposits, and on the present occasion, relies upon it as in full force), it gave the Secretary no such discretion as he has exercised. That resolution required and directed the Secretary of the Treasury to adopt such measures as he might deem necessary, ‘to cause, as soon as may be, all duties, taxes, debts, or sums of money, accruing or becoming payable to the United States, to be collected and paid in the legal currency of the United States, or treasury notes, or notes of the Bank of the United States, as by law provided and declared, or in notes of banks which are payable and paid on demand, in said legal currency of the United States.’ This resolution was restrictive and prohibitory upon the Secretary only as to the notes of banks not redeemable in specie on demand. As to all such notes, he was forbidden to receive them from and after the 20th of February, 1817. As to the notes of banks which were payable and paid on demand in specie, the resolution was not merely permissive, it was compulsory and mandatory. He was bound, and is yet bound, to receive them, until Congress interfere.”

Mr. Benton replied to the arguments of Mr. Ewing, the letter of Mr. Biddle, and the speech of Mr. Clay; and considered them all as identical, and properly answered in the lump, without special reference to the co-operating assailants. On the point of the alleged illegality of the treasury order, he produced the Joint Resolution of 1816 under which it was done; and then said:

“This is the law, and nothing can be plainer than the right of selection which it gives to the Secretary of the Treasury. Four different *media* are mentioned in which the revenue may be collected, and the Secretary is made the actor, the agent, and the power, by which the

collection is to be effected. He is to do it in one, or in another. He may choose several, or all, or two, or one. All are in the disjunctive. No two are joined together, but all are disjoined, and presented to him individually and separately. It is clearly the right of the Secretary to order the collections to be made in either of the four *media* mentioned. That the resolution is not mandatory in favor of any one of the four, is obvious from the manner in which the notes of the Bank of the United States are mentioned. They were to be received as then provided for by law; for the bank charter had then just passed; and the 14th section had provided for the reception of the notes of this institution until Congress, by law, should direct otherwise. The right of the institution to deliver its notes in payment of the revenue, was anterior to this resolution, and always held under that 14th section, never under this joint resolution, and when that section was repealed at the last session of this Congress, that right was admitted to be gone, and has never been claimed since. The words of the law are clear; the practice under it has been uniform and uninterrupted from the date of its passage to the present day. For twenty years, and under three Presidents, all the Secretaries of the Treasury have acted alike. Each has made selections, permitting the notes of some specie-paying banks to be received, and forbidding others. Mr. Crawford did it in numerous instances; and fierce and universal as were the attacks upon that eminent patriot, during the presidential canvass of 1824, no human being ever thought of charging him with illegality in this respect. Mr. Rush twice made similar selections, during the administration of Mr. Adams, and no one, either in the same cabinet with him, or out of the cabinet against him, ever complained of it. For twenty years the practice has been uniform; and every citizen of the West knows that that practice was the general, though not universal, exclusion of the Western specie-paying bank paper from the Western land offices. This every man in the West knows, and knows that that general exclusion continued down to the day that the Bank of the United States ceased to be the depository of the public moneys. It was that event which opened the door to the receivability of State bank paper which has since been enjoyed."

Having vindicated the treasury order from the charge of illegality, Mr. Benton took up the head of the new distress, and said:

"The news of all this approaching calamity was given out in advance in the Kentucky speech and the Philadelphia letter, already referred to; and the fact of its positive advent and actual presence was vouched by the senator from Ohio [Mr. Ewing] on the last day that the Senate was in session. I do not permit myself (said Mr. B.) to bandy contradictory asseverations and debatable assertions across this floor. I choose rather to make an issue, and to test assertion by the application of evidence. In this way I will proceed at present. I will take the letter of the president of the Bank of the United States as being official in this case, and most authoritative in the distress department of this combined movement against President Jackson. He announces, in November, the forthcoming of the national calamity in December; and after charging part of this ruin and mischief on the mode of executing what he ostentatiously styles the distribution law, when there is no such law in the country, he goes on to charge the remainder, being ten-fold more than the former upon the Treasury order which excludes paper money from the land offices."

Mr. Benton then read Mr. Biddle's description of the new distress, which, in his publication was awful and appalling, but which, he said, was nowhere visible except in the localities where the bank had power to make it. It was a picture of woe and ruin, but not without hope and remedy if Congress followed his directions; in the mean time he thus instructed the country how to behave, and promised his co-operation—that of the bank—in the overthrow of President Jackson, and his successor, Mr. Van Buren (for that is what he meant in this passage):

“In the mean time, all forbearance and calmness should be maintained. There is great reason for anxiety—none whatever for alarm; and with mutual confidence and courage, the country may yet be able to defend itself against the government. In that struggle my own poor efforts shall not be wanting. I go for the country, whoever rules it. I go for the country, loved when worst governed—and it will afford me far more gratification to assist in repairing wrongs, than to triumph over those who inflict them.”

This pledge of aid in a struggle with the government was a key to unlock the meaning of the movements then going on to produce the general suspension of specie payments in all the banks which saluted the administration of Mr. Van Buren in the first quarter of its existence, and intended to produce it in its first month. Considering specie payments as the only safety of the country, and foreseeing the general bank explosions, chiefly contrived by the Bank of the United States, which was to re-appear in the ruin, and claim its re-establishment as the only remedy for the evils which itself and its confederates created, Mr. Benton said:

“There is no safety for the federal revenues but in the total exclusion of local paper, and that from every branch of the revenue—customs, lands, and post office. There is no safety for the national finances but in the constitutional medium of gold and silver. After forty years of wandering in the wilderness of paper money, we have approached the confines of the constitutional medium. Seventy-five millions of specie in the country, with the prospect of annual increase of ten or twelve millions for the next four years; three branch mints to commence next spring, and the complete restoration of the gold currency; announce the success of President Jackson’s great measures for the reform of the currency and vindicate the constitution from the libel of having prescribed an impracticable currency. The success is complete; and there is no way to thwart it, but to put down the treasury order, and to re-open the public lands to the inundation of paper money. Of this, it is not to be dissembled, there is great danger. Four deeply interested classes are at work to do it—speculators, local banks, United States Bank, and politicians out of power. They may succeed, but he (Mr. B.) would not despair. The darkest hour of night is just before the break of day; and, through the gloom ahead, he saw the bright vision of the constitutional currency erect, radiant, and victorious. Through regulation, or explosion, success must eventually come. If reform measures go on, gold and silver will be gradually and temperately restored; if reform measures are stopped, then the paper system runs riot, and explodes from its own expansion. Then the Bank of the United States will exult in the catastrophe, and claim its own re-establishment as the only adequate regulator of the local banks. Then it will be said the specie experiment has failed! But no; the contrary will be known, that the specie experiment has not failed, but it was put down by the voice and power of the interested classes, and must be put up again by the voice and power of the disinterested community.”

This was uttered in December 1836: in April 1837 it was history.

Mr. Crittenden, of Kentucky, replied to Mr. Benton; and said:

“The senator from Missouri had exhibited a table, the results of which he had pressed with a very triumphant air. Was it extraordinary that the deposit banks should be strengthened? The effect of the order went directly to sustain them. But it was at the expense of all the other banks of the country. Under this order, all the specie was collected and carried into their vaults: an operation which went to disturb and embarrass the general circulation of the country, and to produce that pecuniary difficulty which was felt in all quarters of the Union. Mr. C. did not profess to be competent to judge how far the whole of this distress was attributable to the operation of the treasury order, but of this at least he was very sure, through a great part of the Western country, it was universally attributed to that cause. The senator from Missouri supposed that the order had produced no part of this pressure. If not,

he would ask what it had produced? Had it increased the specie in the country? Had it increased the specie in actual and general circulation? If it had done no evil, what good had it done? This, he believed was as yet undiscovered. So far as it had operated at all, it had been to derange the state of the currency, and to give it a direction inverse to the course of business. The honorable senator, however, could not see how moving money across a street could operate to affect the currency; and seemed to suppose that moving money from west to east, or from east to west, would have as little effect. Money, however, if left to itself, would always move according to the ordinary course of business transactions. This course might indeed be disturbed for a time, but it would be like forcing the needle away from the pole: you might turn it round and round as often as you pleased, but, left to itself, it would still settle at the north. Our great commercial cities were the natural repositories where money centred and settled. There it was wanted, and it was more valuable if left there than if carried into the interior. Any intelligent business man in the West would rather have money paid him for a debt in New-York than at his own door. It was worth more to him. If, then, specie was forced, by treasury tactics, to take a direction contrary to the natural course of business, and to move from east to west, the operation would be beneficial to none, injurious to all. It was not in the power of government to keep it in a false direction or position. Specie was in exile whenever it was forced out of that place where business called for it. Such an operation did no real good. It was a forced movement and was soon overcome by the natural course of things.

“Mr. C. was well aware that men might be deluded and mystified on this subject, and that while the delusion lasted, this treasury order might be held up before the eyes of men as a splendid arrangement in finance; but it was only like the natural rainbow, which owed its very existence to the mist in which it had its being. The moment the atmosphere was clear, its bright colors vanished from the view. So it would be with this matter. The specie of the country must resume its natural course. Man might as well escape from the physical necessities of their nature, as from the laws which governed the movements of finance: and the man who professed to reverse or dispense with the one was no greater quack than he who made the same professions with regard to the other.

“But it was said to be the distribution bill which had done all the mischief; and Mr. C. was ready to admit that the manner in which the government had attempted to carry that law into effect might in part have furnished the basis for such a supposition. He had no doubt that the pecuniary evils of the country had been aggravated by the manner in which this had been done.”

Mr. Webster also replied to Mr. Benton, in an elaborate speech, in which, before arguing the legal question, he said:

“The honorable member from Missouri (Mr. Benton) objects even to giving the resolution to rescind a second reading. He avails himself of his right, though it be not according to general practice, to arrest the progress of the measure at its first stage. This, at least, is open, bold, and manly warfare. The honorable member, in his elaborate speech, founds his opposition to this resolution, and his support of the treasury order, on those general principles respecting currency which he is known to entertain, and which he has maintained for many years. His opinions some of us regard as altogether ultra and impracticable; looking to a state of things not desirable in itself, even if it were practicable; and, if it were desirable, as being far beyond the power of this government to bring about.

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

“We are now fast approaching the day when one administration goes out of office, and another is to come in. The country has an interest in learning, as soon as possible, whether the new administration, while it receives the power and patronage, is to inherit, also, the topics and the projects of the past; whether it is to keep up the avowal of the same objects and the same schemes, especially in regard to the currency. The order of the Secretary is prospective, and, on the face of it, perpetual. Nothing in or about it gives it the least appearance of a temporary measure. On the contrary, its terms imply no limitation in point of duration, and the gradual manner in which it is to come into operation shows plainly an intention of making it the settled and permanent policy of government. Indeed, it is but now beginning its complete existence. It is only five or six days since its full operation has commenced. Is it to stand as the law of the land and the rule of the treasury, under the administration which is to ensue? And are those notions of an exclusive specie currency, and opposition to all banks, on which it is defended, to be espoused and maintained by the new administration, as they have been by its predecessor? These are questions, not of mere curiosity, but of the highest interest to the whole country. In considering this order, the first thing naturally is, to look for the causes which led to it, or are assigned for its promulgation. And these, on the face of the order itself, are declared to be ‘complaints which have been made of frauds, speculations, and monopolies, in the purchase of the public lands, and the aid which is said to be given to effect these objects, by excessive bank credits, and dangerous, if not partial, facilities through bank drafts and bank deposits, and the general evil influence likely to result to the public interest, and especially the safety of the great amount of money in the treasury, and the sound condition of the currency of the country, from the further exchange of the national domain in this manner, and chiefly for bank credits and paper money.’

“This is the catalogue of evils to be cured by this order. In what these frauds consist, what are the monopolies complained of, or what is precisely intended by these injurious speculations, we are not informed. All is left on the general surmise of fraud, speculation, and monopoly. It is not avowed or intimated that the government has sustained any loss, either by the receipt of the bank notes which proved not to be equivalent to specie, or in any other way. And it is not a little remarkable that these evils, of fraud, speculation, and monopoly, should have become so enormous and so notorious, on the 11th of July, as to require this executive interference for their suppression, and yet that they should not have reached such a height as to make it proper to lay the subject before Congress, although Congress remained in session until within seven days of the date of the order. And what makes this circumstance still more remarkable, is the fact that, in his annual message, at the commencement of the same session, the President had spoken of the rapid sales of the public lands as one of the most gratifying proofs of the general prosperity of the country, without suggesting that any danger whatever was to be

apprehended from fraud, speculation, or monopoly. His words were: ‘Among the evidences of the increasing prosperity of the country, not the least gratifying, is that afforded by the receipts from the sales of the public lands, which amount, in the present year, to the unexpected sum of eleven millions.’ From the time of the delivery of that message, down to the date of the treasury order, there had not been the least change, so far as I know, or so far as we are informed, in the manner of receiving payment for the public lands. Every thing stood, on the 11th of July, 1836, as it had stood at the opening of the session, in December, 1835. How so different a view of things happened to be taken at the two periods, we may be able to learn, perhaps, in the further progress of this debate.

“The order speaks of the ‘evil influence’ likely to result from the further exchange of the public lands into ‘paper money.’ Now, this is the very language of the gentleman from Missouri. He habitually speaks of the notes of all banks, however solvent, and however promptly their notes may be redeemed in gold and silver, as ‘paper money.’ The Secretary has adopted the honorable member’s phrases, and he speaks, too, of all the bank notes received at the land offices, although every one of them is redeemable in specie, on demand, but as so much ‘paper money.’ In this respect, also, sir, I hope we may know more as we grow older, and be able to learn whether, in times to come, as in times recently passed, the justly obnoxious and odious character of ‘paper money’ is to be applied to the issues of all the banks in all the States, with whatever punctuality they redeem their bills. This is quite new, as financial language. By paper money, in its obnoxious sense, I understand paper issues on credit alone, without capital, without funds assigned for its payment, resting only on the good faith and the future ability of those who issue it. Such was the paper money of our revolutionary times; and such, perhaps, may have been the true character of the paper of particular institutions since. But the notes of banks of competent capitals, limited in amount to a due proportion to such capitals, made payable on demand in gold and silver, and always so paid on demand, are paper money in no sense but one; that is to say, they are made of paper, and they circulate as money. And it may be proper enough for those who maintain that nothing should so circulate but gold and silver, to denominate such bank notes ‘paper money,’ since they regard them but as paper intruders into channels which should flow only with gold and silver. If this language of the order is authentic, and is to be so hereafter, and all bank notes are to be regarded and stigmatized as mere ‘paper money,’ the sooner the country knows it the better.

“The member from Missouri charges those who wish to rescind the treasury order with two objects: first, to degrade and disgrace the President; and, next, to overthrow the constitutional currency of the country. For my own part, sir, I denounce nobody; I seek to degrade or disgrace nobody. Holding the order illegal and unwise, I shall certainly vote to rescind it; and, in the discharge of this duty, I hope I am not expected to shrink back, lest I might do something which might call in question the wisdom of the Secretary, or even of the President. And I hope that so much of independence as may be manifested by free discussion and an honest vote is not to cause denunciation from any quarter. If it should, let it come.”

It became a very extended debate, in which Mr. Niles, Mr. Rives, Mr. Hubbard, Mr. Southard, Mr. Strange of N. C., Mr. Clay, Mr. Walker of Miss., and others partook. The subject having been referred to the committee of public lands, of which Mr. Walker was chairman, reported a bill, “limiting and designating the funds receivable for the revenues of the United States;” the object of which was to rescind the treasury circular without naming it, and to continue the receipt of bank notes in payment of all dues to the government. Soon after the bill was reported, and had received its second reading, a motion was made in the Senate to lay the impending subject (public lands) on the table for the purpose of considering the bill reported by Mr. Walker to limit and designate the funds receivable in public dues. Mr.

Benton was taken by surprise by this motion, which was immediately agreed to, and the bill ordered to be engrossed for a third reading the next day. To that third reading Mr. Benton looked for his opportunity to speak; and availed himself of it, commencing his speech with giving the reason why he did not speak the evening before when the question was on the engrossment of the bill. He said he could not have foreseen that the subject depending before the Senate, the bill for limiting the sales of the public lands to actual settlers, would be laid down for the purpose of taking up this subject out of its order; and, therefore, had not brought with him some memorandums which he intended to use when this subject came up. He did not choose to ask for delay, because his habit was to speak to subjects when they were called; and in this particular cause he did not think it material when he spoke; for he was very well aware that his speaking would not affect the fate of the bill. It would pass; and that was known to all in the chamber. It was known to the senator from Ohio (Mr. Ewing) who indulged himself in saying he thought otherwise a few days ago; but that was only a good-natured way of stimulating his friends, and bringing them up to the scratch. The bill would pass, and that by a good vote, for it would have the vote of the opposition, and a division of the administration vote. Why, then, did he speak? Because it was due to his position, and the part he had acted on the currency questions, to express his sentiments more fully on this bill, so vital to the general currency, than could be done by a mere negative vote. He should, therefore, speak against it, and should direct his attention to the bill reported by the Public Land Committee, which had so totally changed the character of the proceeding on this subject. The recision of the treasury order was introduced a resolution—it went out a resolution—but it came back a bill, and a bill to regulate, not the land office receipts only, but all the receipts of the federal government; and in this new form is to become statute law, and a law to operate on all the revenues, and to repeal all other laws upon the subject to which it related. In this new form it assumes an importance, and acquires an effect, infinitely beyond a resolution, and becomes in fact, as well as in name, a totally new measure. Mr. B. reminded the Senate that he had, in his first speech on this subject, given it as his opinion, that two main objects were proposed to be accomplished by the rescinding resolution; first, the implied condemnation of President Jackson for violating the laws and constitution, and destroying the prosperity of the country; and, secondly, the imposition of the paper currency of the States upon the federal government. With respect to the first of these objects, he presumed it was fully proved by the speeches of all the opposition senators who had spoken on this subject; and, with respect to the second, he believed it would find its proof in the change which the original resolution had undergone, and the form it was now assuming of statute law, and especially with the proviso which was added at the end of the second section.

Mr. B. then took up the bill reported by the committee, and remarked, first, upon its phraseology, not in the spirit of verbal criticism, but in the spirit of candid objection and fair argument. There were cases in which words were things, and this was one of those cases. Money was a thing, and the only words in the constitution of that thing were, “gold and silver coin.” The bill of the committee was systematically exclusive of the words which meant this thing, and used words which included things which were not money. These words were, then, a fair subject of objection and argument, because they went to set aside the money of the constitution, and to admit the public revenues to be paid in something which was not money. The title of the bill uses the word “funds.” It professes to designate the funds receivable for the revenues of the United States. Upon this word Mr. B. had remarked before, as being one of the most indefinite in the English language; and, so far from signifying money only, even paper money only, that it comprehended every variety of paper security, public or private, individual or corporate out of which money could be raised. The retention of this word by the committee, after the objections made to it, were indicative of their intentions to lay open the federal treasury to the reception of something which was not constitutional money; and this

intention, thus disclosed in the title to the bill, was fully carried out in its enactments. The words “legal currency of the United States” are twice used in the first section, when the words “gold and silver” would have been more appropriate and more definite, if hard money was intended.

Mr. B. admitted that, in the eye of a regular bred constitutional lawyer, legal currency might imply constitutional currency; but certain it was that the common and popular meaning of the phrase was not limited to constitutional money, but included every currency that the statute law made receivable for debts. Thus, the notes of the Bank of the United States were generally considered as legal currency, because receivable by law in payment of public dues; and in like manner the notes of all specie-paying banks would, under the committee’s bill, rise to the dignity of legal currency. The second section of the bill twice used the word “cash;” a word which, however understood at the Bank of England, where it always means ready money, and where ready money signifies gold coin in hand, yet with the banks with which we have to deal it has no such meaning, but includes all sorts of current paper money on hand, as well as gold and silver on hand.

Having remarked upon the phraseology of the bill, and shown that a paper currency composed of the notes of a thousand local banks, not only might become the currency of the federal government, but was evidently intended to be made its currency; and that in the face of all the protestations of the friends of the administration in favor of re-establishing the national gold currency, Mr. B. would now take up the bill of the committee under two or three other aspects, and show it to be as mistaken in its design as it would be impotent in its effect. In the first place, it transferred the business of suppressing the small note circulation from the deposit branch to the collecting branch of the public revenue. At present, the business was in a course of progress through the deposit banks, as a condition of holding the public moneys; and, as such, had a place in the deposit act of the last session, and also had a place in the President’s message of the last session, where the suppression of paper currency under twenty dollars was expressly referred to the action of the deposit banks, and as a condition of their retaining the public deposits. It was through the deposit banks, and not through the reception of local bank paper, that the suppression of small notes should be effected. In the next place, he objected to the committee’s bill, because it proposed to make a bargain with each of the thousand banks now in the United States, and the hundreds more which will soon be born; and to give them a right—a right by law—to have their notes received at the federal treasury. He was against such a bargain. He had no idea of making a contract with these thousand banks for the reception of their notes. He had no idea of contracting with them, and giving them a right to plead the constitution of the United States against us, if, at any time, after having agreed to receive their notes, upon condition that they would give up their small circulation, they should choose to say we had impaired the contract by not continuing to receive them; and so either relapse into the issue of this small trash, or have recourse to the judicial process to compel the United States to abide the contract, and continue the reception of all their notes. Mr. B. had no idea of letting down this federal government to such petty and inconvenient bargains with a thousand moneyed corporations. The government of the United States ought to act as a government, and not as a contractor. It should prescribe conditions, and not make bargains. It should give the law. He was against these bargains, even if they were good ones; but they were bad bargains, wretchedly bad, and ought to be rejected as such, even if all higher and nobler considerations were out of the question. What is the consideration that the United States is to receive? A mere individual agreement with each bank by itself, that in three years it will cease to issue notes under ten dollars and in five years it will cease to issue notes under twenty dollars. What is the price which she pays for this consideration? In the first place, it receives the notes of such bank as

gold and silver at all the land-offices, custom-houses, and post-offices, of the United States; and, of course, pays them out again as gold and silver to all her debtors. In the next place, it compels the deposit banks to credit them as cash. In the third place, it accredits the whole circulation of the banks, and makes it current all over the United States, in consequence of universal receivability for all federal dues. In other words, it endorses, so far as credit is concerned, the whole circulation of every bank that comes into the bargain thus proposed. This is certainly a most wretched bargain on the part of the United States—a bargain in which what she receives is ruinous to her; for the more local payment she receives in payment of her revenues, the worse for her, and the sooner will her treasury be filled with unavailable funds.

Mr. B. having gone over these objections to the committee's bill, would now ascend to a class of objections of a higher and graver character. He had already remarked that the committee had carried out a resolution, and had brought back a bill; that the committee proposed a statutory enactment, where the senator from Ohio [Mr. Ewing], and the senator from Virginia [Mr. Rives], had only proposed a joint resolution; and he had already further remarked, that in addition to this total change in the mode of action, the committee had added what neither of these senators had proposed, a clause, under a proviso, to enact paper money into cash—to pass paper money to the credit of the United States, as cash—and to punish, by the loss of the deposits, any deposit bank which should refuse so to receive, so to credit, and so to pass, the notes "receivable" under the provisions of their bill. These two changes make entirely a new measure—one of wholly a different character from the resolutions of the two senators—a measure which openly and in terms, and under penalties undertakes to make local State paper a legal tender to the federal government, and to compel the reception of all its revenues in the notes "receivable" under the provisions of the committee's bill. After this gigantic step—this colossal movement—in favor of paper money, there was but one step more for the committee to take; and that was to make these notes a legal tender in all payments from the federal government. But that step was unnecessary to be taken in words, for it is taken in fact, when the other great step becomes law. For it is incontestable that what the government receives, it must pay out; and what it pays out becomes the currency of the country. So that when this bill passes, the paper money of the local banks will be a tender by law to the federal government, and a tender by *duresse* from the government to its creditors and the people. This is the state to which the committee's bill will bring us! and now, let us pause and contemplate, for a moment, the position we occupy, and the vast ocean of paper on which we are proposed to be embarked.

We stand upon a constitution which recognizes nothing but gold and silver for money; we stand upon a legislation of near fifty years, which recognizes nothing but gold and silver money. Now, for the first time, we have a statutory enactment proposed to recognize the paper of a wilderness of local banks for money, and in so doing to repeal all prior legislation by law, and the constitution by fact. This is an era in our legislation. It is statute law to control all other law, and is not a resolution to aid other laws, and to express the opinions of Congress. It is statutory enactment to create law, and not a declaratory resolution to expound law; and the effects of this statute would be, to make a paper government—to insure the exportation of our specie—to leave the State banks without foundations to rest upon—to produce a certain catastrophe in the whole paper system—to revive the pretensions of the United States Bank—and to fasten for a time the Adam Smith system upon the Federal Government and the whole Union.

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Mr. Benton concluded his speech with a warning against the coming explosion of the banks; and said:

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The day of revulsion may come sooner or later, and its effects may be more or less disastrous; but, come it must, and disastrous, to some degree, it must be. The present bloat in the paper system cannot continue; the present depreciation of money exemplified in the high price of every thing dependent upon the home market, cannot last. The revulsion will come, as surely as it did in 1819-'20. But it will come with less force if the treasury order is maintained, and if paper money shall be excluded from the federal treasury. But, let these things go as they may, and let reckless or mischievous banks do what they please, there is still a refuge for the wise and good; there is still an ark of safety for every honest bank, and for every prudent man; it is in the mass of gold and silver now in the country—the seventy odd millions which the wisdom of President Jackson's administration has accumulated—and by getting their share of which, all who are so disposed can take care of themselves. Sir (said Mr. B.), I have performed a duty to myself, not pleasant, but necessary. This bill is to be an era in our legislation and in our political history. It is to be a point upon which the future age will be thrown back, and from which future consequences will be traced. I separate myself from it; I wash my hands of it; I oppose it. I am one of those who promised gold, not paper. I promised the currency of the constitution, not the currency of corporations. I did not join in putting down the Bank of the United States, to put up a wilderness of local banks. I did not join in putting down the paper currency of a national bank, to put up a national paper currency of a thousand local banks. I did not strike Cæsar to make Anthony master of Rome.

Mr. Walker replied to what he called the bill of indictment preferred by the Senator from Missouri against the committee on public lands; and after some prefatory remarks went on to say:

"But when that senator, having exhausted the argument, or having none to offer had indulged in violent and intemperate denunciation of the Committee on Public Lands, and of the report made by him as their organ, Mr. W. could not withhold the expression of his surprise and astonishment. Mr. W. said it was his good fortune to be upon terms of the kindest personal intercourse with every senator, and these friendly relations should not be interrupted by any aggression upon his part. And now, Mr. W. said, he called upon the whole Senate to bear witness, as he was sure they all cheerfully would, that in this controversy he was not the aggressor, and that nothing had been done or said by him to provoke the wrath of the senator from Missouri, unless, indeed, to differ from him in opinion upon any subject constituted an offence in the mind of that senator. If such were the views of that gentleman, if he was prepared to immolate every senator who would not worship the same images of gold and silver which decorated the political chapel of the honorable gentleman, Mr. W. was fearful that the senator from Missouri would do execution upon every member of the Senate but himself, and be left here alone in his glory. Mr. W. said he recurred to the remarks of the senator from Missouri with feelings of regret, rather than of anger or excitement; and that he could not but hope, that when the senator from Missouri had calmly reflected upon this subject, he would himself see much to regret in the course he had pursued in relation to the Committee on Public Lands, and much to recall that he had uttered under feelings of temporary excitement. Sir (said Mr. W.), being deeply solicitous to preserve unbroken the ranks of the democratic party in this body, participating with the people in grateful recollection of the distinguished services rendered by the senator from Missouri to the democracy of the Union, he would pass by many of the remarks made by that senator on this subject.

"[Mr. Benton here rose from his chair, and demanded, with much warmth, that Mr. Walker should not pass by one of them. Mr. W. asked, what one? Mr. B. replied, in an angry tone,

Not one, sir. Then Mr. W. said he would examine them all, and in a spirit of perfect freedom; that he would endeavor to return blow for blow; and that, if the senator from Missouri desired, as it appeared he did, an angry controversy with him, in all its consequences, in and out of this house, he could be gratified.]

"Sir (said Mr. W.), why has the senator from Missouri assailed the Committee on Public Lands, and himself, as its humble organ? He was not the author of this measure, so much denounced by the senator from Missouri, nor had he said one word upon the subject. The measure originated with the senator from Virginia [Mr. Rives]. He was the author of the measure, and had been, and still was, its able, zealous, and successful advocate. Why, then, had the senator from Missouri assailed him (Mr. W.), and permitted the author of the measure to escape unpunished? Sir, are the arrows which appear to be aimed by the senator from Missouri at the humble organ of the Committee on Public lands, who reported this bill, intended to inflict a wound in another quarter? Is one senator the apparent object of assault, when another is designed as the real victim? Sir, when the senator from Missouri, without any provocation, like a thunderbolt from an unclouded sky, broke upon the Senate in a perfect tempest of wrath and fury, bursting upon his poor head like a tropical tornado, did he intend to sweep before the avenging storm another individual more obnoxious to his censure?

"Sir (said Mr. W.), the senator from Missouri has thrice repeated the prayer, 'God save the country from the Committee on Public Lands;' but Mr. W. fully believed if the prayer of the country could be heard within these walls, it would be, God save us from the wild, visionary, ruinous, and impracticable schemes of the senator of Missouri, for exclusive gold and silver currency; and such is not only the prayer of the country, but of the Senate, with scarcely a dissenting voice. Sir, if the senator from Missouri could, by his mandate, in direct opposition to the views of the President, heretofore expressed, sweep from existence all the banks of the States, and establish his exclusive constitutional currency of gold and silver, he would bring upon this country scenes of ruin and distress without a parallel—an immediate bankruptcy of nearly every debtor, and of almost every creditor to whom large amounts were due, a prodigious depreciation in the price of all property and all products, and an immediate cessation by States and individuals of nearly every work of private enterprise or public improvement. The country would be involved in one universal bankruptcy, and near the grave of the nation's prosperity would perhaps repose the scattered fragments of those great and glorious institutions which give happiness to millions here, and hopes to millions more of disenthralment from despotic power. Sir, in resistance to the power of the Bank of the United States, in opposition to the re-establishment of any similar institution, the senator from Missouri would find Mr. W. with him; but he could not enlist as a recruit in this new crusade against the banks of his own and every other State in the Union. These institutions, whether for good or evil, are created by the States, cherished and sustained by them, in many cases owned in whole or in part by the States, and closely united with their prosperity; and what right have we to destroy them? What right had he, a humble servant of the people of Mississippi, to say to his own, or any other State, your State legislation is wrong—your State institution, your State banks, must be annihilated, and we will legislate here to effect this object. Are we the masters or servants of the sovereign States, that we dare speak to them in language like this—that we dare attempt to prostrate here those institutions which are created and maintained by those very States which we represent on this floor? These may be the opinions entertained by some senators of their duty to the States they represent, but they were not his (Mr. W's) views or his opinions. He was sincerely desirous to co-operate with his State in limiting any dangerous powers of the banks, in enlarging the circulation of gold and silver, and in suppressing the small note currency, so as to avoid that explosion which was to be apprehended from excessive issues of bank paper. But a total annihilation of all the banks

of his own State, now possessing a chartered capital of near forty millions of dollars, would, Mr. W. knew, produce almost universal bankruptcy, and was not, he believed, anticipated by any one of his constituents.

"But the senator from Missouri tells us that this measure of the committee is a repeal of the constitution, by authorizing the receipt of paper money in revenue payments. If so, then the constitution never has had an existence; for the period cannot be designated when paper money was not so receivable by the federal government. This species of money was expressly made receivable for the public dues by an act of Congress, passed immediately after the adoption of the constitution, and which remained in force until eighteen hundred and eleven. It was so received, as a matter of practice, from eighteen hundred and eleven until eighteen hundred and sixteen, when, again, by an act of Congress then passed, and which has just expired, it was so authorized to be received during all that period. Now, although these acts have expired, there is that which is equivalent to a law still in force, expressly authorizing the notes of the specie-paying banks of the States to be received in revenue payments. It is the joint resolution of eighteen hundred and sixteen, adopted by both houses of Congress, and approved by President Madison.

"Where is the distinction, in principle, as regards the reception of bank paper on public account, between the two provisions? And the senator from Missouri, in thus denouncing the bill of the committee as a repeal of the constitution, denounces directly the President of the United States. Congress, no more than a State legislature, can make any thing but gold or silver a tender in payment of debts by one citizen to another; but that Congress, or a State legislature, or an individual, may waive their constitutional rights, and receive bank paper or drafts, in payment of any debt, is a principle of universal adoption in theory and practice, and never doubted by any one until at the present session by the senator from Missouri. The distinction of the senator in this respect was as incomprehensible to him (Mr. W.) as he believed it was to every senator, and, indeed, was discernible only by the magnifying powers of a solar microscope. It was a point-no-point, which, like the logarithmic spiral, or asymptote of the hyperbolic curve, might be for ever approached without reaching; an infinitesimal, the ghost of an idea, not only without length, breadth, thickness, shape, weight, or dimensions, but without position—a mere imaginary nothing, which flitted before the bewildered vision of the honorable senator, when traversing, in his fitful somnambulism, that tesselated pavement of gold, silver, and bullion, which that senator delighted to occupy. Sir, the senator, from Missouri might have heaped mountain high his piles of metal; he might have swept, in his Quixotic flight, over the banks of the States, putting to the sword their officers, stockholders, directory, and legislative bodies by which they were chartered; he might, in his reveries, have demolished their charters, and consumed their paper by the fire of his eloquence; he might have transacted, in fancy, with a metallic currency of twenty-eight millions in circulation, an actual annual business of fifteen hundred millions, and Mr. W. would not have disturbed his beatific visions, nor would any other senator—for they were visions only, that could never be realized—but when, descending from his ethereal flights, he seized upon the Committee on Public Lands as criminals, arraigned them as violators of the constitution, and prayed Heaven for deliverance from them, Mr. W. could be silent no longer. Yes, even then he would have passed lightly over the ashes of the theories of the honorable Senator, for, if he desired to make assaults upon any, it would be upon the living, and not the dead; but that senator, in the opening of his (Mr. W.'s) address, had rejected the olive branch which, upon the urgent solicitation of mutual friends, against his own judgment, he had extended to the honorable senator. The senator from Missouri had thus, in substance, declared his 'voice was still for war.' Be it so; but he hoped the Senate would all recollect that he (Mr. W.) was not the aggressor; and that, whilst he trusted he never would wantonly assail the

feelings or reputation of any senator, he thanked God that he was not so abject or degraded as to submit, with impunity, to unprovoked attacks or unfounded accusations from any quarter. Could he thus submit, he would be unfit to represent the noble, generous, and gallant people, whose rights and interests it was his pride and glory to endeavor to protect, whose honor and character were dearer to him than life itself, and should never be tarnished by any act of his, as one of their humble representatives upon this floor."

Mr. Rives returned thanks to Mr. Walker for his able and satisfactory defence of the bill, which in fact was his own resolution changed into a bill. He should not be able to add much to what had been said by the honorable senator, but was desirous of adding his mite in reply to so much of what had been so zealously urged by the senator from Missouri (Mr. Benton), as had not been touched upon by the chairman of the land committee; and did so in an elaborate speech a few days thereafter. Mr. Benton did not reply to either of the senators; he believed that the events of a few months would answer them, and the vote being immediately taken, the bill was passed almost unanimously—only five dissenting votes. The yeas and nays were:

Yeas—Messrs. Black, Brown, Buchanan, Clay, Clayton, Crittenden, Cuthbert, Dana, Davis, Ewing of Illinois, Ewing of Ohio, Fulton, Grundy, Hendricks, Hubbard, Kent, King of Alabama, King of Georgia, Knight, McKean, Moore, Nicholas, Niles, Norvell, Page, Parker, Prentiss, Preston, Rives, Robbins, Robinson, Sevier, Southard, Swift, Tallmadge, Tipton, Tomlinson, Walker, Wall, Webster, White.—41.

Nays—Messrs. Benton, Linn, Morris, Ruggles, Wright—5.

The name of Mr. Calhoun is not in either list of these votes. He had a reason for not voting, which he expressed to the Senate, before the vote was taken; thus:

"He had been very anxious to express his opinions somewhat at large upon this subject. He put no faith in this measure to arrest the downward course of the country. He believed the state of the currency was almost incurably bad, so that it was very doubtful whether the highest skill and wisdom could restore it to soundness; and it was destined, at no distant time, to undergo an entire revolution. An explosion he considered inevitable, and so much the greater, the longer it should be delayed. Mr. C. would have been glad to go over the whole subject; but as he was now unprepared to assign his reasons for the vote which he might give, he was unwilling to vote at all."

The explosion of the banks, which Mr. Calhoun considered inevitable, was an event so fully announced by its "shadow coming before," that Mr. Benton was astonished that so many senators could be blind to its approach, and willing, by law, to make their notes receivable in all payments to the federal government. The bill went to the House of Representatives, where a very important amendment was reported from the Committee of Ways and Means to which the bill had been referred, intended to preserve to the Secretary of the Treasury his control over the receivability of money for the public dues, so as to enable him to protect the constitutional currency and reject the notes of banks deemed by him to be unworthy of credit. That amendment was in these words, and its rejection goes to illustrate the character of the bill that was passed:

"*And be it further enacted*, That no part of this act shall be construed as repealing any existing law relative to the collection of the revenue from customs or public lands in the legal currency, or as substituting bank notes of any description as a lawful currency for coin, as provided in the constitution of the United States; nor to deprive the Secretary of the Treasury of the power to direct the collectors or receivers of the public revenue, whether derived from

duties, taxes, debts, or sales of the public lands, not to receive in payment, for any sum due to the United States, the notes of any bank or banks which the said Secretary may have reason to believe unworthy of credit, or which he apprehends may be compelled to suspend specie payments."

Mr. Cambreleng, chairman of the Committee of Ways and Means, in support of this amendment, said it had been reported for the purpose of preventing a misconstruction of the bill as it came from the Senate, and securing the public revenue from serious frauds, and asked for the yeas and nays. The amendment was cut off by a sustained call for the previous question; and the bill passed by a strong vote—143 to 59 The nays were:

Nays—Messrs. Ash, Barton, Bean, Beaumont, Black, Bockee, Boyd, Brown, Burns, Cambreleng, Chaney, Chapin, Coles, Cushman, Doubleday, Dromgoole, Efner, Fairfield, Farlin, Fry, Fuller, Galbraith, J. Hall, Hamer, Hardin, A. G. Harrison, Hawes, Holt, Huntington, Jarvis, C. Johnson, B. Jones, Lansing, J. Lee, Leonard, Logan, Loyall, A. Mann, W. Mason, M. Mason, McKay, McKeon, McLean, Page, Parks, F. Pierce, Joseph Reynolds, Rogers, Seymour, Shinn, Sickles, Smith, Taylor, Thomas, J. Thomson, Turrill, Vanderpoel, Ward, Wardwell—59.

It was near the end of the session before the bill passed the House of Representatives. It only got to the hands of the President in the afternoon of the day before the constitutional dissolution of the Congress. He might have retained it (for want of the ten days for consideration which the constitution allowed him), without assigning any reason to Congress for so doing; but he chose to assign a reason which, though good and valid in itself, may have been helped on to its conclusions by the evil tendencies of the measure. That reason was the ambiguous and equivocal character of the bill, and the diversity of interpretations which might be placed upon its provisions; and was contained in the following message to the Senate:

"The bill from the Senate entitled 'An act designating and limiting the funds receivable for the revenues of the United States', came to my hands yesterday, at two o'clock P. M. On perusing it, I found its provisions so complex and uncertain, that I deemed it necessary to obtain the opinion of the Attorney General of the United States on several important questions, touching its construction and effect, before I could decide on the disposition to be made of it. The Attorney General took up the subject immediately, and his reply was reported to me this day, at five o'clock P. M. As this officer, after a careful and laborious examination of the bill, and a distinct expression of his opinion on the points proposed to him, still came to the conclusion that the construction of the bill, should it become a law, would be yet a subject of much perplexity and doubt (a view of the bill entirely coincident with my own), and as I cannot think it proper, in a matter of such interest and of such constant application, to approve a bill so liable to diversity of interpretations, and more especially as I have not had time, amid the duties constantly pressing on me, to give the subject that deliberate consideration which its importance demands, I am constrained to retain the bill, without acting definitively thereon; and to the end that my reasons for this step may be fully understood. I shall cause this paper, with the opinion of the Attorney General, and the bill in question, to be deposited in the Department of State."

Thus the firmness of the President again saved the country from an immense calamity, and in a few months covered him with the plaudits of a preserved and grateful country.

156. Distribution Of Lands And Money—Various Propositions

The spirit of distribution, having got a taste of that feast in the insidious deposit bill at the preceding session, became ungovernable in its appetite for it at this session, and open and undisguised in its efforts to effect its objects. Within the first week of the meeting of Congress, Mr. Mercer, a representative from Virginia, moved a resolution that the Committee of Ways and Means be directed to bring in a bill to release the States from all obligation ever to return the dividends they should receive under the so-called deposit act. It was a bold movement, considering that the States had not yet received a dollar, and that it was addressed to the same members, sitting in the same chairs, who had enacted the measure under the character of a deposit, to be sacredly returned to the United States whenever desired; and under that character had gained over to the support of the act two classes of voters who could not otherwise have been obtained; namely, those who condemned the policy of distribution, and those who denied its constitutionality. Mr. Dunlap, of Tennessee, met Mr. Mercer's motion at the threshold—condemned it as an open conversion of deposit into distribution—as a breach of the condition on which the deposit was obtained—as unfit to be discussed; and moved that it be laid upon the table—a motion that precludes discussion, and brings on an immediate vote. Mr. Mercer asked for the yeas and nays, which being taken showed the astonishing spectacle of seventy-three members recording their names against the motion. The vote was 126 to 73. Simultaneously with Mr. Mercer's movement in the House to pull the mask from the deposit bill, and reveal it in its true character, was Mr. Clay's movement in the Senate to revive his land-money distribution bill, to give it immediate effect, and continue its operation for five years. In the first days of the session he gave notice of his intention to bring in his bill; and quickly followed up his notice with its actual introduction. On presenting the bill, he said it was due to the occasion to make some explanations: and thus went on to make them:

"The operation of the bill which had heretofore several times passed the Senate, and once the House, commenced on the last of December, 1822, and was to continue five years. It provided for a distribution of the nett proceeds of the public lands during that period, upon well-known principles. But the deposit act of the last session had disposed of so large a part of the divisible fund under the land bill, that he did not think it right, in the present state of the treasury, to give the bill—which he was about to apply for leave to introduce—that retrospective character. He had accordingly, in the draught which he was going to submit, made the last day of the present month its commencement, and the last day of the year 1841 its termination. If it should pass, therefore, in this shape, the period of its duration will be the same as that prescribed in the former bills. The Senate will readily comprehend the motive for fixing the end of the year 1841, as it is at that time that the biennial reductions of ten per cent. upon the existing duties cease, according to the act of the 2d March 1833, commonly called the compromise act, and a reduction of one half of the excess beyond twenty per cent. of any duty then remaining, is to take effect. By that time, a fair experiment of the land bill will have been made, and Congress can then determine whether the proceeds of the national domain shall continue to be equitably divided, or shall be applied to the current expenses of the government. The bill in his hand assigns to the new State of Arkansas her just proportion of the fund, and grants to her 500,000 acres of land as proposed to other States. A similar assignment and grant are not made to Michigan, because her admission into the Union is not yet complete. But when that event occurs, provision is made by which that State will

receive its fair dividend. He had restored, in this draught, the provision contained in the original plan for the distribution of the public lands, which he had presented to the Senate, by which the States, in the application of the fund, are restricted to the great objects of education, internal improvement, and colonization. Such a restriction would, he believed relieve the Legislatures of the several States from embarrassing controversies about the disposition of the fund, and would secure the application of what was common in its origin, to common benefits in its ultimate destination. But it was scarcely necessary for him to say that this provision, as well as the fate of the whole bill, depended upon the superior wisdom of the Senate and of the House. In all respects, other than those now particularly mentioned, the bill is exactly as it passed this body at the last session."

The bill was referred to the Committee on Public Lands, consisting of Mr. Walker of Mississippi, Mr. Ewing of Ohio, Mr. King of Alabama, Mr. Ruggles of Maine, Mr. Fulton of Arkansas. The committee returned the bill with an amendment, proposing to strike out the entire bill, and substitute for it a new one, to restrict the sale of the lands to actual settlers in limited quantities. In the course of the discussion of the bill, Mr. Benton offered an amendment, securing to any head of a family, any young man over the age of eighteen, and any widow, a settlement right in 160 acres at reduced prices, and inhabitation and cultivation for five years: which amendment was lost by a close vote—18 to 20. The yeas and nays were:

Yeas—Messrs. Benton, Black, Dana, Ewing of Illinois, Fulton, Hendricks, King of Alabama, Linn, Moore, Morris, Nicholas, Rives, Robinson, Sevier, Strange, Tipton, Walker, White—18.

Nays—Messrs. Bayard, Brown, Calhoun, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Hubbard, Kent, King of Georgia, Niles, Page, Prentiss, Robbins, Ruggles, Swift, Tallmadge, Wright—20.

The substitute reported by the committee on public lands, after an extended debate, and various motions of amendment, was put to the vote, and adopted—twenty-four to sixteen—the yeas and nays being:

Yeas—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Ewing of Illinois, Fulton, Grundy, Hendricks, Hubbard, King of Alabama, Linn, Lyon, Moore, Mouton, Nicholas, Niles, Norvell, Page, Rives, Robinson, Strange, Walker, Wright—24.

Nays—Messrs. Bayard, Calhoun, Davis, Ewing of Ohio, Kent, King of Georgia, Knight, Prentiss, Robbins, Sevier, Southard, Swift, Tomlinson, Wall, Webster, White—16.

So Mr. Clay's plan of a five years' open distribution of the land money to the States, in addition to the actual distribution, under the deposit mask, was now defeated in the Senate: but that did not put an end to kindred schemes. They multiplied in different forms; and continued to vex Congress to almost the last day of its existence. Mr. Calhoun brought a plan for the cession of all the public lands to the States in which they lay, to be sold by them on graduated prices, extending to thirty-five years, on condition that the States should take the expenses of the land system on themselves, and pay thirty-three and a third per centum, of the sales, to the federal treasury. Mr. Benton objected, on principle, to any complication of moneyed or property transactions between the States and the federal government, leading, as they inevitably would, to dissension and contention; and ending in controversies between the members and the head of the federal government: and, on detail, because the graduation was extended beyond a period when the new States would be strong enough to obtain better terms, without the complication of a contract, and the condition of a purchase. Within the thirty-five years, there would be three new apportionments of representatives, under the censuses of 1840, 1850, and 1860—doubling or trebling the new States' representation each

time; also several new States admitted; so that they would be strong enough to take effectual measures for the extinction of the federal titles within the States, on just and equitable principles. Mr. Buchanan openly assailed Mr. Calhoun's proposition as a bid for the presidency; and said:

"He had heard a great deal said about bribing the people with their own money; arguments of that kind had been reiterated, but they had never had much effect on him. But speaking on the same principles on which this had been said, and without intending any thing personal toward the honorable senator from South Carolina, he would say this was the most splendid bribe that had ever yet been offered. It was to give the entire public domain to the people of the new States, without fee or reward, and on the single condition that they should not bring all the land into market at once. It was the first time such a proposition had been brought forward for legislation; and he solemnly protested against the principle that Congress had any right, in equity or justice, to give what belonged to the entire people of the Union to the inhabitants of any State or States whatever. After warmly expressing his dissent to the amendment, Mr. B. said he hoped it would not receive the sanction of any considerable portion of the Senate."

Mr. Sevier of Arkansas, said it might be very true that presidential candidates would bid deep for the favor of the West; but that was no reason why the West should refuse a good offer, when made. Deeming this a good one, and beneficial to the new States, he was for taking it. Mr. Linn, of Missouri, objected to the proposition of Mr. Calhoun, as an amendment to the bill in favor of actual settlers (in which form it was offered), because it would be the occasion of losing both measures; and said:

"He might probably vote for it as an independent proposition, but could not as it now stood. He had set out with the determination to vote against every amendment which should be proposed, as the bill had once been nearly lost by the multiplication of them. If this amendment should be received, the residue of the session would be taken up in discussing it, and nothing would be done for his constituents. He wanted them to know that he had done his utmost, which was but little, to carry into effect their wishes, and to secure their best interests in the settlement of the new country. He was anxious to obtain the passage of an equitable pre-emption law, which should secure to them their homes, and not throw the country into the hands of great capitalists, as had been done in the case of the Holland Land Company, and thus retard the settlement of the West. As to the evasions of previous pre-emption laws, of which so much had been said, he believed they either had no existence in Missouri, or had been grossly exaggerated. In the course of his professional duty (Mr. Linn is a physician, in large practice), he had occasion to become extensively acquainted with the people concerning whom these things had been asserted (he referred to the emigrants who had settled in that State, under the pre-emption law of 1814), and he could say, nothing of the kind had fallen under his observation. They had come there, in most cases, poor, surrounded by all the evils and disadvantages of emigration to a new country; he had attended many of them in sickness; and he could truly aver that they were, as a whole, the best and most upright body of people he had ever known.

"Mr. L. said he was a practical man, though his temperament might be somewhat warm. He looked to things which were attainable, and in the near prospect of being obtained, rather than at those contingent and distant. Here was a bill, far advanced in the Senate, and, as he hoped, on the eve of passing. He believed it would secure a great good to his constituents; and he could not consent to risk that bill by accepting the amendment proposed by the senator from South Carolina. If the senator from Arkansas would let this go, he might possibly find that it was a better thing than he could ever get again. He wanted that Congress should so regulate the public lands, and so arrange the terms on which it was disposed of, as to furnish in the

West an opportunity for poor men to become rich, and every worthy and industrious man prosperous and happy."

Mr. Calhoun felt himself called upon to rise in defence of his proposition, and in vindication of his own motives in offering it; and did so, in a brief speech, saying:

"When the Senate had entered upon the present discussion, he had had little thought of offering a proposition like this. He had, indeed, always seen that there was a period coming when this government must cede to the new States the possession of their own soil; but he had never thought, till now, that period was so near. What he had seen this session, however, and especially the nature and character of the bill which was now likely to pass, had fully satisfied him that the time had arrived. There were at present eighteen senators from the new States. In four years, there would be six more, which would make twenty-four. All, therefore, must see that, in a very short period, those States would have this question in their own hands. And it had been openly said that they ought not to accept of the present proposition, because they would soon be able to get better terms. He thought, therefore, that, instead of attempting to resist any longer what must eventually happen, it would be better for all concerned that Congress should yield at once to the force of circumstances, and cede the public domain. His objects in this movement were high and solemn objects. He wished to break down the vassalage of the new States. He desired that this government should cease to hold the relation of a landlord. He wished, further, to draw this great fund out of the vortex of the presidential contest, with which it had openly been announced to the Senate there was an avowed design to connect it. He thought the country had been sufficiently agitated, corrupted, and debased, by the influence of that contest; and he wished to take this great engine out of the hands of power. If he were a candidate for the presidency, he would wish to leave it there. He wished to go further: he sought to remove the immense amount of patronage connected with the management of this domain—a patronage which had corrupted both the old and the new States to an enormous extent. He sought to counteract the centralism, which was the great danger of this government, and thereby to preserve the liberties of the people much longer than would otherwise be possible. As to what was to be received for these lands, he cared nothing about it. He would have consented at once to yield the whole, and withdraw altogether the landlordship of the general government over them, had he not believed that it would be most for the benefit of the new States themselves that it should continue somewhat longer. These were the views which had induced him to present the amendment. He offered no gilded pill. He threw in no apple of discord. He was no bidder for popularity. He prescribed to himself a more humble aim, which was simply to do his duty. He sought to counteract the corrupting tendency of the existing course of things. He sought to weaken this government by divesting it of at least a part of the immense patronage it wielded. He held that every great landed estate required a local administration, conducted by persons more intimately acquainted with local wants and interests than the members of a central government could possibly be. If any body asked him for a proof of the truth of his positions, he might point them to the bill now before the Senate. Such were the sentiments, shortly stated, which had governed him on this occasion. He had done his duty, and he must leave the result with God and with the new States."

Mr. Calhoun's proposition was then put to the vote, and almost unanimously rejected, only six senators besides himself voting for it; namely: Messrs. King of Georgia; Moore of Alabama; Morris of Ohio; Robinson of Illinois; Sevier of Arkansas; and White of Tennessee. And thus a third project of distribution (counting Mr. Mercer's motion as one), at this session, had miscarried. But it was not the end. Mr. Chilton Allen, representative from Kentucky, moved a direct distribution of land to the old States, equal in amount to the grants which had

been made to the new States. Mr. Abijah Mann, jr., of New York, strikingly exposed the injustice of this proposition, in a few brief remarks, saying:

"It must be apparent, by this time, that this proposition was neither more nor less than a new edition of the old and exploded idea of distributing the proceeds of the sales of the public lands, attempted to be concealed under rubbish and verbiage, and gilded over by the patriotic idea of applying it to the public education. Its paternity is suspicious, and its hope fallacious and delusive. The preamble to this resolution is illusory and deceptive, addressed to the cupidity of the old States represented on this floor. It recites the grants made by Congress to each of the new States of the public lands in the aggregate, without specifying the motive or consideration upon which they were made. Its argument is, that an equal quantity should be granted to the old States, to make them respectively equal sharers in the public lands. Now, sir (said Mr. M.), nothing could be devised more disingenuous and deceptive. Let us look at it briefly. The idea is, that the old States granted these lands to the new for an implied consideration, and resulting benefit to themselves; that it was a sort of Indian gift, to be refunded with increase. Not so, sir, at all. If Mr. M. understood the motives inducing those grants, they were paternal on the part of the old States; proceeding upon that generous and noble liberality which induces a wealthy father to advance and provide for his children. This was the moving consideration, though he (Mr. M.) was aware that the grants in aid of the improvements of the new States and territories were upon consideration of advancing the sale and improvement of the remaining lands in those States held by the United States."

The proposition of Mr. Allen was disposed of by a motion to lie on the table, which prevailed—one hundred and fourteen to eighty-one votes; but the end of these propositions was not yet. Another motion to divide surpluses was to be made, and was made in the expiring days of the session, and by way of amendment to the regular fortification bill. Mr. Bell, of Tennessee, moved, on the 25th of February, that a further deposit of all the public monies in the treasury on the first day of January, 1838, above the sum of five millions of dollars, should be "deposited" with the States, according to the terms of the "deposit" bill of the preceding session; and which would have the effect of making a second "deposit" after the completion of the first one. The argument for it was the same which had been used in the first case; the argument against it was the one previously used, with the addition of the objectionable proceeding of springing such a proposition at the end of the session, and as an amendment to a defence appropriation bill, on its passage; to which it was utterly incongruous, and must defeat; as, if it failed to sink the bill in one of the Houses, it must certainly be rejected by the President, who, it was now known, would not be cheated again with the word deposit. It was also opposed as an act of supererogation, as nobody could tell whether there would be any surplus a year hence; and further, it was opposed as an act of usurpation and an encroachment upon the authority of the ensuing Congress. A new Congress was to be elected, and to assemble before that time; the present Congress would expire in six days: and it was argued that it was neither right nor decent to anticipate their successors, and do what they, fresh from the people, might not do. Mr. Yell, of Arkansas, was the principal speaker against it; and said:

"I voted, Mr. Speaker, against the amendment proposed by the gentleman from Tennessee (Mr. Bell), because I am of opinion that this bill, if passed, and sanctioned by the President—and I trust that it never will receive the countenance of that distinguished man and illustrious statesman—will at once establish a system demoralizing and corrupting in its influences, and tend to the destruction of the sovereignty of the States, and render them dependant suppliants on the general government. This measure of distribution, since it has been a hobby-horse for gentlemen to ride on, has presented an anomalous spectacle! The time yet belongs to the history of this Congress, when honorable gentlemen, from the South and West, were daily

found arraying themselves against every species of unnecessary taxation, boldly avowing that they were opposed to any and all tariff systems which would yield a revenue beyond the actual wants and demands of the government. Such was their language but a few weeks or months ago; and, in proclaiming it, they struggled hard to excel each other in zeal and violence. And now, sir, what is the spectacle we behold? A system of distribution—another and a specious name for a system of *bribery* has been started; the hounds are in full cry; and the same honorable and patriotic gentlemen now step forward, and, at the watchword of 'put money in thy purse; aye, put money in thy purse,' vote for the distribution or bribery measure; the effect of which is to entail on this country a system of taxation and oppression, which has had no parallel since the days of the tea and ten-penny tax—two frightful measures of discord, which roused enfeebled colonies to rebellion, and led to the foundation of this mighty republic. But we are told, Mr. Speaker, that this proposed distribution is only for momentary duration; that it is necessary to relieve the Treasury of a redundant income, and that it will speedily be discontinued! Indeed, sir! What evidence have we of the fact? What evidence do we require to disprove the assertion? This scheme was commenced the last session; it has been introduced at this; and let me tell you, Mr. Speaker, it never will be abandoned so long as the high tariff party can wheedle the people with a siren lullaby, and cheat them out of their rights, by dazzling the vision with gold, and deluding the fancy by the attributes of sophistry. Depend upon it, sir, if this baleful system of distribution be not nipped in the bud, it will betray the people into submission by a species of taxation which no nation on earth should endure. Sir, continued Mr. Y., I enter my protest against a system of bargain and corruption, which is to be executed by parties of different political complexions, for the purpose of dividing the *spoils* which they have plundered from the people. If the sales of the public lands are to be continued for the benefit of the speculators who go to the West in multitudes for the purpose of *legally stealing* the lands and improvements of the people of the new States, I hope my constituents may know who it is that thus imposes upon them a system of *legalized fraud and oppression*. If, sir, my constituents are to be sacrificed by the maintenance of a system of persecution, got up and carried on for the purpose of filling the pockets of others to their ruin, I wish them to know who is the author of the enormity. I had hoped, Mr. Speaker, and that hope has not yet been abandoned, that if ever this branch of the government is bent on the destruction of the rights of the people, and a violation of the Constitution, there is yet one ordeal for it to pass where it may be shorn of its baneful aspect. And, Mr. Speaker, I trust in God that, in its passage through that ordeal, it will find a *quietus*."

Mr. Bell's motion succeeded. The second "deposit" act, by a vote of 112 to 70, was engrafted on the appropriation bill for completing and constructing fortifications; and, thus loaded, that bill went to the Senate. Being referred to the Committee on Finance, that committee directed their chairman, Mr. Wright of New-York, to move to strike it out. The motion was resisted by Mr. Calhoun, Mr. Clay, Mr. Webster, Mr. White of Tennessee, Mr. Ewing of Ohio, Crittenden, Preston, Southard, and Clayton; and supported by Messrs. Wright, Benton, Bedford Brown, Buchanan, Grundy, Niles of Connecticut, Rives, Strange of North Carolina: and being put to the vote, the motion was carried, and the "deposit" clause struck from the bill by a vote of 26 to 19. The yeas and nays were:

"Yeas—Messrs. Benton, Black, Brown, Cuthbert, Ewing of Illinois, Fulton, Grundy, Hubbard, King of Alabama, King of Georgia, Linn, Lyon, Nicholas, Niles, Norvell, Page, Parker, Rives, Ruggles, Sevier, Strange, Tallmadge, Walker, Wall, Wright—26.

"Nays—Messrs. Bayard, Calhoun, Clayton, Crittenden, Davis, Ewing of Ohio, Hendricks, Kent, Knight, Moore, Prentiss, Preston, Robbins, Southard, Spence, Swift, Tomlinson, Webster, White—19."

Being returned to the House, a motion was made to disagree to the Senate's amendment, and argued with great warmth on each side, the opponents to the "deposit" reminding its friends of the loss of a previous appropriation bill for fortifications; and warning them that their perseverance must now have the same effect, and operate a sacrifice of defence to the spirit of distribution: but all in vain. The motion to disagree was carried—110 to 94. The disputed clause then went through all the parliamentary forms known to the occasion. The Senate "insisted" on its amendment: a motion to "recede" was made and lost in the House: a motion to "adhere" was made, and prevailed: then the Senate "adhered": then a committee of "conference" was appointed, and they "disagreed." This being reported to the Houses, the bill fell—the fortification appropriations were lost: and in this direct issue between the plunder of the country, and the defence of the country, defence was beaten. Such was the deplorable progress which the spirit of distribution had made.

157. Military Academy: Its Riding-House

The annual appropriation bill for the support of this Academy contained a clause for the purchase of forty horses, “for instruction in light artillery and cavalry exercise;” and proposed ten thousand dollars for the purpose. This purchase was opposed, and the clause stricken out. The bill also contained a clause proposing thirty thousand dollars, in addition to the amount theretofore appropriated, for the erection of a building for “recitation and military exercises,” as the clause expressed itself. It was understood to be for the riding-house in bad weather. Mr. McKay, of North Carolina, moved to strike out the clause, upon the ground that military men ought to be inured to hardship, not pampered in effeminacy; and that, as war was carried on in the field, so young officers should be learned to ride in the open air, and on rough ground, and to be afraid of no weather. The clause was stricken out, but restored upon re-consideration; in opposition to which Mr. Smith, of Maine, was the principal speaker; and said:

“I beg leave to call the attention of the committee to the paragraph of this bill proposed to be stricken out. It is an appropriation of thirty thousand dollars, in addition to the amount already appropriated, for the erection of a building within which to exercise and drill the cadets at West Point. The gentleman from Pennsylvania [Mr. Ingersoll] who reported this bill, and who never engages himself in any subject without making himself entire master of all its parts, will do the committee the justice, I trust, to inform them, when he shall next take the floor, what the amount heretofore appropriated for this same building, in which to exercise the cadets, actually has been; that, if we decide on the propriety of having such a building, we may also know how much we have heretofore taken from the public Treasury for its erection, and to what sum the thirty thousand dollars now proposed will be an addition.

“The honorable gentleman from New-York [Mr. Cambreleng] says this proposed building is to protect the cadets during the inclemency of the winter season, when the snow is from two to six feet deep; and has urged upon the committee the extreme hardship of requiring the cadets to perform their exercises in the open air in such an inclement and cold region as that where West Point is situated. Sir, if the gentleman would extend his inquiries somewhat further North or East, he would find that at points where the winters are still more inclement than at West Point, and where the snow lies for months in succession from two to eight feet deep, a very large and useful and respectable portion of the citizens not only incur the snows and storms of winter by day without workshops or buildings to protect them, but actually pursue the business of months amid such snows and storms, without a roof, or board, or so much as a shingle to cover and protect them by either day or night, and do not dream of murmuring. But, forsooth, the young cadet at West Point, who goes there to acquire an education for himself, who is clothed and fed, and even paid for his time, by the government while acquiring his education, cannot endure the atmosphere of West Point, without a magnificent building to shield him during the few hours in the week, while in the act of being drilled, as part of his education! The government is called upon to appropriate thirty thousand dollars, in addition to what has already been appropriated for the purpose, to protect the young cadet, who is preparing to be a soldier, against this temporary and yet most salutary exposure, as I esteem it. Sir, is Congress prepared thus to pamper the effeminacy of these young gentlemen, at such an expense, too, upon the public Treasury? Is it not enough to educate them for nothing, and to pay them for their time while you are educating them, and that you provide for their comfortable subsistence, comfortable lodgings, and all the ordinary comforts, not to say numerous luxuries of life, without attempting to keep them for ever

within doors, to be raised like children? I am opposed to it; and I think, whenever the people of this nation shall be made acquainted with the fact, they too will be opposed to it.

"The gentleman from New-York says the exposure of the cadets is very great and that, among other duties, they are required to perform camp duties for three months in the year. It is true, sir, that the law of Congress imposes three months' camp duty upon the cadet. But the same tender spirit of guardianship which has suggested the expediency of housing the cadets from the atmosphere while performing their drill duties and exercises has in some way construed away one third of the law of Congress upon this subject; and, instead of three months' camp duty, as the law requires, the cadets are required, by the rules and regulations of the institution, to camp out only two months of the year; and for this purpose, sir, every species of camp utensils and camp furniture that government money can purchase is provided for them; and this same duty, thus pictured forth here by the gentleman from New-York as a severe hardship, is in fact so tempered to the cadets as to become a mere luxury—a matter of absolute preference among the cadets. The gentleman from New-York will find, by the rules and regulations of the Academy, the months of July and August, or of August and September, are selected for this camp duty: seasons of the year, sir, when it is absolutely a luxury and privilege for the cadets to leave their close quarters and confined rooms, to perform duty out door, and to spend the nights in their well-furnished camps. Sir, the hardships and exposures of the cadets are nothing compared with those of the generality of our fellow-citizens in the North, in their ordinary pursuits; and yet we are called upon to add to their luxuries—two hundred and fifty dollar horses to ride, splendid camp equipage to protect them from the dews and damp air of summer, and magnificent buildings to shield them in their winter exercises. I think it is high time for Congress, and for the people of this nation, to reflect seriously upon these matters, and to inquire with somewhat of particularity into the character of this institution.

"But the honorable gentleman from Pennsylvania (Mr. Ingersoll), has volunteered to put the reputation of the West Point Academy for morality in issue at this time, and sets it out in eloquent description, as pre-eminently pure and irreproachable in this respect.

"Sir, does not the honorable gentleman know that the history of this institution, within a few years back only, bears quite different testimony upon this subject? Does not the gentleman know the fact—a fact well substantiated by the Register of Debates in your library—that only a few years since the government was forced into the necessity of purchasing up, at an expense of ten thousand dollars, a neighboring tavern stand, as the only means of saving the institution from being overwhelmed and ruined by the gross immoralities of the cadets? Is not the gentleman aware that the whole argument urged to force and justify the government into this purchase was, that the moral power of the Academy was unequal to the counter influences of the neighboring tavern? And are we to be told, sir, that this institution stands forth in its history pre-eminently pure, and above comparison with the institutions that exist upon the private enterprise and munificence, and thirst for knowledge, that characterize our countrymen? I make these suggestions, and allude to these facts, not voluntarily, and from a wish to create a discussion upon either the merits or demerits of the Academy. When I made the proposition to strike from this bill the ten thousand dollars proposed to be appropriated for the purchase of horses, I neither intended nor desired to enter into a discussion of the institution. I have not now spoken, except upon the impulse given by the remarks of the gentlemen from New-York and Pennsylvania; and now, instead of going into the facts that do exist in relation to the Academy, I can assure gentlemen that I have but scarcely approached them. I have been willing, and am now willing, to have these facts brought to light at another time, and upon a proper occasion that will occur hereafter, and leave the people of this nation to judge of them dispassionately. A report upon the subject of this institution will be made

shortly, as the honorable gentleman from Kentucky (Mr. Hawes) has assured the house. From that report, all will be able to form an opinion as to the policy of the institution in its present shape and under its present discipline. That some grave objections exist to both its shape and discipline, I think all will agree. But I wish not to discuss either at this time. Let us know, however, and let the country know, something about the expensive buildings now in progress at West Point, before we conclude to add this further appropriation of thirty thousand dollars to the expenses of the institution; and, while I am up, I will call the attention of the honorable gentleman who reported this bill to another item in it, which embraces forage for horses among other matters, and I wish him to specify to the committee what proportion of the sum of over thirteen thousand dollars contained in this item, is based upon the supposed supply of forage. We have stricken out the appropriation for purchasing horses, and another part of the bill provides forage for the officers' horses; hence a portion of the item now adverted to should probably be stricken out."

The debate became spirited and discursive, grave and gay, and gave rise to some ridiculous suggestions, as that if it was necessary to protect these young officers from bad weather when exercising on horseback it ought to be done in no greater degree than young women are protected in like circumstances—parasols for the sun, umbrellas for rain, and pelisses for cold: which it was insisted would be a great economy. On the other hand it was insisted that riding-houses were appurtenant to the military colleges of Europe, and that fine riders were trained in these schools. The $30,000, in addition to previous appropriations for the same purpose, was granted; but has been found to be insufficient; and a late Board of Visitors, following the lead of the Superintendent of the Academy, and powerfully backed by the War Office, at Washington City, has earnestly recommended a further additional appropriation of $20,000, still further to improve the riding-house; on the ground that, "the room now used for the purpose is extremely dangerous to the lives and limbs of the cadets." This further accommodation is deemed indispensable to the proper teaching of the art of "equitation:" that is to say, to the art of riding on the back of a horse; and the Visitors recommend this accommodation to Congress, in the following pathetic terms: "The attention of the committee has been drawn to the consideration of the expediency of erecting a new building for cavalry exercise. We are aware that the subject has been before Congress, upon the recommendation of former boards of Visitors, and we cannot add to the force of the arguments made use of by them, in favor of the measure. We would regret to be compelled to believe that there is a greater indifference to the safety of human life and limb in this country than in most others. It is enough for us to say that, in the opinion of the Superintendent, the course of equitation cannot be properly taught without it, 'and that the room now used for the purpose is extremely dangerous to the lives and limbs of the cadets.' In this opinion, we entirely concur. The appropriation required for the erection of such a building will amount to some $20,000. We can hardly excuse ourselves, if we neglect to bring this subject, so far as we are able to do so, most emphatically to the notice of those who have the power, and, we doubt not, the disposition also, to remove the evil."

158. Salt Tax: Mr. Benton’s Fourth Speech Against It

The amount which this tax brings into the treasury is about 600,000 dollars, and that upon an article costing about 650,000 dollars; and one-half of the tax received goes to the fishing bounties and allowances founded upon it. So that what upon the record is a tax of about 100 per centum, is in the reality a tax of 200 per centum; and that upon an article of prime necessity and universal use, while we have articles of luxury and superfluity—wines, silks—either free of tax, or nominally taxed at some ten or twenty per centum. The bare statement of the case is revolting and mortifying; but it is only by looking into the detail of the tax—its amount upon different varieties of salt—its effect upon the trade and sale of the article—upon its importation and use—and the consequences upon the agriculture of the country, for want of adequate supplies of salt—that the weight of the tax, and the disastrous effects of its imposition, can be ascertained. To enable the Senate to judge of these effects and consequences, and to render my remarks more intelligible, I will read a table of the importation of salt for the year 1835—the last that has been made up—and which is known to be a fair index to the annual importations for many years past. With the number of bushels, and the name of the country from which the importations come, will be given the value of each parcel at the place it was obtained, and the original cost per bushel.

Statement of the quantity of Salt imported into the United States during the year 1835, with the value and cost thereof, per bushel, at the place from which it was imported:

Countries.

No. of bushels.

Cost p. bus.

Sweden and Norway,

8,556

$572

6 3-4

Swedish West Indies,

6,856

708

10 1-4

Danish West Indies,

2,351

386

16

Dutch West Indies,

141,566

12,967

9
England,
2,613,077
412,507
16 1-2
Ireland,
51,954
12,276
Gibraltar,
17,832
1,385
7 3-4
Malta,
1,500
118
7 3-4
British West Indies,
959,786
98,497
10
British Am. Colonies,
138,593
30,374
France on Mediterranean,
32,648
2,155
6 2-3
Spain on Atlantic,
360,140
16,760
4 3-4
Spain on Mediterran.,
101,000
5,443
5 1-3

Portugal,
780,000
55,087
7
Cape de Verd Islands,
8,134
751
9 1-10
Italy,
36,742
1,580
4 1-3
Sicily,
5,786
156
2 2-3
Trieste,
7,888
255
3 7-8
Turkey,
9,377
984
10 1-10
Colombia,
17,162
1,227
Brazil,
250
68
Argentine Republic,
402
41
Africa,
5,733

615

10 2-3

5,735,364

655,000

Mr. B. would remark that salt, being brought in ballast, the greatest quantity came from England, where we had the largest trade; and that its importation, with a tax upon it, being merely incidental to trade, this greatest quantity came from the place where it cost most, and was of far inferior kind. The salt from England was nearly one half of the whole quantity imported; its cost was about sixteen cents a bushel; and its quality was so inferior that neither in the United States, nor in Great Britain, could it be used for curing provisions, fish, butter, or any thing that required long keeping, or exposure to southern heats. This was the salt commonly called Liverpool. It was made by artificial heat, and never was, and never can be made pure, as the mere agitation of the boiling prevents the separation of the *bittern*, and other foreign and poisonous ingredients with which all salt water, and even mineral salt, is more or less impregnated. The other half of the imported salt costs far less than the English salt, and is infinitely superior to it; so far superior that the English salt will not even serve for a substitute in the important business of curing fish, and flesh, for long keeping, or southern exposure. This salt was made by the action of the sun in the latitudes approaching, and under the tropics. We begin to obtain it in the West Indies, and in large quantity on Turk's Island; and get it from all the islands and coasts, under the sun's track, from the Gulf of Mexico to the Black Sea. The Cape de Verd Islands, the Atlantic and Mediterranean coasts of Spain and Portugal, the Mediterranean coast of France, the two coasts of Italy, the islands in the Mediterranean, the coasts of the Adriatic, the Archipelago, up to the Black Sea, all produce it and send it to us. The table which has been read shows that the original cost of this salt—the purest and strongest in the world—is about nine or ten cents a bushel in the Gulf of Mexico; five, six and seven cents on the coasts of France, Spain and Portugal; three and four cents in Italy and the Adriatic; and less than three cents in Sicily. Yet all this salt bears one uniform duty; it was all twenty cents a bushel, and is now near ten cents a bushel; so that while the tax on the English salt is a little upwards of fifty per cent. on the value, the same tax on all the other salt is from one hundred to two hundred, and three hundred and near four hundred per cent. The sun-made salt is chiefly used in the Great West, in curing provisions; the Liverpool is chiefly used on the Atlantic coasts; and thus the people in different sections of the Union pay different degrees of tax upon the same articles, and that which costs least is taxed most. A tax ranging to some hundred per cent. is in itself an enormous tax; and thus the duty collected by the federal government from all the consumers of the sun-made salt, is in itself excessive; amounting, in many instances, to double, treble, or even quadruple the original cost of the article. This is an enormity of taxation which strikes the mind at the first blush; but, it is only the beginning of the enormity, the extent of which is only discoverable in tracing its effects to all their diversified and injurious consequences. In the first place, it checks and prevents the importation of the salt. Coming as ballast, and not as an article of commerce on which profit is to be made, the shipper cannot bring it except he is supplied with money to pay the duty, or surrenders it into the hands of salt dealers, on landing, to go his security for the payment of the duty. Thus, the importation of the article is itself checked; and this check operates with the greatest force in all cases where the original price of the salt was least; and, therefore, where it operates most injuriously to the country. In all such cases the tax operates as a prohibition to use salt as ballast, and checks its importation from all the places of its production nearest the sun's track, from the Gulf of Mexico to Constantinople. In the next place, the imposition of the tax throws the salt into the hands of an intermediate set

of dealers in the seaports, who either advance the duty, or go security for it, and who thus become possessed of nearly all the salt which is imported. A few persons employed in this business engross the salt, and fix the price for all in the market; and fix it higher or lower, not according to the cost of the article, but according to the necessities of the country, and the quantity on hand, and the season of the year. The prices at which they fix it are known to all purchasers, and may be seen in all prices-current. It is generally, in the case of alum salt, four, five, ten, or fifteen times as much as it cost. It is generally forty, or fifty, or sixty cents a bushel, and nearly the same price for all sorts, without any reference to the original cost, whether it cost three cents, or five cents, or ten cents, or fifteen cents a bushel. About one uniform price is put on the whole, and the purchaser has to submit to the imposition. This results from the effect of the tax, throwing the article, which is nothing but ballast, into the hands of salt dealers. The importer does not bring more money than the salt is worth, to pay the duty; he does not come prepared to pay a heavy duty on his ballast; he has to depend upon raising the money for paying the duty after he arrives in the United States; and this throws him into the hands of the salt dealer, and subjects the country purchaser to all the fair charges attending this change of hands, and this establishment of an intermediate dealer, who must have his profits; and also to all the additional exactions which he may choose to make. This should not be. There should be no costs, nor charges, nor intermediate profits, on such an article as salt. It comes as ballast; as ballast it should be handed out—should be handed from the ship to the steamboat—should escape port charges, and intermediate profits—and this would be the case, if the duty was abolished. Thus the charges, costs, profits, and exactions, in consequence of the tax, are greater than the tax itself! But this is not all—a further injury, resulting from the tax, is yet to be inflicted upon the consumer. It is well known that the measured bushel of alum salt, and all sun-made salt is alum salt—it is well known that a bushel of this salt weighs about eighty-four pounds; yet the custom-house bushel goes by weight, and not by measure, and fifty-six pounds is there the bushel. Thus the consumer, in consequence of having the salt sent through the custom-house, is shifted from the measured to the weighed bushel, and loses twenty-eight pounds by the operation! but this is not his whole loss; the intermediate salt dealer deducts six pounds more, and gives fifty pounds for the bushel; and thus this taxed and custom-housed article, after paying some hundred per cent. to the government and several hundred per cent. more to the regraters, is worked into a loss of thirty-four pounds on every bushel! All these losses and impositions would vanish, if salt was freed from the necessity of passing the custom-houses; and to do that, it must be freed *in toto* from taxation. The slightest duty would operate nearly the whole mischief, for it would throw the article into the hands of regraters, and would substitute the weighed for the measured bushel.

Such are the direct injuries of the salt tax; a tax enormous in itself, disproportionate in its application to the same article in different parts of the Union, and bearing hardest upon that kind which is cheapest, best, and most indispensable. The levy to the government is enormous, $650,000 per annum upon an article only worth about $600,000; but what the government receives is a trifle, compared to what is exacted by the regrater,—what is lost in the difference between the weighed and the measured bushel,—and the loss which the farmer sustains for want of adequate supplies of salt for his stock, and their food. Assuming the government tax to be ten cents a bushel, the average cost of alum salt to be seven cents, and the regrater's price to be fifty cents, and it is clear that he receives upwards of three times as much as the government does; and that the tribute to those regraters is near two millions of dollars per annum. Assuming again that thirty-four pounds in the bushel are lost to the consumer in the substitution of the weighed for the measured bushel, and here is another loss amounting to nearly three-eighths of the value of the salt; that is to say, to about $250,000 on an importation of $650,000 worth.

These detailed views of the operation and effects of the salt duty, continued Mr. B., place the burdens of that tax in the most odious and revolting light; but the picture is not yet complete; two other features are to be introduced into it, each of which, separately, and still more, both put together, go far to double its enormity, and to carry the iniquity of such a tax up to the very verge of criminality and sinfulness. The first of these features is, in the loss which the farmers sustain for want of adequate supplies of salt for their stock; and the second, from the fact that the duty is a one-sided tax, being imposed only on some sections of the Union, and not at all upon another section of the Union. A few details will verify these additional features. First, as to the loss which the country sustains for want of adequate supplies of salt. Every practical man knows that every description of stock requires salt—hogs, horses, cattle, sheep; and that all the prepared food of cattle requires it also—hay, fodder, clover, shucks, &c. In England it is ascertained, by experience, that sheep require, each, half a pound a week, which is twenty-eight pounds, or half a custom-house bushel, per annum; cows require a bushel and a half per annum; young cattle a bushel; draught horses, and draught cattle, a bushel; colts, and young cattle, from three pecks to a bushel each, per annum; and it was computed in England, before the abolition of the salt-tax there, that the stock of the English farmers, for want of adequate supplies of salt, was injured to an annual amount far beyond the product of the tax.

Dr. Young, before a committee of the British House of Commons, and upon oath, testified to his belief that the use of salt free of tax would benefit the agricultural interest, in the increased value of their stock alone, to the annual amount of three millions sterling, near fifteen millions of dollars. Such was the injury of the salt-tax in England to the agricultural interest in the single article of stock. What the injury might be to the agricultural interest in the United States on the same article, on account of the stinted use of salt occasioned by the tax, might be vaguely conceived from general observation and a few established facts. In the first place, it was known to every body that stock in our country was stinted for salt; that neither hogs, horses, cattle, or sheep, received any thing near the quantity found by experience to be necessary in England; and, as for their food, that little or no salt was put upon it in the United States; while in England, ten or fifteen pounds of salt to the ton of hay, clover, &c. was used in curing it. Taking a single branch of the stock of the United States, that of sheep, and more decided evidence of the deplorable deficiency of salt cannot be produced. The sheep in the United States were computed by the wool-growers, in 1832, in their petitions to Congress, at twenty millions; this number, at half a bushel each, would require about ten millions of bushels; now the whole supply of salt in the United States, both home-made and imported, barely exceeds ten millions; so that, if the sheep received an adequate supply, there would not remain a pound for any other purpose! Of course, the sheep did not receive an adequate supply, nor perhaps the fourth part of what was necessary; and so of all other stock. To give an opinion of the total loss to the agricultural interest in the United States for want of the free use of this article, would require the minute, comprehensive, sagacious, and peculiar turn of mind of Dr. Young; but it may be sufficient for the argument, and for all practical purposes, to assume that our loss, in proportion to the number of our stock, is greater than that of the English farmers, and amounts to fifteen or twenty times the value of the tax itself!

159. Expunging Resolution—Preparation For Decision

It was now the last session of the last term of the presidency of General Jackson, and the work of the American Senate doing justice to itself by undoing the wrong which it had done to itself in its condemnation of the President, was at hand. The appeal to the people had produced its full effect; and, in less time than had been expected. Confident from the beginning in the verdict of the people, the author of the movement had not counted upon its delivery until several years—probably until after the retirement of General Jackson, and until the subsidence of the passions which usually pursue a public man while he remains on the stage of action. Contrary to all expectation, the public mind was made up in less than three years, and before the termination of that second administration which was half run when the sentence of condemnation was passed. At the commencement of this session, 1836-'37, the public voice had come in, and in an imperative form. A majority of the States had acted decisively on the subject—some superseding their senators at the end of their terms who had given the obnoxious vote, and replacing them by those who would expunge it; others sending legislative instructions to their senators, which carried along with them, in the democratic States, the obligation of obedience or resignation; and of which it was known there were enough to obey to accomplish the desired expurgation. Great was the number superseded, or forced to resign. The great leaders, Mr. Clay, Mr. Webster, Mr. Calhoun, easily maintained themselves in their respective States; but the mortality fell heavily upon their followers, and left them in a helpless minority. The time had come for action; and on the second day after the meeting of the Senate, Mr. Benton gave notice of his intention to bring in at an early period the unwelcome resolution, and to press it to a decision. Heretofore he had introduced it without any view to action, but merely for an occasion for a speech, to go to the people; but the opposition, exulting in their strength, would of themselves call it up, against the wishes of the mover, to receive the rejection which they were able to give it. Now these dispositions were reversed; the mover was for decision—they for staving it off. On the 26th day of December—the third anniversary of the day on which Mr. Clay had moved the condemnatory resolution—Mr. Benton laid upon the table the resolve to expunge it—followed by his third and last speech on the subject. The following is the resolution; the speech constitutes the next chapter:

Resolution to expunge from the Journal the Resolution of the Senate of March 28, 1834, in relation to President Jackson and the Removal of the Deposits.

"Whereas, on the 26th day of December, in the year 1833, the following resolve was moved in the Senate:

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

"Which proposed resolve was altered and changed by the mover thereof, on the 28th day of March, in the year 1834, so as to read as follows:

"'*Resolved*, That, in taking upon himself the responsibility of removing the deposit of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.'

"Which resolve, so changed and modified by the mover thereof, on the same day and year last mentioned, was further altered, so as to read in these words:

"'*Resolved*, That the President, in the late executive proceedings in relation to the revenue has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both:'

"In which last mentioned form the said resolve, on the same day and year last mentioned, was adopted by the Senate, and became the act and judgment of that body, and, as such, now remains upon the journal thereof:

"And whereas the said resolve was not warranted by the constitution, and was irregularly and illegally adopted by the Senate, in violation of the rights of defence which belong to every citizen, and in subversion of the fundamental principles of law and justice; *because* President Jackson was thereby adjudged and pronounced to be guilty of an impeachable offence, and a stigma placed upon him as a violator of his oath of office, and of the laws and constitution which he was sworn to preserve, protect, and defend, *without* going through the forms of an impeachment, and without allowing to him the benefits of a trial, or the means of defence:

"And whereas the said resolve, in all its various shapes and forms, was unfounded and erroneous in point of fact, and therefore unjust and unrighteous, as well as irregular and unauthorized by the constitution; *because* the said President Jackson neither in the act of dismissing Mr. Duane, nor in the appointment of Mr. Taney, as specified in the first form of the resolve; nor in taking upon himself the responsibility of removing the deposits, as specified in the second form of the same resolve; nor in any act which was then, or can now, be specified under the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or in derogation of the laws and constitution; or dangerous to the liberties of the people:

"And whereas the said resolve, as adopted, was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and constitution, and assuming ungranted power and authority in the late executive proceedings in relation to the public revenue; *without* specifying what part of the executive proceedings, or what part of the public revenue was intended to be referred to; or what parts of the laws and constitution were supposed to have been infringed; or in what part of the Union, or at what period of his administration, these late proceedings were supposed to have taken place; *thereby* putting each senator at liberty to vote in favor of the resolve upon a separate and secret reason of his own, and leaving the ground of the Senate's judgment to be guessed at by the public, and to be differently and diversely interpreted by individual senators, according to the private and particular understanding of each: *contrary* to all the ends of justice, and to all the forms of legal or judicial proceeding; to the great prejudice of the accused, who could not know against what to defend himself; and to the loss of senatorial responsibility, by shielding senators from public accountability for making up a judgment upon grounds which the public cannot know, and which, if known, might prove to be insufficient in law, or unfounded in fact:

"And whereas the specification contained in the first and second forms of the resolve having been objected to in debate, and shown to be insufficient to sustain the charges they were adduced to support, and it being well believed that no majority could be obtained to vote for

the said specifications, and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon; the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal implication, secret intendment, or mental reservation, to remain and continue a part of the written and public resolve from which they were thus withdrawn; and, if they could be so admitted, they would not be sufficient to sustain the charges thereto contained:

"And whereas the Senate being the constitutional tribunal for the trial of the President, when charged by the House of Representatives with offences against the laws and the constitution, the adoption of the said resolve, before any impeachment preferred by the House, was a breach of the privileges of the House; not warranted by the constitution; a subversion of justice; a prejudication of a question which might legally come before the Senate; and a disqualification of that body to perform its constitutional duty with fairness and impartiality, if the President should thereafter be regularly impeached by the House of Representatives for the same offence:

"And whereas the temperate, respectful, and argumentative defence and protest of the President against the aforesaid proceeding of the Senate was rejected and repulsed by that body, and was voted to be a breach of its privileges, and was not permitted to be entered on its journal or printed among its documents; while all memorials, petitions, resolves, and remonstrances against the President, however violent or unfounded, and calculated to inflame the people against him, were duly and honorably received, encomiastically commented upon in speeches, read at the table, ordered to be printed with the long list of names attached, referred to the Finance Committee for consideration, filed away among the public archives, and now constitute a part of the public documents of the Senate, to be handed down to the latest posterity:

"And whereas the said resolve was introduced, debated, and adopted, at a time and under circumstances which had the effect of co-operating with the Bank of the United States in the parricidal attempt which that institution was then making to produce a panic and pressure in the country; to destroy the confidence of the people in President Jackson; to paralyze his administration; to govern the elections; to bankrupt the State banks; ruin their currency; fill the whole Union with terror and distress; and thereby to extort from the sufferings and the alarms of the people, the restoration of the deposits and the renewal of its charter:

"And whereas the said resolve is of evil example and dangerous precedent, and should never have been received, debated, or adopted by the Senate, or admitted to entry upon its journal: Wherefore,

"*Resolved*, That the said resolve be expunged from the journal; and, for that purpose, that the Secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript journal of the session 1833 '34 into the Senate, and, in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: 'Expunged by order of the Senate, this — day of ——, in the year of our Lord 1837.'"

160. Expunging Resolution.—Mr. Benton's Third Speech

Mr. President: It is now near three years since the resolve was adopted by the Senate, which it is my present motion to expunge from the journal. At the moment that this resolve was adopted, I gave notice of my intention to move to expunge it; and then expressed my confident belief that the motion would eventually prevail. That expression of confidence was not an ebullition of vanity, or a presumptuous calculation, intended to accelerate the event it affected to foretell. It was not a vain boast, or an idle assumption, but was the result of a deep conviction of the injustice done President Jackson, and a thorough reliance upon the justice of the American people. I felt that the President had been wronged; and my heart told me that this wrong would be redressed! The event proves that I was not mistaken. The question of expunging this resolution has been carried to the people, and their decision has been had upon it. They decide in favor of the expurgation; and their decision has been both made and manifested, and communicated to us in a great variety of ways. A great number of States have expressly instructed their senators to vote for this expurgation. A very great majority of the States have elected senators and representatives to Congress, upon the express ground of favoring this expurgation. The Bank of the United States, which took the initiative in the accusation against the President, and furnished the material, and worked the machinery which was used against him, and which was then so powerful on this floor, has become more and more odious to the public mind, and musters now but a slender phalanx of friends in the two Houses of Congress. The late Presidential election furnishes additional evidence of public sentiment. The candidate who was the friend of President Jackson, the supporter of his administration, and the avowed advocate for the expurgation, has received a large majority of the suffrages of the whole Union, and that after an express declaration of his sentiments on this precise point. The evidence of the public will, exhibited in all these forms, is too manifest to be mistaken, too explicit to require illustration, and too imperative to be disregarded. Omitting details and specific enumeration of proofs, I refer to our own files for the instructions to expunge,—to the complexion of the two Houses for the temper of the people,—to the denationalized condition of the Bank of the United States for the fate of the imperious accuser,—and to the issue of the Presidential election for the answer of the Union. All these are pregnant proofs of the public will, and the last pre-eminently so: because, both the question of the expurgation, and the form of the process, was directly put in issue upon it. A representative of the people from the State of Kentucky formally interrogated a prominent candidate for the Presidency on these points, and required from him a public answer for the information of the public mind. The answer was given, and published, and read by all the voters before the election; and I deem it right to refer to that answer in this place, not only as evidence of the points put in issue, but also for the purpose of doing more ample justice to President Jackson by incorporating into the legislative history of this case, the high and honorable testimony in his favor of the eminent citizen, Mr. Van Buren, who has just been exalted to the lofty honors of the American Presidency:

"Your last question seeks to know 'my' opinion as to the constitutional power of the Senate or House of Representatives to expunge or obliterate from the journals the proceedings of a previous session.

"You will, I am sure, be satisfied upon further consideration, that there are but few questions of a political character less connected with the duties of the office of President of the United States, or that might not with equal propriety be put by an elector to a candidate for that

station, than this. With the journals of neither house of Congress can he properly have any thing to do. But, as your question has doubtless been induced by the pendency of Col. Benton's resolutions, to expunge from the journals of the Senate certain other resolutions touching the official conduct of President Jackson, I prefer to say, that I regarded the passage of Col. Benton's preamble and resolutions to be an act of justice to a faithful and greatly injured public servant, not only constitutional in itself, but imperiously demanded by a proper respect for the well known will of the people."

I do not propose, sir, to draw violent, unwarranted, or strained inferences. I do not assume to say that the question of this expurgation was a leading, or a controlling point in the issue of this election. I do not assume to say, or insinuate, that every individual, and every voter, delivered his suffrage with reference to this question. Doubtless there were many exceptions. Still, the triumphant election of the candidate who had expressed himself in the terms just quoted, and who was, besides, the personal and political friend of President Jackson, and the avowed approver of his administration, must be admitted to a place among the proofs in this case, and ranked among the high concurring evidences of the public sentiment in favor of the motion which I make.

Assuming, then, that we have ascertained the will of the people on this great question, the inquiry presents itself, how far the expression of that will ought to be conclusive of our action here? I hold that it ought to be binding and obligatory upon us! and that, not only upon the principles of representative government, which requires obedience to the known will of the people, but also in conformity to the principles upon which the proceeding against President Jackson was conducted when the sentence against him was adopted. Then every thing was done with especial reference to the will of the people! Their impulsion was assumed to be the sole motive to action; and to them the ultimate verdict was expressly referred. The whole machinery of alarm and pressure—every engine of political and moneyed power—was put in motion, and worked for many months, to excite the people against the President; and to stir up meetings, memorials, petitions, travelling committees, and distress deputations against him; and each symptom of popular discontent was hailed as an evidence of public will, and quoted here as proof that the people demanded the condemnation of the President. Not only legislative assemblies, and memorials from large assemblies, were then produced here as evidence of public opinion, but the petitions of boys under age, the remonstrances of a few signers, and the results of the most inconsiderable elections, were ostentatiously paraded and magnified, as the evidence of the sovereign will of our constituents. Thus, sir, the public voice was every thing while that voice, partially obtained through political and pecuniary machinations, was adverse to the President. Then the popular will was the shrine at which all worshipped. Now, when that will is regularly, soberly, repeatedly, and almost universally expressed through the ballot boxes, at the various elections, and turns out to be in favor of the President, certainly no one can disregard it, nor otherwise look at it than as the solemn verdict of the competent and ultimate tribunal upon an issue fairly made up, fully argued, and duly submitted for decision. As such verdict, I receive it. As the deliberate verdict of the sovereign people, I bow to it. I am content. I do not mean to reopen the case, nor to recommence the argument. I leave that work to others, if any others choose to perform it. For myself, I am content; and, dispensing with further argument, I shall call for judgment, and ask to have execution done, upon that unhappy journal, which the verdict of millions of freemen finds guilty of bearing on its face an untrue, illegal, and unconstitutional sentence of condemnation against the approved President of the Republic.

But, while declining to reopen the argument of this question, and refusing to tread over again the ground already traversed, there is another and a different task to perform; one which the approaching termination of President Jackson's administration makes peculiarly proper at this

time, and which it is my privilege, and perhaps my duty, to execute, as being the suitable conclusion to the arduous contest in which we have been so long engaged; I allude to the general tenor of his administration, and to its effect, for good or for evil, upon the condition of his country. This is the proper time for such a view to be taken. The political existence of this great man now draws to a close. In little more than forty days he ceases to be a public character. In a few brief weeks he ceases to be an object of political hope to any, and should cease to be an object of political hate, or envy, to all. Whatever of motive the servile and timeserving might have found in his exalted station for raising the altar of adulation, and burning the incense of praise before him, that motive can no longer exist. The dispenser of the patronage of an empire—the chief of this great confederacy of States—is soon to be a private individual, stripped of all power to reward, or to punish. His own thoughts, as he has shown us in the concluding paragraph of that message which is to be the last of its kind that we shall ever receive from him, are directed to that beloved retirement from which he was drawn by the voice of millions of freemen, and to which he now looks for that interval of repose which age and infirmities require. Under these circumstances, he ceases to be a subject for the ebullition of the passions, and passes into a character for the contemplation of history. Historically, then, shall I view him; and limiting this view to his civil administration. I demand, where is there a chief magistrate of whom so much evil has been predicted, and from whom so much good has come? Never has any man entered upon the chief magistracy of a country under such appalling predictions of ruin and woe! never has any one been so pursued with direful prognostications! never has any one been so beset and impeded by a powerful combination of political and moneyed confederates! never has any one in any country where the administration of justice has risen above the knife or the bowstring, been so lawlessly and shamelessly tried and condemned by rivals and enemies, without hearing, without defence, without the forms of law or justice! History has been ransacked to find examples of tyrants sufficiently odious to illustrate him by comparison. Language has been tortured to find epithets sufficiently strong to paint him in description. Imagination has been exhausted in her efforts to deck him with revolting and inhuman attributes. Tyrant, despot, usurper; destroyer of the liberties of his country; rash, ignorant, imbecile; endangering the public peace with all foreign nations; destroying domestic prosperity at home; ruining all industry, all commerce, all manufactures; annihilating confidence between man and man; delivering up the streets of populous cities to grass and weeds, and the wharves of commercial towns to the encumbrance of decaying vessels; depriving labor of all reward; depriving industry of all employment; destroying the currency; plunging an innocent and happy people from the summit of felicity to the depths of misery, want, and despair. Such is the faint outline, followed up by actual condemnation, of the appalling denunciations daily uttered against this one MAN, from the moment he became an object of political competition, down to the concluding moment of his political existence.

“The sacred voice of inspiration has told us that there is a time for all things. There certainly has been a time for every evil that human nature admits of to be vaticinated of President Jackson’s administration; equally certain the time has now come for all rational and well-disposed people to compare the predictions with the facts, and to ask themselves if these calamitous prognostications have been verified by events? Have we peace, or war, with foreign nations? Certainly, we have peace with all the world! peace with all its benign, and felicitous, and beneficent influences! Are we respected, or despised abroad? Certainly the American name never was more honored throughout the four quarters of the globe, than in this very moment. Do we hear of indignity, or outrage in any quarter? of merchants robbed in foreign ports? of vessels searched on the high seas? of American citizens impressed into foreign service? of the national flag insulted any where? On the contrary, we see former wrongs repaired; no new ones inflicted. France pays twenty-five millions of francs for

spoliations committed thirty years ago; Naples pays two millions one hundred thousand ducats for wrongs of the same date; Denmark pays six hundred and fifty thousand rix dollars for wrongs done a quarter of a century ago; Spain engages to pay twelve millions of reals vellon for injuries of fifteen years date; and Portugal, the last in the list of former aggressors, admits her liability, and only waits the adjustment of details to close her account by adequate indemnity. So far from war, insult, contempt, and spoliation from abroad; this denounced administration has been the season of peace and good will, and the auspicious era of universal reparation. So far from suffering injury at the hands of foreign powers, our merchants have received indemnities for all former injuries. It has been the day of accounting, of settlement, and of retribution. The total list of arrearages, extending through four successive previous administrations, has been closed and settled up. The wrongs done to commerce for thirty years back, and under so many different Presidents, and indemnities withheld from all, have been repaired and paid over under the beneficent and glorious administration of President Jackson. But one single instance of outrage has occurred, and that at the extremities of the world, and by a piratical horde, amenable to no law but the law of force. The Malays of Sumatra committed a robbery and massacre upon an American vessel. Wretches! they did not then know that JACKSON was President of the United States! and that no distance, no time, no idle ceremonial of treating with robbers and assassins, was to hold back the arm of justice. Commodore Downes went out. His cannon and his bayonets struck the outlaws in their den. They paid in terror and in blood for the outrage which was committed; and the great lesson was taught to these distant pirates—to our antipodes themselves—that not even the entire diameter of this globe could protect them! and that the name of American citizen, like that of Roman citizen in the great days of the Republic and of the empire, was to be the inviolable passport of all that wore it throughout the whole extent of the habitable world.

“At home, the most gratifying picture presents itself to the view: the public debt paid off; taxes reduced one half; the completion of the public defences systematically commenced; the compact with Georgia, uncomplied with since 1802, now carried into effect, and her soil ready to be freed, as her jurisdiction has been delivered, from the presence and encumbrance of an Indian population. Mississippi and Alabama, Georgia, Tennessee, and North Carolina; Ohio, Indiana, Illinois, Missouri, and Arkansas; in a word, all the States encumbered with an Indian population have been relieved from that encumbrance; and the Indians themselves have been transferred to new and permanent homes, every way better adapted to the enjoyment of their existence, the preservation of their rights, and the improvement of their condition.

“The currency is not ruined! On the contrary, seventy-five millions of specie in the country is a spectacle never seen before, and is the barrier of the people against the designs of any banks which may attempt to suspend payments, and to force a dishonored paper currency upon the community. These seventy-five millions are the security of the people against the dangers of a depreciated and inconvertible paper money. Gold, after a disappearance of thirty years, is restored to our country. All Europe beholds with admiration the success of our efforts in three years, to supply ourselves with the currency which our constitution guarantees, and which the example of France and Holland shows to be so easily attainable, and of such incalculable value to industry, morals, economy, and solid wealth. The success of these efforts is styled in the best London papers, not merely a reformation, but a revolution in the currency! a revolution by which our America is now regaining from Europe the gold and silver which she has been sending to it for thirty years past.”

Domestic industry is not paralyzed; confidence is not destroyed; factories are not stopped; workmen are not mendicants for bread and employment; credit is not extinguished; prices have not sunk; grass is not growing in the streets of populous cities; the wharves are not

lumbered with decaying vessels; columns of curses, rising from the bosoms of a ruined and agonized people, are not ascending to heaven against the destroyer of a nation's felicity and prosperity. On the contrary, the reverse of all this is true! and true to a degree that astonishes and bewilders the senses. I know that all is not gold that glitters; that there is a difference between a specious and a solid prosperity. I know that a part of the present prosperity is apparent only—the effect of an increase of fifty millions of paper money, forced into circulation by one thousand banks; but, after making due allowance for this fictitious and delusive excess, the real prosperity of the country is still unprecedentedly and transcendently great. I know that every flow must be followed by its ebb, that every expansion must be followed by its contraction. I know that a revulsion of the paper system is inevitable; but I know, also, that these seventy-five millions of gold and silver is the bulwark of the country, and will enable every honest bank to meet its liabilities, and every prudent citizen to take care of himself.

Turning to some points in the civil administration of President Jackson, and how much do we not find to admire! The great cause of the constitution has been vindicated from an imputation of more than forty years' duration. He has demonstrated, by the fact itself, that a national bank is not 'necessary' to the fiscal operations of the federal government; and in that demonstration he has upset the argument of General Hamilton, and the decision of the Supreme Court of the United States, and all that ever has been said in favor of the constitutionality of a national bank. All this argument and decision rested on the single assumption of the 'necessity' of that institution to the federal government. He has shown it is not 'necessary;' that the currency of the constitution, and especially a gold currency, is all that the federal government wants, and that she can get that whenever she pleases. In this single act, he has vindicated the constitution from an unjust imputation, and knocked from under the decision of the Supreme Court the assumed fact on which it rested. He has prepared the way for the reversal of that decision; and it is a question for lawyers to answer, whether the case is not ripe for the application of that writ of most remedial nature, as Lord Coke calls it, and which was invented, lest, in any case, there should be an oppressive defect of justice! the venerable writ of *audita querela defendentis*, to ascertain the truth of a fact happening since the judgment; and upon the due finding of which the judgment will be vacated. Let the lawyers bring their books, and answer us, if there is not a case here presented for the application of that ancient and most remedial writ?

From President Jackson, the country has first learned the true theory and practical intent of the constitution, in giving to the Executive a qualified negative on the legislative power of Congress. Far from being an odious, dangerous, or kingly prerogative, this power, as vested in the President, is nothing but a qualified copy of the famous veto power vested in the tribunes of the people among the Romans, and intended to suspend the passage of a law until the people themselves should have time to consider it. The qualified veto of the President destroys nothing; it only delays the passage of a law, and refers it to the people for their consideration and decision. It is the reference of a law, not to a committee of the House, or of the whole House, but to the committee of the whole Union. It is a recommitment of the bill to the people, for them to examine and consider; and if, upon this examination, they are content to pass it, it will pass at the next session. The delay of a few months is the only effect of a veto, in a case where the people shall ultimately approve a law; where they do not approve it, the interposition of the veto is the barrier which saves them the adoption of a law, the repeal of which might afterwards be almost impossible. The qualified negative is, therefore, a beneficent power, intended, as General Hamilton expressly declares in the 'Federalist,' to protect, first, the executive department from the encroachments of the legislative department; and, secondly, to preserve the people from hasty, dangerous, or criminal legislation on the

part of their representatives. This is the design and intention of the veto power; and the fear expressed by General Hamilton was, that Presidents, so far from exercising it too often, would not exercise it as often as the safety of the people required; that they might lack the moral courage to stake themselves in opposition to a favorite measure of the majority of the two Houses of Congress; and thus deprive the people, in many instances, of their right to pass upon a bill before it becomes a final law. The cases in which President Jackson has exercised the veto power has shown the soundness of these observations. No ordinary President would have staked himself against the Bank of the United States, and the two Houses of Congress, in 1832. It required President Jackson to confront that power—to stem that torrent—to stay the progress of that charter, and to refer it to the people for their decision. His moral courage was equal to the crisis. He arrested the charter until it could go to the people, and they have arrested it for ever. Had he not done so, the charter would have become law, and its repeal almost impossible. The people of the whole Union would now have been in the condition of the people of Pennsylvania, bestrode by the monster, in daily conflict with him, and maintaining a doubtful contest for supremacy between the government of a State and the directory of a moneyed corporation.

To detail specific acts which adorn the administration of President Jackson, and illustrate the intuitive sagacity of his intellect, the firmness of his mind, his disregard of personal popularity, and his entire devotion to the public good, would be inconsistent with this rapid sketch, intended merely to present general views, and not to detail single actions, howsoever worthy they may be of a splendid page in the volume of history. But how can we pass over the great measure of the removal of the public moneys from the Bank of the United States, in the autumn of 1833? that wise, heroic, and masterly measure of prevention, which has rescued an empire from the fangs of a merciless, revengeful, greedy, insatiate, implacable, moneyed power! It is a remark for which I am indebted to the philosophic observation of my most esteemed colleague and friend (pointing to Dr. Linn), that, while it requires far greater talent to foresee an evil before it happens, and to arrest it by precautionary measures, than it requires to apply an adequate remedy to the same evil after it has happened, yet the applause bestowed by the world is always greatest in the latter case. Of this, the removal of the public moneys from the Bank of the United States is an eminent instance. The veto of 1832, which arrested the charter which Congress had granted, immediately received the applause and approbation of a majority of the Union: the removal of the deposits, which prevented the bank from forcing a recharter, was disapproved by a large majority of the country, and even of his own friends; yet the veto would have been unavailing, and the bank would inevitably have been rechartered, if the deposits had not been removed. The immense sums of public money since accumulated would have enabled the bank, if she had retained the possession of it, to have coerced a recharter. Nothing but the removal could have prevented her from extorting a recharter from the sufferings and terrors of the people. If it had not been for that measure, the previous veto would have been unavailing; the bank would have been again installed in power; and this entire federal government would have been held as an appendage to that bank; and administered according to her directions, and by her nominees. That great measure of prevention, the removal of the deposits, though feebly and faintly supported by friends at first, has expelled the bank from the field, and driven her into abeyance under a State charter. She is not dead, but, holding her capital and stockholders together under a State charter, she has taken a position to watch events, and to profit by them. The royal tiger has gone into the jungle; and, crouched on his belly, he awaits the favorable moment for emerging from his covert, and springing on the body of the unsuspicious traveller!

The Treasury order for excluding paper money from the land offices is another wise measure, originating in enlightened forecast, and preventing great mischiefs. The President foresaw the

evils of suffering a thousand streams of paper money, issuing from a thousand different banks, to discharge themselves on the national domain. He foresaw that if these currents were allowed to run their course, that the public lands would be swept away, the Treasury would be filled with irredeemable paper, a vast number of banks must be broken by their folly, and the cry set up that nothing but a national bank could regulate the currency. He stopped the course of these streams of paper; and, in so doing, has saved the country from a great calamity, and excited anew the machinations of those whose schemes of gain and mischief have been disappointed; and who had counted on a new edition of panic and pressure, and again saluting Congress with the old story of confidence destroyed, currency ruined, prosperity annihilated, and distress produced, by the tyranny of one man. They began their lugubrious song; but ridicule and contempt have proved too strong for money and insolence; and the panic letter of the ex-president of the denationalized bank, after limping about for a few days, has shrunk from the lash of public scorn, and disappeared from the forum of public debate.

The difficulty with France: what an instance it presents of the superior sagacity of President Jackson over all the commonplace politicians who beset and impede his administration at home! That difficulty, inflamed and aggravated by domestic faction, wore, at one time, a portentous aspect; the skill, firmness, elevation of purpose, and manly frankness of the President, avoided the danger, accomplished the object, commanded the admiration of Europe, and retained the friendship of France. He conducted the delicate affair to a successful and mutually honorable issue. All is amicably and happily terminated, leaving not a wound, nor even a scar, behind—leaving the Frenchman and American on the ground on which they have stood for fifty years, and should for ever stand; the ground of friendship, respect, good will, and mutual wishes for the honor, happiness, and prosperity, of each other.

But why this specification? So beneficent and so glorious has been the administration of this President, that where to begin, and where to end, in the enumeration of great measures, would be the embarrassment of him who has his eulogy to make. He came into office the first of generals; he goes out the first of statesmen. His civil competitors have shared the fate of his military opponents; and Washington city has been to the American politicians who have assailed him, what New Orleans was to the British generals who attacked his lines. Repulsed! driven back! discomfited! crushed! has been the fate of all assailants, foreign and domestic, civil and military. At home and abroad, the impress of his genius and of his character is felt. He has impressed upon the age in which he lives the stamp of his arms, of his diplomacy, and of his domestic policy. In a word, so transcendent have been the merits of his administration, that they have operated a miracle upon the minds of his most inveterate opponents. He has expunged their objections to military chieftains! He has shown them that they were mistaken; that military men were not the dangerous rulers they had imagined, but safe and prosperous conductors of the vessel of state. He has changed their fear into love. With visible signs they admit their error, and, instead of deprecating, they now invoke the reign of chieftains. They labored hard to procure a military successor to the present incumbent; and if their love goes on increasing at the same rate, the republic may be put to the expense of periodical wars, to breed a perpetual succession of these chieftains to rule over them and their posterity for ever.

To drop this irony, which the inconsistency of mad opponents has provoked, and to return to the plain delineations of historical painting, the mind instinctively dwells on the vast and unprecedented popularity of this President. Great is the influence, great the power, greater than any man ever before possessed in our America, which he has acquired over the public mind. And how has he acquired it? Not by the arts of intrigue, or the juggling tricks of diplomacy; not by undermining rivals, or sacrificing public interests for the gratification of classes or individuals. But he has acquired it, first, by the exercise of an intuitive sagacity

which, leaving all book learning at an immeasurable distance behind, has always enabled him to adopt the right remedy, at the right time, and to conquer soonest when the men of forms and office thought him most near to ruin and despair. Next, by a moral courage which knew no fear when the public good beckoned him to go on. Last, and chiefest, he has acquired it by an open honesty of purpose, which knew no concealments; by a straightforwardness of action, which disdained the forms of office and the arts of intrigue; by a disinterestedness of motive, which knew no selfish or sordid calculation; a devotedness of patriotism, which staked every thing personal on the issue of every measure which the public welfare required him to adopt. By these qualities, and these means, he has acquired his prodigious popularity, and his transcendent influence over the public mind; and if there are any who envy that influence and popularity, let them envy, also, and emulate, if they can, the qualities and means by which they were acquired.

Great has been the opposition to President Jackson's administration; greater, perhaps, than ever has been exhibited against any government, short of actual insurrection and forcible resistance. Revolution has been proclaimed! and every thing has been done that could be expected to produce revolution. The country has been alarmed, agitated, convulsed. From the Senate chamber to the village bar-room, from one end of the continent to the other, denunciation, agitation, excitement, has been the order of the day. For eight years the President of this republic has stood upon a volcano, vomiting fire and flames upon him, and threatening the country itself with ruin and desolation, if the people did not expel the usurper, despot, and tyrant, as he was called, from the high place to which the suffrages of millions of freemen had elevated him.

Great is the confidence which he has always reposed in the discernment and equity of the American people. I have been accustomed to see him for many years, and under many discouraging trials; but never saw him doubt, for an instant, the ultimate support of the people. It was my privilege to see him often, and during the most gloomy period of the panic conspiracy, when the whole earth seemed to be in commotion against him, and when many friends were faltering, and stout hearts were quailing, before the raging storm which bank machination, and senatorial denunciation, had conjured up to overwhelm him. I saw him in the darkest moments of this gloomy period; and never did I see his confidence in the ultimate support of his fellow-citizens forsake him for an instant. He always said the people would stand by those who stand by them; and nobly have they justified that confidence! That verdict, the voice of millions, which now demands the expurgation of that sentence, which the Senate and the bank then pronounced upon him, is the magnificent response of the people's hearts to the implicit confidence which he then reposed in them. But it was not in the people only that he had confidence; there was another, and a far higher Power, to which he constantly looked to save the country, and its defenders, from every danger; and signal events prove that he did not look to that high Power in vain.

Sir, I think it right, in approaching the termination of this great question, to present this faint and rapid sketch of the brilliant, beneficent, and glorious administration of President Jackson. It is not for me to attempt to do it justice; it is not for ordinary men to attempt its history. His military life, resplendent with dazzling events, will demand the pen of a nervous writer; his civil administration, replete with scenes which have called into action so many and such various passions of the human heart, and which has given to native sagacity so many victories over practised politicians, will require the profound, luminous, and philosophical conceptions of a Livy, a Plutarch, or a Sallust. This history is not to be written in our day. The cotemporaries of such events are not the hands to describe them. Time must first do its office—must silence the passions, remove the actors, develope consequences, and canonize all that is sacred to honor, patriotism, and glory. In after ages the historic genius of our

America shall produce the writers which the subject demands—men far removed from the contests of this day, who will know how to estimate this great epoch, and how to acquire an immortality for their own names by painting, with a master's hand, the immortal events of the patriot President's life.

And now, sir, I finish the task which, three years ago, I imposed on myself. Solitary and alone, and amidst the jeers and taunts of my opponents, I put this ball in motion. The people have taken it up, and rolled it forward, and I am no longer any thing but a unit in the vast mass which now propels it. In the name of that mass I speak. I demand the execution of the edict of the people; I demand the expurgation of that sentence which the voice of a few senators, and the power of their confederate, the Bank of the United States, has caused to be placed on the journal of the Senate; and which the voice of millions of freemen has ordered to be expunged from it.

161. Expunging Resolution: Mr. Clay, Mr. Calhoun, Mr. Webster: Last Scene: Resolution Passed, And Executed

Saturday, the 14th of January, the democratic senators agreed to have a meeting, and to take their final measures for passing the expunging resolution. They knew they had the numbers; but they also knew that they had adversaries to grapple with to whom might be applied the proud motto of Louis the Fourteenth: “Not an unequal match for numbers.” They also knew that members of the party were in the process of separating from it, and would require conciliating. They met in the night at the then famous restaurant of Boulanger, giving to the assemblage the air of a convivial entertainment. It continued till midnight, and required all the moderation, tact and skill of the prime movers to obtain and maintain the union upon details, on the success of which the fate of the measure depended. The men of conciliation were to be the efficient men of that night; and all the winning resources of Wright, Allen of Ohio and Linn of Missouri, were put into requisition. There were serious differences upon the mode of expurgation, while agreed upon the thing; and finally obliteration, the favorite of the mover, was given up; and the mode of expurgation adopted which had been proposed in the resolutions of the General Assembly of Virginia; namely, to inclose the obnoxious sentence in a square of black lines—an oblong square: a compromise of opinions to which the mover agreed upon condition of being allowed to compose the epitaph—”Expunged by the order of the Senate.” The agreement which was to lead to victory was then adopted, each one severally pledging himself to it, that there should be no adjournment of the Senate after the resolution was called until it was passed; and that it should be called immediately after the morning business the Monday ensuing. Expecting a protracted session, extending through the day and night, and knowing the difficulty of keeping men steady to their work and in good humor, when tired and hungry, the mover of the proceeding took care to provide, as far as possible, against such a state of things; and gave orders that night to have an ample supply of cold hams, turkeys, rounds of beef, pickles, wines and cups of hot coffee, ready in a certain committee room near the Senate chamber by four o’clock on the afternoon of Monday.

The motion to take up the subject was made at the appointed time, and immediately a debate of long speeches, chiefly on the other side, opened itself upon the question. It was evident that consumption of time, delay and adjournment, was their plan. The three great leaders did not join in the opening; but their place was well supplied by many of their friends, able speakers—some effective, some eloquent: Preston of South Carolina; Richard H. Bayard and John M. Clayton of Delaware; Crittenden of Kentucky; Southard of New Jersey; White of Tennessee; Ewing of Ohio. They were only the half in number, but strong in zeal and ability, that commenced the contest three years before, reinforced by Mr. White of Tennessee. As the darkness of approaching night came on, and the great chandelier was lit up, splendidly illuminating the chamber, then crowded with the members of the House, and the lobbies and galleries filled to their utmost capacity by visitors and spectators, the scene became grand and impressive. A few spoke on the side of the resolution—chiefly Rives, Buchanan, Niles—and with an air of ease and satisfaction that bespoke a quiet determination, and a consciousness of victory. The committee room had been resorted to in parties of four and six at a time, always leaving enough on watch: and not resorted to by one side alone. The opposition were invited to a full participation—an invitation of which those who were able to maintain their good temper readily availed themselves; but the greater part were not in a humor to eat any thing—

especially at such a feast. The night was wearing away: the expungers were in full force—masters of the chamber—happy—and visibly determined to remain. It became evident to the great opposition leaders that the inevitable hour had come: that the damnable deed was to be done that night: and that the dignity of silence was no longer to them a tenable position. The battle was going against them, and they must go into it, without being able to re-establish it. In the beginning, they had not considered the expunging movement a serious proceeding: as it advanced they still expected it to miscarry on some point: now the reality of the thing stood before them, confronting their presence, and refusing to "down" at any command. They broke silence, and gave vent to language which bespoke the agony of their feelings, and betrayed the revulsion of stomach with which they approached the odious subject. Mr. Calhoun said:

"No one, not blinded by party zeal, can possibly be insensible that the measure proposed is a violation of the constitution. The constitution requires the Senate to keep a journal; this resolution goes to expunge the journal. If you may expunge a part, you may expunge the whole; and if it is expunged, how is it kept? The constitution says the journal shall be kept; this resolution says it shall be destroyed. It does the very thing which the constitution declares shall not be done. That is the argument, the whole argument. There is none other. Talk of precedents? and precedents drawn from a foreign country? They don't apply. No, sir. This is to be done, not in consequence of argument, but in spite of argument. I understand the case. I know perfectly well the gentlemen have no liberty to vote otherwise. They are coerced by an exterior power. They try, indeed, to comfort their conscience by saying that it is the will of the people, and the voice of the people. It is no such thing. We all know how these legislative returns have been obtained. It is by dictation from the White House. The President himself, with that vast mass of patronage which he wields, and the thousand expectations he is able to hold up, has obtained these votes of the State Legislatures; and this, forsooth, is said to be the voice of the people. The voice of the people! Sir, can we forget the scene which was exhibited in this chamber when that expunging resolution was first introduced here? Have we forgotten the universal giving way of conscience, so that the senator from Missouri was left alone? I see before me senators who could not swallow that resolution; and has its nature changed since then? Is it any more constitutional now than it was then? Not at all. But executive power has interposed. Talk to me of the voice of the people? No, sir. It is the combination of patronage and power to coerce this body into a gross and palpable violation of the constitution. Some individuals, I perceive, think to escape through the particular form in which this act is to be perpetrated. They tell us that the resolution on your records is not to be expunged, but is only to be endorsed 'Expunged.' Really, sir, I do not know how to argue against such contemptible sophistry. The occasion is too solemn for an argument of this sort. You are going to violate the constitution, and you get rid of the infamy by a falsehood. You yourselves say that the resolution is expunged by your order. Yet you say it is not expunged. You put your act in express words. You record it, and then turn round and deny it.

"But why do I waste my breath? I know it is all utterly vain. The day is gone; night approaches, and night is suitable to the dark deed we meditate. There is a sort of destiny in this thing. The act must be performed; and it is an act which will tell on the political history of this country for ever. Other preceding violations of the constitution (and they have been many and great) filled my bosom with indignation, but this fills it only with grief. Others were done in the heat of party. Power was, as it were, compelled to support itself by seizing upon new instruments of influence and patronage; and there were ambitious and able men to direct the process. Such was the removal of the deposits, which the President seized upon by a new and unprecedented act of arbitrary power; an act which gave him ample means of rewarding friends and punishing enemies. Something may, perhaps, be pardoned to him in this matter, on the old apology of tyrants—the plea of necessity. But here there can be no

such apology. Here no necessity can so much as be pretended. This act originates in pure, unmixed, personal idolatry. It is the melancholy evidence of a broken spirit, ready to bow at the feet of power. The former act was such a one as might have been perpetrated in the days of Pompey or Cæsar; but an act like this could never have been consummated by a Roman Senate until the times of Caligula and Nero."

Mr. Calhoun was right in his taunt about the universal giving way when the resolution was first introduced—the solitude in which the mover was then left—and in which solitude he would have been left to the end, had it not been for his courage in reinstating the word expunge, and appealing to the people.

Mr. Clay commenced with showing that he had never believed in the reality of the proceeding until now; that he had considered the resolution as a thing to be taken up for a speech, and laid down when the speech was delivered; and that the last laying down, at the previous session, was the end of the matter. He said:

"Considering that he was the mover of the resolution of March, 1834, and the consequent relation in which he stood to the majority of the Senate by whose vote it was adopted, he had felt it to be his duty to say something on this expunging resolution; and he had always intended to do so when he should be persuaded that there existed a settled purpose of pressing it to a final decision. But it had been so taken up and put down at the last session—taken up one day, when a speech was prepared for delivery, and put down when it was pronounced—that he had really doubted whether there existed any serious intention of ever putting it to the vote. At the very close of the last session, it will be recollected that the resolution came up, and in several quarters of the Senate a disposition was manifested to come to a definitive decision. On that occasion he had offered to waive his right to address the Senate, and silently to vote upon the resolution; but it was again laid upon the table; and laid there for ever, as the country supposed, and as he believed. It is, however, now revived; and, sundry changes having taken place in the members of this body, it would seem that the present design is to bring the resolution to an absolute conclusion."

Then, after an argument against the expurgation, which, of necessity, was obliged to be a recapitulation of the argument in favor of the original condemnation of the President, he went on to give vent to his feelings in expressions not less bitter and denunciatory of the President and his friends than those used by Mr. Calhoun, saying:

"But if the matter of expunction be contrary to the truth of the case, reproachful for its base subserviency, derogatory from the just and necessary powers of the Senate, and repugnant to the constitution of the United States, the manner in which it is proposed to accomplish this dark deed is also highly exceptionable. The expunging resolution, which is to blot out or enshroud the four or five lines in which the resolution of 1834 stands recorded, or rather the recitals by which it is preceded, are spun out into a thread of enormous length. It runs, whereas, and whereas, and whereas, and whereas, and whereas, &c., into a formidable array of nine several whereases. One who should have the courage to begin to read them, unaware of what was to be their termination, would think that at the end of such a tremendous display he must find the very devil."

And then coming to the conclusion, he concentrated his wrath and grief in an apostrophizing peroration, which lacked nothing but verisimilitude to have been grand and affecting. Thus:

"But why should I detain the Senate, or needlessly waste my breath in fruitless exertions. The decree has gone forth. It is one of urgency, too. The deed is to be done—that foul deed which, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out. Proceed, then, with the noble work which lies before you, and, like other skilful executioners,

do it quickly. And when you have perpetrated it, go home to the people, and tell them what glorious honors you have achieved for our common country. Tell them that you have extinguished one of the brightest and purest lights that ever burnt at the altar of civil liberty. Tell them that you have silenced one of the noblest batteries that ever thundered in defence of the constitution, and bravely spiked the cannon. Tell them that, henceforward, no matter what daring or outrageous act any President may perform, you have for ever hermetically sealed the mouth of the Senate. Tell them that he may fearlessly assume what powers he pleases, snatch from its lawful custody the public purse, command a military detachment to enter the halls of the capitol, overawe Congress, trample down the constitution, and raze every bulwark of freedom; but that the Senate must stand mute, in silent submission, and not dare to raise its opposing voice. That it must wait until a House of Representatives, humbled and subdued like itself, and a majority of it composed of the partisans of the President, shall prefer articles of impeachment. Tell them, finally, that you have restored the glorious doctrines of passive obedience and non-resistance. And, if the people do not pour out their indignation and imprecations, I have yet to learn the character of American freemen."

Mr. Webster spoke last, and after a pause in the debate which seemed to indicate its conclusion; and only rose, and that slowly, as the question was about to be put. Having no personal griefs in relation to General Jackson like Mr. Calhoun and Mr. Clay, and with a temperament less ardent, he delivered himself with comparative moderation, confining himself to a brief protest against the act; and concluding, in measured and considered language, with expressing his grief and mortification at what he was to behold; thus:

"We have seen, with deep and sincere pain, the legislatures of respectable States instructing the senators of those States to vote for and support this violation of the journal of the Senate; and this pain is infinitely increased by our full belief, and entire conviction, that most, if not all these proceedings of States had their origin in promptings from Washington; that they have been urgently requested and insisted on, as being necessary to the accomplishment of the intended purpose; and that it is nothing else but the influence and power of the executive branch of this government which has brought the legislatures of so many of the free States of this Union to quit the sphere of their ordinary duties, for the purpose of co-operating to accomplish a measure, in our judgment, so unconstitutional, so derogatory to the character of the Senate, and marked with so broad an impression of compliance with power. But this resolution is to pass. We expect it. That cause, which has been powerful enough to influence so many State legislatures, will show itself powerful enough, especially with such aids, to secure the passage of the resolution here. We make up our minds to behold the spectacle which is to ensue. We collect ourselves to look on, in silence, while a scene is exhibited which if we did not regard it as a ruthless violation of a sacred instrument, would appear to us to be little elevated above the character of a contemptible farce. This scene we shall behold; and hundreds of American citizens, as many as may crowd into these lobbies and galleries, will behold it also: with what feelings I do not undertake to say."

Midnight was now approaching. The dense masses which filled every inch of room in the lobbies and the galleries, remained immovable. No one went out: no one could get in. The floor of the Senate was crammed with privileged persons, and it seemed that all Congress was there. Expectation, and determination to see the conclusion, was depicted upon every countenance. It was evident there was to be no adjournment until the vote should be taken—until the deed was done; and this aspect of invincible determination, had its effect upon the ranks of the opposition. They began to falter under a useless persistence, for they alone now did the speaking; and while Mr. Webster was yet reciting his protest, two senators from the opposite side, who had been best able to maintain their equanimity, came round to the author of this View, and said "This question has degenerated into a trial of nerves and muscles. It

has become a question of physical endurance; and we see no use in wearing ourselves out to keep off for a few hours longer what has to come before we separate. We see that you are able and determined to carry your measure: so call the vote as soon as you please. We shall say no more." Mr. Webster concluded. No one rose. There was a pause, a dead silence, and an intense feeling. Presently the silence was invaded by the single word "question"—the parliamentary call for a vote—rising from the seats of different senators. One blank in the resolve remained to be filled—the date of its adoption. It was done. The acting president of the Senate, Mr. King, of Alabama, then directed the roll to be called. The yeas and nays had been previously ordered, and proceeded to be called by the secretary of the Senate, Mr. Asbury Dickens. Forty-three senators were present, answering: five absent. The yeas were:

"Messrs. Benton, Brown, Buchanan, Dana, Ewing of Illinois, Fulton, Grundy, Hubbard, King of Alabama, Linn, Morris, Nicholas, Niles, Page, Rives, Robinson, Ruggles, Sevier, Strange, Tallmadge, Tipton, Walker, Wall, Wright.

"Nays.—Messrs. Bayard, Black, Calhoun, Clay, Crittenden, Davis, Ewing of Ohio, Hendricks, Kent, Knight, Moore, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster, White."

The passage of the resolution was announced from the chair. Mr. Benton rose, and said that nothing now remained but to execute the order of the Senate; which he moved be done forthwith. It was ordered accordingly. The Secretary thereupon produced the original manuscript journal of the Senate, and opening at the page which contained the condemnatory sentence of March 28th, 1834, proceeded in open Senate to draw a square of broad black lines around the sentence, and to write across its face in strong letters these words: "Expunged by order of the Senate, this 16th day of March, 1837." Up to this moment the crowd in the great circular gallery, looking down upon the Senate, though sullen and menacing in their looks, had made no manifestation of feeling; and it was doubtless not the intention of Mr. Webster to excite that manifestation when he referred to their numbers, and expressed his ignorance of the feeling with which they would see the deed done which he so much deprecated. Doubtless no one intended to excite that crowd, mainly composed, as of usual since the bank question began, of friends of that institution; but its appearance became such that Senator Linn, colleague of Senator Benton, Mr. George W. Jones, since senator from Iowa, and others sent out and brought in arms; other friends gathered about him; among them Mrs. Benton, who, remembering what had happened to General Jackson, and knowing that, after him, her husband was most obnoxious to the bank party, had her anxiety sufficiently excited to wish to be near him in this concluding scene of a seven years' contest with that great moneyed power. Things were in this state when the Secretary of the Senate began to perform the expunging process on the manuscript journal. Instantly a storm of hisses, groans, and vociferations arose from the left wing of the circular gallery, over the head of Senator Benton. The presiding officer promptly gave the order, which the rules prescribe in such cases, to clear the gallery. Mr. Benton opposed the order, saying:

"I hope the galleries will not be cleared, as many innocent persons will be excluded, who have been guilty of no violation of order. Let the ruffians who have made the disturbance alone be punished: let them be apprehended. I hope the sergeant-at-arms will be directed to enter the gallery, and seize the ruffians, ascertaining who they are in the best way he can. Let him apprehend them and bring them to the bar of the Senate. Let him seize the bank ruffians. I hope that they will not now be suffered to insult the Senate, as they did when it was under the power of the Bank of the United States, when ruffians, with arms upon them, insulted us with impunity. Let them be taken and brought to the bar of the Senate. Here is one just above me, that may easily be identified—the bank ruffians!"

Mr. Benton knew that he was the object of this outrage, and that the way to treat these subaltern wretches was to defy and seize them, and have them dragged as criminals to the bar of the Senate. They were congregated immediately over his head, and had evidently collected into that place. His motion was agreed to. The order to clear the galleries was revoked; the order to seize the disturbers was given, and immediately executed by the energetic sergeant-at-arms, Mr. John Shackford, and his assistants. The ringleader was seized, and brought to the bar. This sudden example intimidated the rest; and the expunging process was performed in quiet. The whole scene was impressive; but no part of it so much so as to see the great leaders who, for seven long years had warred upon General Jackson, and a thousand times pronounced him ruined, each rising in his place, with pain and reluctance, to confess themselves vanquished—to admit his power, and their weakness—and to exhale their griefs in unavailing reproaches, and impotent deprecations. It was a tribute to his invincibility which cast into the shade all the eulogiums of his friends. The gratification of General Jackson was extreme. He gave a grand dinner to the expungers (as they were called) and their wives; and being too weak to sit at the table, he only met the company, placed the “head-expunger” in his chair, and withdrew to his sick chamber. That expurgation! it was the “crowning mercy” of his civil, as New Orleans had been of his military, life!

162. The Supreme Court—Judges And Officers

The death of Chief Justice Marshall had vacated that high office, and Roger B. Taney, Esq., was nominated to fill it. He still encountered opposition in the Senate; but only enough to show how much that opposition had declined since the time when he was rejected as Secretary of the Treasury. The vote against his confirmation was reduced to fifteen; namely: Messrs. Black of Mississippi; Calhoun, Clay, Crittenden; Ewing of Ohio; Leigh of Virginia; Mangum; Naudain of Delaware; Porter of Louisiana; Preston; Robbins of Rhode Island; Southard, Tomlinson, Webster, White of Tennessee.

Among the Justices of the Supreme Court, these changes took place from the commencement of this View to the end of General Jackson's administration: Smith Thompson, Esq., of New York, in 1823, in place of Brockholst Livingston, Esq., deceased; Robert Trimble, Esq., of Kentucky, in 1826, in place of Thomas Todd, deceased; John McLean, Esq., of Ohio, in 1829, in place of Robert Trimble, deceased; Henry Baldwin, Esq., of Pennsylvania, in 1830, in place of Bushrod Washington, deceased; James M. Wayne, Esq., of Georgia, in 1835, in place of William Johnson, deceased; Philip P. Barbour, Esq., of Virginia, in 1836, in place of Gabriel Duval, resigned.

In the same time, William Griffith, Esq. of New Jersey, was appointed Clerk, in 1826, in place of Elias B. Caldwell, deceased; and William Thomas Carroll, Esq., of the District of Columbia, was appointed, in 1827, in place William Griffith, deceased. Of the reporters of the decisions of the Supreme Court, Richard Peters, jr., Esq., of Pennsylvania, was appointed, in 1828, in place of Henry Wheaton; and Benjamin C. Howard, Esq., of Maryland, was appointed, in 1843, to succeed Mr. Peters, deceased.

The Marshals of the District, during the same period, were: Henry Ashton, of the District of Columbia, appointed, in 1831, in place of Tench Ringgold; Alexander Hunter, of the same District, in place of Henry Ashton; Robert Wallace, in 1848 in place of Alexander Hunter, deceased; Richard Wallach, in 1849, in place of Robert Wallace; and Jonah D. Hoover, in 1853, in place of Richard Wallach.

163. Farewell Address Of President Jackson—Extract

Following the example of Washington, General Jackson issued a Farewell Address to the people of the United States, at his retiring from the presidency; and, like that of Washington, it was principally devoted to the danger of disunion, and to the preservation of harmony and good feeling between the different sections of the country. General Washington only had to contemplate the danger of disunion, as a possibility, and as an event of future contingency; General Jackson had to confront it as a present, actual, subsisting danger; and said:

"We behold systematic efforts publicly made to sow the seeds of discord between different parts of the United States, and to place party divisions directly upon geographical distinctions; to excite the South against the North, and the North against the South, and to force into the controversy the most delicate and exciting topics—topics upon which it is impossible that a large portion of the Union can ever speak without strong emotion. Appeals, too, are constantly made to sectional interests, in order to influence the election of the Chief Magistrate, as if it were desired that he should favor a particular quarter of the country, instead of fulfilling the duties of his station with impartial justice to all; and the possible dissolution of the Union has at length become an ordinary and familiar subject of discussion. Has the warning voice of Washington been forgotten? or have designs already been formed to sever the Union? Let it not be supposed that I impute to all of those who have taken an active part in these unwise and unprofitable discussions, a want of patriotism or of public virtue. The honorable feelings of State pride, and local attachments, find a place in the bosoms of the most enlightened and pure. But while such men are conscious of their own integrity and honesty of purpose, they ought never to forget that the citizens of other States are their political brethren; and that, however mistaken they may be in their views, the great body of them are equally honest and upright with themselves. Mutual suspicions and reproaches may in time create mutual hostility; and artful and designing men will always be found, who are ready to foment these fatal divisions, and to inflame the natural jealousies of different sections of the country! The history of the world is full of such examples, and especially the history of republics.

"What have you to gain by division and dissension? Delude not yourselves with the belief, that a breach, once made, may be afterwards repaired. If the Union is once severed, the line of separation will grow wider and wider; and the controversies which are now debated and settled in the halls of legislation, will then be tried in fields of battle, and determined by the sword. Neither should you deceive yourselves with the hope, that the first line of separation would be the permanent one, and that nothing but harmony and concord would be found in the new associations formed upon the dissolution of this Union. Local interests would still be found there, and unchastened ambition. And if the recollection of common dangers, in which the people of these United States stood side by side against the common foe—the memory of victories won by their united valor; the prosperity and happiness they have enjoyed under the present constitution; the proud name they bear as citizens of this great republic—if all these recollections and proofs of common interest are not strong enough to bind us together as one people, what tie will hold united the new divisions of empire, when these bonds have been broken and this Union dissevered? The first line of separation would not last for a single generation; new fragments would be torn off; new leaders would spring up; and this great and glorious republic would soon be broken into a multitude of petty States, without commerce, without credit; jealous of one another; armed for mutual aggressions; loaded with taxes to pay

armies and leaders; seeking aid against each other from foreign powers; insulted and trampled upon by the nations of Europe; until, harassed with conflicts, and humbled and debased in spirit, they would be ready to submit to the absolute dominion of any military adventurer, and to surrender their liberty for the sake of repose. It is impossible to look on the consequences that would inevitably follow the destruction of this government, and not feel indignant when we hear cold calculations about the value of the Union, and have so constantly before us a line of conduct so well calculated to weaken its ties."

Nothing but the deepest conviction of an actual danger could have induced General Jackson, in this solemn manner, and with such pointed reference and obvious application, to have given this warning to his countrymen, at that last moment, when he was quitting office, and returning to his home to die. He was, indeed, firmly impressed with a sense of that danger—as much so as Mr. Madison was—and with the same "pain" of feeling, and presentiment of great calamities to our country. What has since taken place has shown that their apprehensions were not groundless—that the danger was deep-seated, and wide-spread; and the end not yet.

164. Conclusion Of General Jackson's Administration

The enemies of popular representative government may suppose that they find something in this work to justify the reproach of faction and violence which they lavish upon such forms of government; but it will be by committing the mistake of overlooking the broad features of a picture to find a blemish in the detail—disregarding a statesman's life to find a misstep; and shutting their eyes upon the action of the people. The mistakes and errors of public men are fairly shown in this work; and that might seem to justify the reproach: but the action of the people is immediately seen to come in, to correct every error, and to show the capacity of the people for wise and virtuous government. It would be tedious to enumerate the instances of this conservative supervision, so continually exemplified in the course of this history; but some eminent cases stand out too prominently to be overlooked. The recharter of the Bank of the United States was a favorite measure with politicians; the people rejected it; and the wisdom of their conduct is now universally admitted. The distribution of land and money was a favorite measure with politicians; the people condemned it and no one of those engaged in these distributions ever attained the presidency. President Jackson, in his last annual message to Congress, and in direct reference to this conservative action of the people, declared "that all that had occurred during his administration was calculated to inspire him with increased confidence in the stability of our institutions." I make the same declaration, founded upon the same view of the conduct of the people—upon the observation of their conduct in trying circumstances; and their uniform discernment to see, and virtue and patriotism to do, whatever the honor and interest of the country required. The work is full of consolation and encouragement to popular government; and in that point of view it may be safely referred to by the friends of that form of government. I have written veraciously and of acts, not of motives. I have shown a persevering attack upon President Jackson on the part of three eminent public men during his whole administration; but have made no attribution of motives. But another historian has not been so forbearing—one to whose testimony there can be no objection, either on account of bias, judgment, or information; and who, writing under the responsibility of history, has indicated a motive in two of the assailants. Mr. Adams, in his history of the administration of Mr. Monroe, gives an account of the attempt in the two Houses of Congress in 1818, to censure General Jackson for his conduct in the Seminole war, and says: "Efforts were made in Congress to procure a vote censuring the conduct of General Jackson, whose fast increasing popularity had, in all probability, already excited the envy of politicians. Mr. Clay and Mr. Calhoun in particular favored this movement; but the President himself, and Mr. Adams, the Secretary of State, who had charge of the Spanish negotiation, warmly espoused the cause of the American commander." This fear of a rising popularity was not without reason. There were proposals to bring General Jackson forward for the presidency in 1816, and in 1820; to which he would not listen, on account of his friendship to Mr. Monroe. A refusal to enter the canvass at those periods, and for that reason, naturally threw him into it in 1824, when he would come into competition with those two gentlemen. Their opposition to him, therefore, dates back to the first term of Mr. Monroe's administration; that of Mr. Clay openly and responsibly; that of Mr. Calhoun secretly and deceptiously, as shown in the "Exposition." They were both of the same political party school with General Jackson; and it was probably his rising to the head of that party which threw them both out of it. Mr. Webster's opposition arose from his political relations, as belonging to the opposite school; and was always more moderate, and better guarded by decorum. He

even appeared, sometimes, as the justifier and supporter of President Jackson's measures; as in the well-known instance of South Carolina nullification. Mr. Clay's efforts were limited to the overthrow of President Jackson; Mr. Calhoun's extended to the overthrow of the Union, and to the establishment of a southern confederacy of the slave States. The subsequent volume will have to pursue this subject.

This chapter ends the view of the administration of President Jackson, promised to him in his lifetime, constituting an entire work in itself, and covering one of the most eventful periods of American history—as trying to the virtue and intelligence of the American people as was the war of the revolution to their courage and patriotism.

165. Retiring And Death Of General Jackson—Administration Of Martin Van Buren

The second and last term of General Jackson's presidency expired on the 3d of March, 1837. The next day, at twelve, he appeared with his successor, Mr. Van Buren, on the elevated and spacious eastern portico of the capitol, as one of the citizens who came to witness the inauguration of the new President, and no way distinguished from them, except by his place on the left hand of the President elect. The day was beautiful—clear sky, balmy vernal sun, tranquil atmosphere;—and the assemblage immense. On foot, in the large area in front of the steps, orderly without troops, and closely wedged together, their faces turned to the portico—presenting to the beholders from all the eastern windows the appearance of a field paved with human faces. This vast crowd remained riveted to their places, and profoundly silent, until the ceremony of inauguration was over. It was the stillness and silence of reverence and affection; and there was no room for mistake as to whom this mute and impressive homage was rendered. For once, the rising was eclipsed by the setting sun. Though disrobed of power, and retiring to the shades of private life, it was evident that the great ex-President was the absorbing object of this intense regard. At the moment he began to descend the broad steps of the portico to take his seat in the open carriage which was to bear him away, the deep repressed feeling of the dense mass brook forth, acclamations and cheers bursting from the heart and filling the air—such as power never commanded, nor man in power received. It was the affection, gratitude, and admiration of the living age, saluting for the last time a great man. It was the acclaim of posterity, breaking from the bosoms of contemporaries. It was the anticipation of futurity—unpurchasable homage to the hero-patriot who, all his life, and in all circumstances of his life, in peace and in war, and glorious in each, had been the friend of his country, devoted to her, regardless of self. Uncovered, and bowing, with a look of unaffected humility and thankfulness, he acknowledged in mute signs his deep sensibility to this affecting overflow of popular feeling. I was looking down from a side window, and felt an emotion which had never passed through me before. I had seen the inauguration of many presidents, and their going away, and their days of state, vested with power, and surrounded by the splendors of the first magistracy of a great republic. But they all appeared to be as pageants, empty and soulless, brief to the view, unreal to the touch, and soon to vanish. But here there seemed to be a reality—a real scene—a man and the people—he, laying down power and withdrawing through the portals of everlasting fame;—they, sounding in his ears the everlasting plaudits of unborn generations. Two days after, I saw the patriot ex-President in the car which bore him off to his desired seclusion. I saw him depart with that look of quiet enjoyment which bespoke the inward satisfaction of the soul at exchanging the cares of office for the repose of home. History, poetry, oratory, marble and brass, will hand down the military exploits of Jackson: this work will commemorate the events of his civil administration, not less glorious than his military achievements, great as they were; and this brief notice of his last appearance at the American capital is intended to preserve some faint memory of a scene, the grandeur of which was so impressive to the beholder, and the solace of which must have been so grateful to the heart of the departing patriot.

Eight years afterwards he died at the Hermitage, in the full possession of all his faculties, and strong to the last in the ruling passion of his soul—love of country. Public history will do justice to his public life; but a further notice is wanted of him—a notice of the domestic man—of the man at home, with his wife, his friends, his neighbors, his slaves; and this I feel some qualification for giving, from my long and varied acquaintance with him. First, his

intimate and early friend—then a rude rupture—afterwards friendship and intimacy for twenty years, and until his death: in all forty years of personal observation, in the double relation of friend and foe, and in all the walks of life, public and private, civil and military.

The first time that I saw General Jackson was at Nashville, Tennessee, in 1799—he on the bench, a judge of the then Superior Court, and I a youth of seventeen, back in the crowd. He was then a remarkable man, and had his ascendant over all who approached him, not the effect of his high judicial station, nor of the senatorial rank which he had held and resigned; nor of military exploits, for he had not then been to war; but the effect of personal qualities; cordial and graceful manners, hospitable temper, elevation of mind, undaunted spirit, generosity, and perfect integrity. In charging the jury in the impending case, he committed a slight solecism in language which grated on my ear, and lodged on my memory, without derogating in the least from the respect which he inspired; and without awakening the slightest suspicion that I was ever to be engaged in smoothing his diction. The first time I spoke with him was some years after, at a (then) frontier town in Tennessee, when he was returning from a Southern visit, which brought him through the towns and camps of some of the Indian tribes. In pulling off his overcoat, I perceived on the white lining of the turning down sleeve, a dark speck, which had life and motion. I brushed it off, and put the heel of my shoe upon it—little thinking that I was ever to brush away from him game of a very different kind. He smiled; and we began a conversation, in which he very quickly revealed a leading trait of his character,—that of encouraging young men in their laudable pursuits. Getting my name and parentage, and learning my intended profession, he manifested a regard for me, said he had received hospitality at my father's house in North Carolina, gave me kind invitations to visit him; and expressed a belief that I would do well at the bar—generous words which had the effect of promoting what they undertook to foretell. Soon after, he had further opportunity to show his generous feelings. I was employed in a criminal case of great magnitude, where the oldest and ablest counsel appeared—Haywood, Grundy, Whiteside,—and the trial of which General Jackson attended through concern for the fate of a friend. As junior counsel I had to precede my elders, and did my best; and, it being on the side of his feelings, he found my effort to be better than it was. He complimented me greatly, and from that time our intimacy began.

I soon after became his aid, he being a Major General in the Tennessee militia—made so by a majority of one vote. How much often depends upon one vote!—New Orleans, the Creek campaign, and all their consequences, date from that one vote!—and after that, I was habitually at his house; and, as an inmate, had opportunities to know his domestic life, and at the period when it was least understood and most misrepresented. He had resigned his place on the bench of the Superior Court, as he had previously resigned his place in the Senate of the United States, and lived on a superb estate of some thousand acres, twelve miles from Nashville, then hardly known by its subsequent famous name of the Hermitage—name chosen for its perfect accord with his feelings; for he had then actually withdrawn from the stage of public life, and from a state of feeling well known to belong to great talent when finding no theatre for its congenial employment. He was a careful farmer, overlooking every thing himself, seeing that the fields and fences were in good order, the stock well attended, and the slaves comfortably provided for. His house was the seat of hospitality, the resort of friends and acquaintances, and of all strangers visiting the State—and the more agreeable to all from the perfect conformity of Mrs. Jackson's character to his own. But he needed some excitement beyond that which a farming life can afford, and found it, for some years, in the animating sports of the turf. He loved fine horses—racers of speed and bottom—owned several, and contested the four mile heats with the best that could be bred, or brought to the State, and for large sums. That is the nearest to gaming that I ever knew him to come. Cards

and the cockpit have been imputed to him, but most erroneously. I never saw him engaged in either. Duels were usual in that time, and he had his share of them, with their unpleasant concomitants; but they passed away with all their animosities, and he has often been seen zealously pressing the advancement of those against whom he had but lately been arrayed in deadly hostility.

His temper was placable as well as irascible, and his reconciliations were cordial and sincere. Of that, my own case was a signal instance. After a deadly feud, I became his confidential adviser; was offered the highest marks of his favor, and received from his dying bed a message of friendship, dictated when life was departing, and when he would have to pause for breath. There was a deep-seated vein of piety in him, unaffectedly showing itself in his reverence for divine worship, respect for the ministers of the gospel, their hospitable reception in his house, and constant encouragement of all the pious tendencies of Mrs. Jackson. And when they both afterwards became members of a church, it was the natural and regular result of their early and cherished feelings. He was gentle in his house, and alive to the tenderest emotions; and of this, I can give an instance, greatly in contrast with his supposed character, and worth more than a long discourse in showing what that character really was. I arrived at his house one wet chilly evening, in February, and came upon him in the twilight, sitting alone before the fire, a lamb and a child between his knees. He started a little, called a servant to remove the two innocents to another room, and explained to me how it was. The child had cried because the lamb was out in the cold, and begged him to bring it in—which he had done to please the child, his adopted son, then not two years old. The ferocious man does not do that! and though Jackson had his passions and his violence, they were for men and enemies—those who stood up against him—and not for women and children, or the weak and helpless: for all whom his feelings were those of protection and support. His hospitality was active as well as cordial, embracing the worthy in every walk of life, and seeking out deserving objects to receive it, no matter how obscure. Of this, I learned a characteristic instance in relation to the son of the famous Daniel Boone. The young man had come to Nashville on his father's business, to be detained some weeks, and had his lodgings at a small tavern, towards the lower part of the town. General Jackson heard of it; sought him out; found him; took him home to remain as long as his business detained him in the country, saying, "Your father's dog should not stay in a tavern, where I have a house." This was heart! and I had it from the young man himself, long after, when he was a State Senator of the General Assembly of Missouri, and, as such, nominated me for the United States Senate, at my first election, in 1820: an act of hereditary friendship, as our fathers had been early friends.

Abhorrence of debt, public and private, dislike of banks, and love of hard money—love of justice and love of country, were ruling passions with Jackson; and of these he gave constant evidence in all the situations of his life. Of private debts he contracted none of his own, and made any sacrifices to get out of those incurred for others. Of this he gave a signal instance, not long before the war of 1812—selling the improved part of his estate, with the best buildings of the country upon it, to pay a debt incurred in a mercantile adventure to assist a young relative; and going into log-houses in the forest to begin a new home and farm. He was living in these rude tenements when he vanquished the British at New Orleans; and, probably, a view of their conqueror's domicile would have astonished the British officers as much as their defeat had done. He was attached to his friends, and to his country, and never believed any report to the discredit of either, until compelled by proof. He would not believe in the first reports of the surrender of General Hull, and became sad and oppressed when forced to believe it. He never gave up a friend in a doubtful case, or from policy, or calculation. He was a firm believer in the goodness of a superintending Providence, and in the eventual right

judgment and justice of the people. I have seen him at the most desperate part of his fortunes, and never saw him waver in the belief that all would come right in the end. In the time of Cromwell he would have been a puritan.

The character of his mind was that of judgment, with a rapid and almost intuitive perception, followed by an instant and decisive action. It was that which made him a General, and a President for the time in which he served. He had vigorous thoughts, but not the faculty of arranging them in a regular composition, either written or spoken; and in formal papers he usually gave his draft to an aid, a friend, or a secretary, to be written over—often to the loss of vigor. But the thoughts were his own vigorously expressed; and without effort, writing with a rapid pen, and never blotting or altering; but, as Carlyle says of Cromwell, hitting the nail upon the head as he went. I have a great deal of his writing now, some on public affairs and covering several sheets of paper; and no erasures or interlineations anywhere. His conversation was like his writing, a vigorous flowing current, apparently without the trouble of thinking, and always impressive. His conclusions were rapid, and immovable, when he was under strong convictions; though often yielding, on minor points, to his friends. And no man yielded quicker when he was convinced; perfectly illustrating the difference between firmness and obstinacy. Of all the Presidents who have done me the honor to listen to my opinions, there was no one to whom I spoke with more confidence when I felt myself strongly to be in the right.

He had a load to carry all his life; resulting from a temper which refused compromises and bargaining, and went for a clean victory or a clean defeat, in every case. Hence, every step he took was a contest: and, it may be added, every contest was a victory. I have already said that he was elected a Major General in Tennessee—an election on which so much afterwards depended—by one vote. His appointment in the United States regular army was a conquest from the administration, which had twice refused to appoint him a Brigadier, and once disbanded him as a volunteer general, and only yielded to his militia victories. His election as President was a victory over politicians—as was every leading event of his administration.

I have said that his appointment in the regular army was a victory over the administration, and it belongs to the inside view of history, and to the illustration of government mistakes, and the elucidation of individual merit surmounting obstacles, to tell how it was. Twice passed by to give preference to two others in the West (General Harrison and General Winchester), once disbanded, and omitted in all the lists of military nominations, how did he get at last to be appointed Major General? It was thus. Congress had passed an act authorizing the President to accept organized corps of volunteers. I proposed to General Jackson to raise a corps under that act, and hold it ready for service. He did so; and with this corps and some militia, he defeated the Creek Indians, and gained the reputation which forced his appointment in the regular army. I drew up the address which he made to his division at the time, and when I carried it to him in the evening, I found the child and the lamb between his knees. He had not thought of this resource, but caught at it instantly, adopted the address, with two slight alterations, and published it to his division. I raised a regiment myself, and made the speeches at the general musters, which helped to raise two others, assisted by a small band of friends—all feeling confident that if we could conquer the difficulty—master the first step—and get him upon the theatre of action, he would do the rest himself. This is the way he got into the regular army, not only unselected by the wisdom of government, but rejected by it—a stone rejected by the master builders—and worked in by an unseen hand, to become the corner stone of the temple. The aged men of Tennessee will remember all this, and it is time that history should learn it. But to return to the private life and personal characteristics of this extraordinary man.

There was an innate, unvarying, self-acting delicacy in his intercourse with the female sex, including all womankind; and on that point my personal observation (and my opportunities for observation were both large and various), enables me to join in the declaration of the belief expressed by his earliest friend and most intimate associate, the late Judge Overton, of Tennessee. The Roman general won an immortality of honor by one act of continence; what praise is due to Jackson, whose whole life was continent? I repeat: if he had been born in the time of Cromwell, he would have been a puritan. Nothing could exceed his kindness and affection to Mrs. Jackson, always increasing in proportion as his elevation, and culminating fortunes, drew cruel attacks upon her. I knew her well, and that a more exemplary woman in all the relations of life, wife, friend, neighbor, relative, mistress of slaves—never lived, and never presented a more quiet, cheerful and admirable management of her household. She had not education, but she had a heart, and a good one; and that was always leading her to do kind things in the kindest manner. She had the General's own warm heart, frank manners and hospitable temper; and no two persons could have been better suited to each other, lived more happily together, or made a house more attractive to visitors. She had the faculty—a rare one—of retaining names and titles in a throng of visitors, addressing each one appropriately, and dispensing hospitality to all with a cordiality which enhanced its value. No bashful youth, or plain old man, whose modesty sat them down at the lower end of the table, could escape her cordial attention, any more than the titled gentlemen on her right and left. Young persons were her delight, and she always had her house filled with them—clever young women and clever young men—all calling her affectionately, "Aunt Rachel." I was young then, and was one of that number. I owe it to early recollections, and to cherished convictions—in this last notice of the Hermitage—to bear this faithful testimony to the memory of its long mistress—the loved and honored wife of a great man. Her greatest eulogy is in the affection which he bore her living, and in the sorrow with which he mourned her dead. She died at the moment of the General's first election to the Presidency; and every one that had a just petition to present, or charitable request to make, lost in her death, the surest channel to the ear and to the heart of the President. His regard for her survived, and lived in the persons of her nearest relatives. A nephew of hers was his adopted son and heir, taking his own name, and now the respectable master of the Hermitage. Another nephew, Andrew Jackson Donelson, Esq., was his private secretary when President. The Presidential mansion was presided over during his term by her niece, the most amiable Mrs. Donelson; and all his conduct bespoke affectionate and lasting remembrance of one he had held so dear.

END OF VOLUME I.

Volume II

1. Inauguration Of Mr. Van Buren

March the 4th of this year, Mr. Van Buren was inaugurated President of the United States with the usual formalities, and conformed to the usage of his predecessors in delivering a public address on the occasion: a declaration of general principles, and an indication of the general course of the administration, were the tenor of his discourse: and the doctrines of the democratic school, as understood at the original formation of parties, were those professed. Close observance of the federal constitution as written—no latitudinarian constructions permitted, or doubtful powers assumed—faithful adherence to all its compromises—economy in the administration of the government—peace, friendship and fair dealing with all foreign nations—entangling alliances with none: such was his political chart: and with the expression of his belief that a perseverance in this line of foreign policy, with an increased strength, tried valor of the people, and exhaustless resources of the country, would entitle us to the good will of nations, protect our national respectability, and secure us from designed aggression from foreign powers. His expressions and views on this head deserve to be commemorated, and to be considered by all those into whose hands the management of the public affairs may go; and are, therefore, here given in his own words:

“Our course of foreign policy has been so uniform and intelligible, as to constitute a rule of executive conduct which leaves little to my discretion, unless, indeed, I were willing to run counter to the lights of experience, and the known opinions of my constituents. We sedulously cultivate the friendship of all nations, as the condition most compatible with our welfare, and the principles of our government. We decline alliances, as adverse to our peace. We desire commercial relations on equal terms, being ever willing to give a fair equivalent for advantages received. We endeavor to conduct our intercourse with openness and sincerity; promptly avowing our objects, and seeking to establish that mutual frankness which is as beneficial in the dealings of nations as of men. We have no disposition, and we disclaim all right, to meddle in disputes, whether internal or foreign, that may molest other countries; regarding them, in their actual state, as social communities, and preserving a strict neutrality in all their controversies. Well knowing the tried valor of our people, and our exhaustless resources, we neither anticipate nor fear any designed aggression; and, in the consciousness of our own just conduct, we feel a security that we shall never be called upon to exert our determination, never to permit an invasion of our rights, without punishment or redress.”

These are sound and encouraging views, and in adherence to them, promise to the United States a career of peace and prosperity comparatively free from the succession of wars which have loaded so many nations with debt and taxes, filled them with so many pensioners and paupers, created so much necessity for permanent fleets and armies; and placed one half the population in the predicament of living upon the labor of the other. The stand which the United States had acquired among nations by the vindication of her rights against the greatest powers—and the manner in which all unredressed aggressions, and all previous outstanding injuries, even of the oldest date, had been settled up and compensated under the administration of President Jackson—authorized this language from Mr. Van Buren; and the subsequent conduct of nations has justified it. Designed aggression, within many years, has come from no great power: casual disagreements and accidental injuries admit of arrangement: weak neighbors can find no benefit to themselves in wanton aggression, or refusal of redress for accidental wrong: isolation (a continent, as it were, to ourselves) is security against attack; and our railways would accumulate rapid destruction upon any invader. These advantages, and strict adherence to the rule, to ask only what is right, and

submit to nothing wrong, will leave us (we have reason to believe) free from hostile collision with foreign powers, free from the necessity of keeping up war establishments of army and navy in time of peace, with our great resources left in the pockets of the people (always the safest and cheapest national treasuries), to come forth when public exigencies require them, and ourselves at liberty to pursue an unexampled career of national and individual prosperity.

One single subject of recently revived occurrence in our domestic concerns, and of portentous apparition, admitted a departure from the generalities of an inaugural address, and exacted from the new President the notice of a special declaration: it was the subject of slavery—an alarming subject of agitation near twenty years before—quieted by the Missouri compromise—resuscitated in 1835, as shown in previous chapters of this View; and apparently taking its place as a permanent and most pestiferous element in our presidential elections and federal legislation. It had largely mixed with the presidential election of the preceding year: it was expected to mix with ensuing federal legislation: and its evil effect upon the harmony and stability of the Union justified the new President in making a special declaration in relation to it, and even in declaring beforehand the cases of slavery legislation in which he would apply the qualified negative with which the constitution invested him over the acts of Congress. Under this sense of duty and propriety the inaugural address presented this passage:

"The last, perhaps the greatest, of the prominent sources of discord and disaster supposed to lurk in our political condition, was the institution of domestic slavery. Our forefathers were deeply impressed with the delicacy of this subject, and they treated it with a forbearance so evidently wise, that, in spite of every sinister foreboding, it never, until the present period disturbed the tranquillity of our common country. Such a result is sufficient evidence of the justice and the patriotism of their course; it is evidence not to be mistaken, that an adherence to it can prevent all embarrassment from this, as well as from every other anticipated cause of difficulty or danger. Have not recent events made it obvious to the slightest reflection, that the least deviation from this spirit of forbearance is injurious to every interest, that of humanity included? Amidst the violence of excited passions, this generous and fraternal feeling has been sometimes disregarded; and, standing as I now do before my countrymen in this high place of honor and of trust, I cannot refrain from anxiously invoking my fellow-citizens never to be deaf to its dictates. Perceiving, before my election, the deep interest this subject was beginning to excite, I believed it a solemn duty fully to make known my sentiments in regard to it; and now, when every motive for misrepresentations have passed away, I trust that they will be candidly weighed and understood. At least, they will be my standard of conduct in the path before me. I then declared that, if the desire of those of my countrymen who were favorable to my election was gratified, 'I must go into the presidential chair the inflexible and uncompromising opponent of every attempt, on the part of Congress, to abolish slavery in the District of Columbia, against the wishes of the slaveholding States; and also with a determination equally decided to resist the slightest interference with it in the States where it exists.' I submitted also to my fellow-citizens, with fulness and frankness, the reasons which led me to this determination. The result authorizes me to believe that they have been approved, and are confided in, by a majority of the people of the United States, including those whom they most immediately affect. It now only remains to add, that no bill conflicting with these views can ever receive my constitutional sanction. These opinions have been adopted in the firm belief that they are in accordance with the spirit that actuated the venerated fathers of the republic, and that succeeding experience has proved them to be humane, patriotic, expedient, honorable and just. If the agitation of this subject was intended to reach the stability of our institutions, enough has occurred to show that it has signally failed; and that in this, as in every other instance, the apprehensions of the timid and the

hopes of the wicked for the destruction of our government, are again destined to be disappointed."

The determination here declared to yield the presidential sanction to no bill which proposed to interfere with slavery in the States; or to abolish it in the District of Columbia while it existed in the adjacent States, met the evil as it then presented itself—a fear on the part of some of the Southern States that their rights of property were to be endangered by federal legislation: and against which danger the veto power was now pledged to be opposed. There was no other form at that time in which slavery agitation could manifest itself, or place on which it could find a point to operate—the ordinance of 1787, and the compromise of 1820, having closed up the Territories against it. Danger to slave property in the States, either by direct action, or indirectly through the District of Columbia, were the only points of expressed apprehension; and at these there was not the slightest ground for fear. No one in Congress dreamed of interfering with slavery in the States, and the abortion of all the attempts made to abolish it in the District, showed the groundlessness of that fear. The pledged veto was not a necessity, but a propriety;—not necessary, but prudential;—not called for by anything in congress, but outside of it. In that point of view it was wise and prudent. It took from agitation its point of support—its means of acting on the fears and suspicions of the timid and credulous: and it gave to the country a season of repose and quiet from this disturbing question until a new point of agitation could be discovered and seized.

The cabinet remained nearly as under the previous administration: Mr. Forsyth, Secretary of State; Mr. Woodbury, Secretary of the Treasury; Mr. Poinsett, Secretary at War; Mr. Mahlon Dickerson, Secretary of the Navy; Mr. Amos Kendall, Postmaster General; and Benjamin F. Butler, Esq. Attorney General. Of all these Mr. Poinsett was the only new appointment. On the bench of the Supreme Court, John Catron, Esq. of Tennessee, and John McKinley, Esq. of Alabama, were appointed Justices; William Smith, formerly senator in Congress from South Carolina, having declined the appointment which was filled by Mr. McKinley. Mr. Butler soon resigning his place of Attorney General, Henry D. Gilpin, Esq. of Pennsylvania (after a temporary appointment of Felix Grundy, Esq. of Tennessee), became the Attorney General during the remainder of the administration.

2. Financial And Monetary Crisis: General Suspension Of Specie Payments By The Banks

The nascent administration of the new President was destined to be saluted by a rude shock, and at the point most critical to governments as well as to individuals—that of deranged finances and broken-up treasury; and against the dangers of which I had in vain endeavored to warn our friends. A general suspension of the banks, a depreciated currency, and the insolvency of the federal treasury, were at hand. Visible signs, and some confidential information, portended to me this approaching calamity, and my speeches in the Senate were burthened with its vaticination. Two parties, inimical to the administration, were at work to accomplish it—politicians and banks; and well able to succeed, because the government money was in the hands of the banks, and the federal legislation in the hands of the politicians; and both interested in the overthrow of the party in power;—and the overthrow of the finances the obvious means to the accomplishment of the object. The public moneys had been withdrawn from the custody of the Bank of the United States: the want of an independent, or national treasury, of necessity, placed them in the custody of the local banks: and the specie order of President Jackson having been rescinded by the Act of Congress, the notes of all these banks, and of all others in the country, amounting to nearly a thousand, became receivable in payment of public dues. The deposit banks became filled up with the notes of these multitudinous institutions, constituting that surplus, the distribution of which had become an engrossing care with Congress, and ended with effecting the object under the guise of a deposit with the States. I recalled the recollection of the times of 1818-19, when the treasury reports of one year showed a superfluity of revenue for which there was no want, and of the next a deficit which required to be relieved by a loan; and argued that we must now have the same result from the bloat in the paper system which we then had. I demanded—

“Are we not at this moment, and from the same cause, realizing the first part—the illusive and treacherous part—of this picture? and must not the other, the sad and real sequel, speedily follow? The day of revulsion must come, and its effects must be more or less disastrous; but come it must. The present bloat in the paper system cannot continue: violent contraction must follow enormous expansion: a scene of distress and suffering must ensue—to come of itself out of the present state of things, without being stimulated and helped on by our unwise legislation.”

Of the act which rescinded the specie order, and made the notes of the local banks receivable in payment of all federal dues, I said:

“This bill is to be an era in our legislation and in our political history. It is to be a point on which the view of the future age is to be thrown back, and from which future consequences will be traced. I separate myself from it: I wash my hands of it: I oppose it. I am one of those who promised gold—not paper. I promised the currency of the constitution, not the currency of corporations. I did not join in putting down the Bank of the United States to put up a wilderness of local banks. I did not join in putting down the paper currency of a national bank, to put up a national paper currency of a thousand local banks. I did not strike Cæsar to make Antony master of Rome.”

The condition of our deposit banks was desperate—wholly inadequate to the slightest pressure on their vaults in the ordinary course of business, much less that of meeting the daily government drafts and the approaching deposit of near forty millions with the States. The

necessity of keeping one-third of specie on hand for its immediate liabilities, was enforced from the example and rule of the Bank of England, while many of our deposit banks could show but the one-twentieth, the one-thirtieth, the one-fortieth, and even the one-fiftieth of specie in hand for immediate liabilities in circulation and deposits. The sworn evidence of a late Governor of the Bank of England (Mr. Horsely Palmer), before a parliamentary committee, was read, in which he testified that the average proportion of coin and bullion which the bank deems it prudent to keep on hand, was at the rate of the third of the total amount of all her liabilities—including deposits as well as issues. And this was the proportion which that bank deemed it prudent to keep—that bank which was the largest in the world, situated in the moneyed metropolis of Europe, with its list of debtors within the circuit of London, supported by the richest merchants in the world, and backed by the British government, which stood her security for fourteen millions sterling, and ready with her supply of exchequer bills (the interest to be raised to insure sales), at any moment of emergency. Tested by the rule of the Bank of England, and our deposit banks were in the jaws of destruction; and this so evident to me, that I was amazed that others did not see it—those of our friends who voted with the opponents of the administration in rescinding the specie order, and in making the deposit with the States. The latter had begun to take effect, at the rate of about ten millions to the quarter, on the first day of January preceding Mr. Van Buren's inauguration: a second ten millions were to be called for on the first of April: and like sums on the first days of the two remaining quarters. It was utterly impossible for the banks to stand these drafts; and, having failed in all attempts to wake up our friends, who were then in the majority, to a sense of the danger which was impending, and to arrest their ruinous voting with the opposition members (which most of them did), I determined to address myself to the President elect, under the belief that, although he would not be able to avert the blow, he might do much to soften its force and avert its consequences, when it did come. It was in the month of February, while Mr. Van Buren was still President of the Senate, that I invited him into a committee room for that purpose, and stated to him my opinion that we were on the eve of an explosion of the paper system and of a general suspension of the banks—intending to follow up that expression of opinion with the exposition of my reasons for thinking so: but the interview came to a sudden and unexpected termination. Hardly had I expressed my belief of this impending catastrophe, than he spoke up, and said, "Your friends think you a little exalted in the head on that subject." I said no more. I was miffed. We left the room together, talking on different matters, and I saying to myself, "*You will soon feel the thunderbolt.*" But I have since felt that I was too hasty, and that I ought to have carried out my intention of making a full exposition of the moneyed affairs of the country. His habitual courtesy, from which the expression quoted was a most rare departure, and his real regard for me, both personal and political (for at that time he was pressing me to become a member of his cabinet), would have insured me a full hearing, if I had shown a disposition to go on; and his clear intellect would have seized and appreciated the strong facts and just inferences which would have been presented to him. But I stopped short, as if I had nothing more to say, from that feeling of self-respect which silences a man of some pride when he sees that what he says is not valued. I have regretted my hastiness ever since. It was of the utmost moment that the new President should have his eyes opened to the dangers of the treasury, and my services on the Committee of Finance had given me opportunities of knowledge which he did not possess. Forewarned is forearmed; and never was there a case in which the maxim more impressively applied. He could not have prevented the suspension: the repeal of the specie circular and the deposit with the States (both measures carried by the help of votes from professing friends), had put that measure into the hands of those who would be sure to use it: but he could have provided against it, and prepared for it, and lessened the force of the blow when it did come. He might have

quickened the vigilance of the Secretary of the Treasury—might have demanded additional securities from the deposit banks—and might have drawn from them the moneys called for by appropriation acts. There was a sum of about five millions which might have been saved with a stroke of the pen, being the aggregate of sums drawn from the treasury by the numerous disbursing officers, and left in the banks in their own names for daily current payments: an order to these officers would have saved these five millions, and prevented the disgrace and damage of a stoppage in the daily payments, and the spectacle of a government waking up in the morning without a dollar to pay the day-laborer with, while placing on its statute book a law for the distribution of forty millions of surplus. Measures like these, and others which a prudent vigilance would have suggested, might have enabled the government to continue its payments without an extra session of Congress, and without the mortification of capitulating to the broken banks, by accepting and paying out their depreciated notes as the currency of the federal treasury.

3. Preparation For The Distress And Suspension

In the autumn of the preceding year, shortly before the meeting of Congress, Mr. Biddle, president of the Pennsylvania Bank of the United States (for that was the ridiculous title it assumed after its resurrection under a Pennsylvania charter), issued one of those characteristic letters which were habitually promulgated whenever a new lead was to be given out, and a new scent emitted for the followers of the bank to run upon. A new distress, as the pretext for a new catastrophe, was now the object. A picture of ruin was presented, alarm given out, every thing going to destruction; and the federal government the cause of the whole, and the *national* recharter of the defunct bank the sovereign remedy. The following is an extract from that letter.

“The Bank of the United States has not ceased to exist more than seven months, and already the whole currency and exchanges are running into inextricable confusion, and the industry of the country is burdened with extravagant charges on all the commercial intercourse of the Union. And now, when these banks have been created by the Executive, and urged into these excesses, instead of gentle and gradual remedies, a fierce crusade is raised against them, the funds are harshly and suddenly taken from them, and they are forced to extraordinary means of defense against the very power which brought them into being. They received, and were expected to receive, in payment for the government, the notes of each other and the notes of other banks, and the facility with which they did so was a ground of special commendation by the government; and now that government has let loose upon them a demand for specie to the whole amount of these notes. I go further. There is an outcry abroad, raised by faction, and echoed by folly, against the banks of the United States. Until it was disturbed by the government, the banking system of the United States was at least as good as that of any other commercial country. What was desired for its perfection was precisely what I have so long striven to accomplish—to widen the metallic basis of the currency by a greater infusion of coin into the smaller channels of circulation. This was in a gradual and judicious train of accomplishment. But this miserable foolery about an exclusively metallic currency, is quite as absurd as to discard the steamboats, and go back to poling up the Mississippi.”

The lead thus given out was sedulously followed during the winter, both in Congress and out of it, and at the end of the session had reached an immense demonstration in New York, in the preparations made to receive Mr. Webster, and to hear a speech from him, on his return from Washington. He arrived in New York on the 15th of March, and the papers of the city give this glowing account of his reception:

“In conformity with public announcement, yesterday, at about half past 3 o’clock, the Honorable Daniel Webster arrived in this city in the steamboat Swan from Philadelphia. The intense desire on the part of the citizens to give a grateful reception to this great advocate of the constitution, set the whole city in motion towards the point of debarkation, for nearly an hour before the arrival of the distinguished visitor. At the moment when the steamboat reached the pier, the assemblage had attained that degree of density and anxiety to witness the landing, that it was feared serious consequences would result. At half past 3 o’clock Mr. Webster, accompanied by Philip Hone and David B. Ogden, landed from the boat amidst the deafening cheers and plaudits of the multitude, thrice repeated, and took his seat in an open barouche provided for the occasion. The procession, consisting of several hundred citizens upon horseback, a large train of carriages and citizens, formed upon State street, and after receiving their distinguished guest, proceeded with great order up Broadway to the apartments arranged for his reception at the American Hotel. The scene presented the most

gratifying spectacle. Hundreds of citizens who had been opposed to Mr. Webster in politics, now that he appeared as a private individual, came forth to demonstrate their respect for his private worth and to express their approbation of his personal character; and thousands more who appreciated his principles and political integrity, crowded around to convince him of their personal attachment, and give evidence of their approval of his public acts. The wharves, the shipping, the housetops and windows, and the streets through which the procession passed, were thronged with citizens of every occupation and degree, and loud and continued cheers greeted the great statesman at every point. There was not a greater number at the reception of General Jackson in this city, with the exception of the military, nor a greater degree of enthusiasm manifested upon that occasion, than the arrival upon our shores of Daniel Webster. At 6 o'clock in the evening, the anxious multitude began to move towards Niblo's saloon, where Mr. Webster was to be addressed by the committee of citizens delegated for that purpose, and to which it was expected he would reply. A large body of officers were upon the ground to keep the assemblage within bounds, and at a quarter past six the doors were opened, when the saloon, garden, and avenues leading thereto were instantly crowded to overflowing.

The meeting was called to order by Alderman Clark, who proposed for president, David B. Ogden, which upon being put to vote was unanimously adopted. The following gentlemen were then elected vice-presidents, viz: Robert C. Cornell, Jonathan Goodhue, Joseph Tucker, Nathaniel Weed; and Joseph Hoxie and G. S. Robins, secretaries.

Mr. W. began his remarks at a quarter before seven o'clock, P.M. and concluded them at a quarter past nine. When he entered the saloon, he was received with the most deafening cheers. The hall rang with the loud plaudits of the crowd, and every hat was waving. So great was the crowd in the galleries, and such was the apprehension that the apparently weak wooden columns which supported would give way, that Mr. W. was twice interrupted with the appalling cry "*the galleries are falling*," when only a window was broken, or a stove-pipe shaken. The length of the address (two and a half hours), none too long, however, for the audience would with pleasure have tarried two hours longer, compels us to give at present only the heads of a speech which we would otherwise now report in detail."

Certainly Mr. Webster was worthy of all honors in the great city of New York; but having been accustomed to pass through that city several times in every year during the preceding quarter of a century, and to make frequent sojourns there, and to speak thereafter, and in all the characters of politician, social guest, and member of the bar,—it is certain that neither his person nor his speaking could be such a novelty and rarity as to call out upon his arrival so large a meeting as is here described, invest it with so much form, fire it with so much enthusiasm, fill it with so much expectation, unless there had been some large object in view—some great effect to be produced—some consequence to result: and of all which this imposing demonstration was at once the sign and the initiative. No holiday occasion, no complimentary notice, no feeling of personal regard, could have called forth an assemblage so vast, and inspired it with such deep and anxious emotions. It required a public object, a general interest, a pervading concern, and a serious apprehension of some uncertain and fearful future, to call out and organize such a mass—not of the young, the ardent, the heedless—but of the age, the character, the talent, the fortune, the gravity of the most populous and opulent city of the Union. It was as if the population of a great city, in terror of some great impending unknown calamity, had come forth to get consolation and counsel from a wise man—to ask him what was to happen? and what they were to do? And so in fact it was, as fully disclosed in the address with which the orator was saluted, and in the speech of two hours and a half which he made in response to it. The address was a deprecation of calamities; the speech was responsive to the address—admitted every thing that could be

feared—and charged the whole upon the mal-administration of the federal government. A picture of universal distress was portrayed, and worse coming; and the remedy for the whole the same which had been presented in Mr. Biddle's letter—the recharter of *the* national bank. The speech was a manifesto against the Jackson administration, and a protest against its continuation in the person of his successor, and an invocation to a general combination against it. All the banks were sought to be united, and made to stand together upon a sense of common danger—the administration their enemy, the national bank their protection. Every industrial pursuit was pictured as crippled and damaged by bad government. Material injury to private interests were still more vehemently charged than political injuries to the body politic. In the deplorable picture which it presented of the condition of every industrial pursuit, and especially in the "war" upon the banks and the currency, it seemed to be a justificatory pleading in advance for a general shutting up of their doors, and the shutting up of the federal treasury at the same time. In this sense, and on this point, the speech contained this ominous sentence, more candid than discreet, taken in connection with what was to happen:

"*Remember, gentlemen, in the midst of this deafening din against all banks, that if it shall create such a panic, or such alarm, as shall shut up the banks, it will shut up the treasury of the United States also.*"

The whole tenor of the speech was calculated to produce discontent, create distress, and excite alarm—discontent and distress for present sufferings—alarm for the greater, which were to come. This is a sample:

"Gentlemen, I would not willingly be a prophet of ill. I most devoutly wish to see a better state of things; and I believe the repeal of the treasury order would tend very much to bring about that better state of things. And I am of opinion, gentlemen, that the order will be repealed. I think it must be repealed. I think the east, west, north and south, will demand its repeal. But, gentlemen, I feel it my duty to say, that if I should be disappointed in this expectation, I see no immediate relief to the distresses of the community. I greatly fear, even, that the worst is not yet. I look for severer distresses; for extreme difficulties in exchange; for far greater inconveniences in remittance, and for a sudden fall in prices. Our condition is one not to be tampered with, and the repeal of the treasury order being something which government can do, and which will do good, the public voice is right in demanding that repeal. It is true, if repealed now, the relief will come late. Nevertheless its repeal or abrogation is a thing to be insisted on, and pursued till it shall be accomplished."

The speech concluded with an earnest exhortation to the citizens of New York to do something, without saying what, but which with my misgivings and presentiments, the whole tenor of the speech and the circumstances which attended it—delivered in the moneyed metropolis of the Union, at a time when there was no political canvass depending, and the ominous omission to name what was required to be done—appeared to me to be an invitation to the New York banks to close their doors! which being done by them would be an example followed throughout the Union, and produce the consummation of a universal suspension. The following is that conclusion:

"Whigs of New York! Patriotic citizens of this great metropolis!—Lovers of constitutional liberty, bound by interest and affection to the institutions of your country, Americans in heart and in principle! You are ready, I am sure, to fulfil all the duties imposed upon you by your situation, and demanded of you by your country. You have a central position; your city is the point from which intelligence emanates, and spreads in all directions over the whole land. Every hour carries reports of your sentiments and opinions to the verge of the Union. You cannot escape the responsibility which circumstances have thrown upon you. You must live

and act on a broad and conspicuous theatre either for good or for evil, to your country. You cannot shrink away from public duties; you cannot obscure yourselves, nor bury your talent. In the common welfare, in the common prosperity, in the common glory of Americans, you have a stake, of value not to be calculated. You have an interest in the preservation of the Union, of the constitution, and of the true principles of the government, which no man can estimate. You act for yourselves, and for the generations that are to come after you; and those who, ages hence, shall bear your names, and partake your blood, will feel in their political and social condition, the consequences of the manner in which you discharge your political duties."

The appeal for action in this paragraph is vehement. It takes every form of violent desire which is known to the art of entreaty. Supplication, solicitation, remonstrance, importunity, prayer, menace! until rising to the dignity of a debt due from a moneyed metropolis to an expectant community, he demanded payment as matter of right! and enforced the demand as an obligation of necessity, as well as of duty, and from which such a community could not escape, if it would. The nature of the action which was so vehemently desired, could not be mistaken. I hold it a fair interpretation of this appeal that it was an exhortation to the business population of the commercial metropolis of the Union to take the initiative in suspending specie payments, and a justificatory manifesto for doing so; and that the speech itself was the first step in the grand performance: and so it seemed to be understood. It was received with unbounded applause, lauded to the skies, cheered to the echo, carefully and elaborately prepared for publication,—published and republished in newspaper and pamphlet form; and universally circulated. This was in the first month of Mr. Van Buren's presidency, and it will be seen what the second one brought forth.

The specie circular—that treasury order of President Jackson, which saved the public lands from being converted into broken bank paper—was the subject of repeated denunciatory reference—very erroneous, as the event has proved, in its estimate of the measure; but quite correct in its history, and amusing in its reference to some of the friends of the administration who undertook to act a part for and against the rescission of the order at the same time.

"Mr. Webster then came to the treasury circular, and related the history of the late legislation upon it. 'A member of Congress,' said he, 'prepared this very treasury order in 1836, but the only vote he got for it was his own—he stood 'solitary' and 'alone' (a laugh); and yet eleven days after Congress had adjourned—only six months after the President in his annual message had congratulated the people upon the prosperous sales of the public lands,—this order came out in known and direct opposition to the wishes of nine-tenths of the members of Congress.'"

This is good history from a close witness of what he relates. The member referred to as having prepared the treasury order, and offered it in the shape of a bill in the Senate, and getting no vote for it but his own,—who stood solitary and alone on that occasion, as well as on some others—was no other than the writer of this View; and he has lived to see about as much unanimity in favor of that measure since as there was against it then. Nine-tenths of the members of Congress were then against it, but from very different motives—some because they were deeply engaged in land speculations, and borrowed paper from the banks for the purpose; some because they were in the interest of the banks, and wished to give their paper credit and circulation; others because they were sincere believers in the paper system; others because they were opposed to the President, and believed him to be in favor of the measure; others again from mere timidity of temperament, and constitutional inability to act strongly. And these various descriptions embraced friends as well as foes to the administration. Mr. Webster says the order was issued eleven days after that Congress adjourned which had so

unanimously rejected it. That is true. We only waited for Congress to be gone to issue the order. Mr. Benton was in the room of the private secretary (Mr. Donelson), hard by the council chamber, while the cabinet sat in council upon this measure. They were mostly against it. General Jackson ordered it, and directed the private Secretary to bring him a draft of the order to be issued. He came to Mr. Benton to draw it—who did so: and being altered a little, it was given to the Secretary of the Treasury to be promulgated. Then Mr. Benton asked for his draft, that he might destroy it. The private secretary said no—that the time might come when it should be known who was at the bottom of that Treasury order: and that he would keep it. It was issued on the strong will and clear head of President Jackson, and saved many ten millions to the public treasury. Bales of bank notes were on the road to be converted into public lands which this order overtook, and sent back, to depreciate in the vaults of the banks instead of the coffers of the treasury. To repeal the order by law was the effort as soon as Congress met, and direct legislation to that effect was proposed by Mr. Ewing, of Ohio, but superseded by a circumlocutory bill from Mr. Walker and Mr. Rives, which the President treated as a nullity for want of intelligibility: and of which Mr. Webster gave this account:

"If he himself had had power, he would have voted for Mr. Ewing's proposition to repeal the order, in terms which Mr. Butler and the late President could not have misunderstood; but power was so strong, and members of Congress had now become so delicate about giving offence to it, that it would not do, for the world, to repeal the obnoxious circular, plainly and forthwith; but the ingenuity of the friends of the administration must dodge around it, and over it—and now Mr. Butler had the unkindness to tell them that their views neither he, lawyer as he is, nor the President, could possibly understand (a laugh), and that, as it could not be understood, the President had pocketed it—and left it upon the archives of state, no doubt to be studied there. Mr. W. would call attention to the remarkable fact, that though the Senate acted upon this currency bill in season, yet it was put off, and put off—so that, by no action upon it before the ten days allowed the President by the constitution, the power over it was completely in his will, even though the whole nation and every member of Congress wished for its repeal. Mr. W., however, believed that such was the pressure of public opinion upon the new President, that it must soon be repealed."

This amphibology of the bill, and delay in passing it, and this dodging around and over, was occasioned by what Mr. Webster calls the delicacy of some members who had the difficult part to play, of going with the enemies of the administration without going against the administration. A chapter in the first volume of this View gives the history of this work; and the last sentence in the passage quoted from Mr. Webster's speech gives the key to the views in which the speech originated, and to the proceedings by which it was accompanied and followed. "*It is believed that such is the pressure of public opinion upon the new President that it must soon be repealed.*"

In another part of his speech, Mr. Webster shows that the repealing bill was put by the whigs into the hands of certain friends of the administration, to be by them seasoned into a palatable dish; and that they gained no favor with the "bold man" who despised flinching, and loved decision, even in a foe. Thus:

"At the commencement of the last session, as you know, gentlemen, a resolution was brought forward in the Senate for annulling and abrogating this order, by Mr. Ewing, a gentleman of much intelligence, of sound principles, of vigorous and energetic character, whose loss from the service of the country, I regard as a public misfortune. The whig members all supported this resolution, and all the members, I believe, with the exception of some five or six, were very anxious, in some way, to get rid of the treasury order. But Mr. Ewing's resolution was too direct. It was deemed a pointed and ungracious attack on executive policy. Therefore, it

must be softened, modified, qualified, made to sound less harsh to the ears of men in power, and to assume a plausible, polished, inoffensive character. It was accordingly put into the plastic hands of the friends of the executive, to be moulded and fashioned, so that it might have the effect of ridding the country of the obnoxious order, and yet not appear to question executive infallibility. All this did not answer. The late President is not a man to be satisfied with soft words; and he saw in the measure, even as it passed the two houses, a substantial repeal of the order. He is a man of boldness and decision; and he respects boldness and decision in others. If you are his friend, he expects no flinching; and if you are his adversary, he respects you none the less, for carrying your opposition to the full limits of honorable warfare."

Mr. Webster must have been greatly dissatisfied with his democratic allies, when he could thus, in a public speech, before such an audience, and within one short month after they had been co-operating with him, hold them up as equally unmeritable in the eyes of both parties.

History deems it essential to present this New York speech of Mr. Webster as part of a great movement, without a knowledge of which the view would be imperfect. It was the first formal public step which was to inaugurate the new distress, and organize the proceedings for shutting up the banks, and with them, the federal treasury, with a view to coerce the government into submission to the Bank of the United States and its confederate politicians. Mr. Van Buren was a man of great suavity and gentleness of deportment, and, to those who associated the idea of violence with firmness, might be supposed deficient in that quality. An experiment upon his nerves was resolved on—a pressure of public opinion, in the language of Mr. Webster, under which his gentle temperament was expected to yield.

4. Progress Of The Distress, And Preliminaries For The Suspension

The speech of Mr. Webster—his appeal for action—was soon followed by its appointed consequence—an immense meeting in the city of New York. The speech did not produce the meeting, any more than the meeting produced the speech. Both were in the programme, and performed as prescribed, in their respective places—the speech first, the meeting afterwards; and the latter justified by the former. It was an immense assemblage, composed of the elite of what was foremost in the city for property, talent, respectability; and took for its business the consideration of the times: the distress of the times, and the nature of the remedy. The imposing form of a meeting, solemn as well as numerous and respectable, was gone through: speeches made, resolutions adopted: order and emphasis given to the proceedings. A president, ten vice-presidents, two secretaries, seven orators (Mr. Webster not among them: he had performed his part, and made his exit), officiated in the ceremonies; and thousands of citizens constituted the accumulated mass. The spirit and proceedings of the meeting were concentrated in a series of resolves, each stronger than the other, and each more welcome than the former; and all progressive, from facts and principles declared, to duties and performances recommended. The first resolve declared the existence of the distress, and made the picture gloomy enough. It was in these words:

"Whereas, the great commercial interests of our city have nearly reached a point of general ruin—our merchants driven from a state of prosperity to that of unprecedented difficulty and bankruptcy—the business, activity and energy, which have heretofore made us the polar star of the new world, is daily sinking, and taking from us the fruits of years of industry—reducing the aged among us, who but yesterday were sufficiently in affluence, to a state of comparative want; and blighting the prospects, and blasting the hopes of the young throughout our once prosperous land: we deem it our duty to express to the country our situation and desires, while yet there is time to retrace error, and secure those rights and perpetuate those principles which were bequeathed us by our fathers, and which we are bound to make every honorable effort to maintain."

After the fact of the distress, thus established by a resolve, came the cause; and this was the condensation of Mr. Webster's speech, collecting into a point what had been oratorically diffused over a wide surface. What was itself a condensation cannot be farther abridged, and must be given in its own words:

"That the wide-spread disaster which has overtaken the commercial interests of the country, and which threatens to produce general bankruptcy, may be in a great measure ascribed to the interference of the general government with the commercial and business operations of the country; its intermeddling with the currency; its destruction of the national bank; its attempt to substitute a metallic for a credit currency; and, finally, to the issuing by the President of the United States of the treasury order, known as the 'specie circular.'"

The next resolve foreshadowed the consequences which follow from governmental perseverance in such calamitous measures—general bankruptcy to the dealing classes, starvation to the laboring classes, public convulsions, and danger to our political institutions; with an admonition to the new President of what might happen to himself, if he persevered in the "*experiments*" of a predecessor whose tyranny and oppression had made him the scourge of his country. But let the resolve speak for itself:

"That while we would do nothing which might for a moment compromit our respect for the laws, we feel it incumbent upon us to remind the executive of the nation, that the government of the country, as of late administered, has become the oppressor of the people, instead of affording them protection—that his perseverance in the experiment of his predecessor (after the public voice, in every way in which that voice could be expressed, has clearly denounced it as ruinous to the best interests of the country) has already caused the ruin of thousands of merchants, thrown tens of thousands of mechanics and laborers out of employment, depreciated the value of our great staple millions of dollars, destroyed the internal exchanges, and prostrated the energies and blighted the prospects of the industrious and enterprising portion of our people; and must, if persevered in, not only produce *starvation* among the laboring classes, but inevitably lead to disturbances which may endanger the stability of our institutions themselves."

This word "*experiment*" had become a staple phrase in all the distress oratory and literature of the day, sometimes heightened by the prefix of "*quack*," and was applied to all the efforts of the administration to return the federal government to the hard money currency, which was the currency of the constitution and the currency of all countries; and which efforts were now treated as novelties and dangerous innovations. Universal was the use of the phrase by one of the political parties some twenty years ago: dead silent are their tongues upon it now! Twenty years of successful working of the government under the hard money system has put an end to the repetition of a phrase which has suffered the fate of all catch-words of party, and became more distasteful to its old employers than it ever was to their adversaries. It has not been heard since the federal government got divorced from bank and paper money! since gold and silver has become the sole currency of the federal government! since, in fact, the memorable epoch when the Bank of the United States (former sovereign remedy for all the ills the body politic was heir to) has become a defunct authority, and an "obsolete idea."

The next resolve proposed a direct movement upon the President—nothing less than a committee of fifty to wait upon him, and "*remonstrate*" with him upon what was called the ruinous measures of the government.

"That a committee of not less than fifty be appointed to repair to Washington, and remonstrate with the Executive against the continuance of "the specie circular;" and in behalf of this meeting and in the name of the merchants of New York, and the people of the United States, urge its immediate repeal."

This formidable committee, limited to a minimum of fifty, open to a maximum of any amount, besides this "*remonstrance*" against the specie circular, were also instructed to petition the President to forbear the collection of merchants' bonds by suit; and also to call an extra session of Congress. The first of these measures was to stop the collection of the accruing revenues: the second, to obtain from Congress that submission to the bank power which could not be obtained from the President. Formidable as were the arrangements for acting on the President, provision was discreetly made for a possible failure, and for the prosecution of other measures. With this view, the committee of fifty, after their return from Washington, were directed to call another general meeting of the citizens of New York, and to report to them the results of their mission. A concluding resolution invited the co-operation of the other great cities in these proceedings, and seemed to look to an imposing demonstration of physical force, and strong determination, as a means of acting on the mind, or will of the President; and thus controlling the free action of the constitutional authorities. This resolve was specially addressed to the merchants of Philadelphia, Boston and Baltimore, and generally addressed to all other commercial cities, and earnestly prayed their assistance in saving the whole country from ruin.

"That merchants of Philadelphia, Boston, Baltimore, and the commercial cities of the Union, be respectfully requested to unite with us in our remonstrance and petition, and to use their exertions, in connection with us, to induce the Executive of the nation to listen to the voice of the people, and to recede from a measure under the evils of which we are now laboring, and which threatens to involve the whole country in ruin."

The language and import of all these resolves and proceedings were sufficiently strong, and indicated a feeling but little short of violence towards the government; but, according to the newspapers of the city, they were subdued and moderate—tame and spiritless, in comparison to the feeling which animated the great meeting. A leading paper thus characterized that feeling:

"The meeting was a remarkable one for the vast numbers assembled—the entire decorum of the proceedings—and especially for the deep, though subdued and restrained, excitement which evidently pervaded the mighty mass. It was a spectacle that could not be looked upon without emotion,—that of many thousand men trembling, as it were, on the brink of ruin, owing to the measures, as they verily believe, of their own government, which should be their friend, instead of their oppressor—and yet meeting with deliberation and calmness, listening to a narrative of their wrongs, and the causes thereof, adopting such resolutions as were deemed judicious; and then quietly separating, to abide the result of their firm but respectful remonstrances. But it is proper and fit to say that this moderation must not be mistaken for pusillanimity, nor be trifled with, as though it could not by any aggravation of wrong be moved from its propriety. No man accustomed, from the expression of the countenance, to translate the emotions of the heart, could have looked upon the faces and the bearing of the multitude assembled last evening, and not have felt that there were fires smouldering there, which a single spark might cause to burst into flame."

Smouldering fires which a single spark might light into a flame! Possibly that spark might have been the opposing voice of some citizen, who thought the meeting mistaken, both in the fact of the ruin of the country and the attribution of that ruin to the specie circular. No such voice was lifted—no such spark applied, and the proposition to march 10,000 men to Washington to demand a redress of grievances was not sanctioned. The committee of fifty was deemed sufficient, as they certainly were, for every purpose of peaceful communication. They were eminently respectable citizens, any two, or any one of which, or even a mail transmission of their petition, would have commanded for it a most respectful attention. The grand committee arrived at Washington—asked an audience of the President—received it; but with the precaution (to avoid mistakes) that written communications should alone be used. The committee therefore presented their demands in writing, and a paragraph from it will show the degree to which the feeling of the city had allowed itself to be worked up.

"We do not tell a fictitious tale of woe; we have no selfish or partisan views to sustain, when we assure you that the noble city which we represent, lies prostrate in despair, its credit blighted, its industry paralyzed, and without a hope beaming through the darkness of the future, unless the government of our country can be induced to relinquish the measures to which we attribute our distress. We fully appreciate the respect which is due to our chief magistrate, and disclaim every intention inconsistent with that feeling; but we speak in behalf of a community which trembles upon the brink of ruin, which deems itself an adequate judge of all questions connected with the trade and currency of the country, and believes that the policy adopted by the recent administration and sustained by the present, is founded in error, and threatens the destruction of every department of industry. Under a deep impression of the propriety of confining our declarations within moderate limits, we affirm that the value of our real estate has, within the last six months, depreciated more than forty millions: that within

the last two months, there have been more than two hundred and fifty failures of houses engaged in extensive business: that within the same period, a decline of twenty millions of dollars has occurred in our local stocks, including those railroad and canal incorporations, which, though chartered in other States, depend chiefly upon New York for their sale: that the immense amount of merchandise in our warehouses has within the same period fallen in value at least thirty per cent.; that within a few weeks, not less than twenty thousand individuals, depending on their daily labor for their daily bread, have been discharged by their employers, because the means of retaining them were exhausted—and that a complete blight has fallen upon a community heretofore so active, enterprising and prosperous. The error of our rulers has produced a wider desolation than the pestilence which depopulated our streets, or the conflagration, which laid them in ashes. We believe that it is unjust to attribute these evils to any excessive development of mercantile enterprise, and that they really flow from that unwise system which aimed at the substitution of a metallic for a paper currency—the system which gave the first shock to the fabric of our commercial prosperity by removing the public deposits from the United States bank, which weakened every part of the edifice by the destruction of that useful and efficient institution, and now threatens to crumble it into a mass of ruins under the operations of the specie circular, which withdrew the gold and silver of the country from the channels in which it could be profitably employed. We assert that the experiment has had a fair—a liberal trial, and that disappointment and mischief are visible in all its results—that the promise of a regulated currency and equalized exchanges has been broken, the currency totally disordered, and internal exchanges almost entirely discontinued. We, therefore, make our earnest appeal to the Executive, and ask whether it is not time to interpose the paternal authority of the government, and abandon the policy which is beggaring the people."

The address was read to the President. He heard it with entire composure—made no sort of remark upon it—treated the gentlemen with exquisite politeness—and promised them a written answer the next day. This was the third of May: on the fourth the answer was delivered. It was an answer worthy of a President—a calm, quiet, decent, peremptory refusal to comply with a single one of their demands! with a brief reason, avoiding all controversy, and foreclosing all further application, by a clean refusal in each case. The committee had nothing to do but to return, and report: and they did so. There had been a mistake committed in the estimate of the man. Mr. Van Buren vindicated equally the rights of the chief magistrate, and his own personal decorum; and left the committee without any thing to complain of, although unsuccessful in all their objects. He also had another opportunity of vindicating his personal and official decorum in another visit which he received about the same time. Mr. Biddle called to see the President—apparently a call of respect on the chief magistrate—about the same time, but evidently with the design to be consulted, and to appear as the great restorer of the currency. Mr. Van Buren received the visit according to its apparent intent, with entire civility, and without a word on public affairs. Believing Mr. Biddle to be at the bottom of the suspension, he could not treat him with the confidence and respect which a consultation would imply. He (Mr. Biddle) felt the slight, and caused this notice to be put in the papers:

"Being on other business at Washington, Mr. Biddle took occasion to call on the President of the United States, to pay his respects to him in that character, and especially, to afford the President an opportunity, if he chose to embrace it, to speak of the present state of things, and to confer, if he saw fit, with the head of the largest banking institution in the country—and that the institution in which such general application has been made for relief. During the interview, however, the President remained profoundly silent upon the great and interesting

topics of the day; and as Mr. Biddle did not think it his business to introduce them, not a word in relation to them was said."

Returning to New York, the committee convoked another general meeting of the citizens, as required to do at the time of their appointment; and made their report to it, recommending further forbearance, and further reliance on the ballot box, although (as they said) history recorded many popular insurrections where the provocation was less. A passage from this report will show its spirit, and to what excess a community may be excited about nothing, by the mutual inflammation of each other's passions and complaints, combined with a power to act upon the business and interests of the people.

"From this correspondence it is obvious, fellow-citizens, that we must abandon all hope that either the justice of our claims or the severity of our sufferings will induce the Executive to abandon or relax the policy which has produced such desolating effects—and it remains for us to consider what more is to be done in this awful crisis of our affairs. Our first duty under losses and distresses which we have endured, is to cherish with religious care the blessings which we yet enjoy, and which can be protected only by a strict observance of the laws upon which society depends for security and happiness. We do not disguise our opinion that the pages of history record, and the opinions of mankind justify, numerous instances of popular insurrection, the provocation to which was less severe than the evils of which we complain. But in these cases, the outraged and oppressed had no other means of redress. Our case is different. If we can succeed in an effort to bring public opinion into sympathy with the views which we entertain, the Executive will abandon the policy which oppresses, instead of protecting the people. Do not despair because the time at which the ballot box can exercise its healing influence appears so remote—the sagacity of the practical politician will perceive the change in public sentiment before you are aware of its approach. But the effort to produce this change must be vigorous and untiring."

The meeting adopted corresponding resolutions. Despairing of acting on the President, the move was to act upon the people—to rouse and combine them against an administration which was destroying their industry, and to remove from power (at the elections) those who were destroying the industry of the country. Thus:

"*Resolved*, That the interests of the capitalists, merchants, manufacturers, mechanics and industrious classes, are dependent upon each other, and any measures of the government which prostrate the active business men of the community, will also deprive honest industry of its reward; and we call upon all our fellow-citizens to unite with us in removing from power those who persist in a system that is destroying the prosperity of our country."

Another resolve summed up the list of grievances of which they complained, and enumerated the causes of the pervading ruin which had been brought upon the country. Thus:

"*Resolved*, That the chief causes of the existing distress are the defeat of Mr. Clay's land bill, the removal of the public deposits, the refusal to re-charter the Bank of the United States, and the issuing of the specie circular. The land bill was passed by the people's representatives, and vetoed by the President—the bill rechartering the bank was passed by the people's representatives, and vetoed by the President. The people's representatives declared by a solemn resolution, that the public deposits were safe in the United States Bank; within a few weeks thereafter, the President removed the public deposits. The people's representatives passed a bill rescinding the specie circular: the President destroyed it by omitting to return it within the limited period; and in the answer to our addresses, President Van Buren declares that the specie circular was issued by his predecessor, omitting all notice of the Secretary of

the Treasury, who is amenable directly to Congress, and charged by the act creating his department with the superintendence of the finances, and who signed the order."

These two resolves deserve to be noted. They were not empty or impotent menace. They were for action, and became what they were intended for. The moneyed corporations, united with a political party, were in the field as a political power, to govern the elections, and to govern them, by the only means known to a moneyed power—by operating on the interests of men, seducing some, alarming and distressing the masses. They are the key to the manner of conducting the presidential election, and which will be spoken of in the proper place. The union of Church and State has been generally condemned: the union of Bank and State is far more condemnable. Here the union was not with the State, but with a political party, nearly as strong as the party in possession of the government, and exemplified the evils of the meretricious connection between money and politics; and nothing but this union could have produced the state of things which so long afflicted the country, and from which it has been relieved, not by the cessation of their imputed causes, but by their perpetuation. It is now near twenty years since this great meeting was held in New York. The ruinous measures complained of have not been revoked, but become permanent. They have been in full force, and made stronger, for near twenty years. The universal and black destruction which was to ensue their briefest continuance, has been substituted by the most solid, brilliant, pervading, and abiding prosperity that any people ever beheld. Thanks to the divorce of Bank and State. But the consummation was not yet. Strong in her name, and old recollections, and in her political connections—dominant over other banks—bribing with one hand, scourging with the other—a long retinue of debtors and retainers—desperate in her condition—impotent for good, powerful for evil—confederated with restless politicians, and wickedly, corruptly, and revengefully ruled: the Great Red Harlot, profaning the name of a National Bank, was still to continue a while longer its career of abominations—maintaining dubious contest with the government which created it, upon whose name and revenues it had gained the wealth and power of which it was still the shade, and whose destruction it plotted because it could not rule it. Posterity should know these things, that by avoiding bank connections, their governments may avoid the evils that we have suffered; and, by seeing the excitements of 1837, they may save themselves from ever becoming the victims of such delusion.

5. Actual Suspension Of The Banks: Propagation Of The Alarm

None of the public meetings, and there were many following the leading one in New York, recommended in terms a suspension of specie payments by the banks. All avoided, by concert or instinct, the naming of that high measure; but it was in the list, and at the head of the list, of the measures to be adopted; and every thing said or done was with a view to that crowning event; and to prepare the way for it before it came; and to plead its subsequent justification by showing its previous necessity. It was in the programme, and bound to come in its appointed time; and did—and that within a few days after the last great meeting in New York. It took place quietly and generally, on the morning of the 10th of May, altogether, and with a concert and punctuality of action, and with a military and police preparation, which announced arrangement and determination; such as attend revolts and insurrections in other countries. The preceding night all the banks of the city, three excepted, met by their officers, and adopted resolutions to close their doors in the morning: and gave out notice to that effect. At the same time three regiments of volunteers, and a squadron of horse, were placed on duty in the principal parts of the city; and the entire police force, largely reinforced with special constables, was on foot. This was to suppress the discontent of those who might be too much dissatisfied at being repulsed when they came to ask for the amount of a deposit, or the contents of a bank note. It was a humiliating spectacle, but an effectual precaution. The people remained quiet. At twelve o'clock a large mercantile meeting took place. Resolutions were adopted by it to sustain the suspension, and the newspaper press was profuse and energetic in its support. The measure was consummated: the suspension was complete: it was triumphant in that city whose example, in such a case, was law to the rest of the Union. But, let due discrimination be made. Though all the banks joined in the act, all were not equally culpable; and some, in fact, not culpable at all, but victims of the criminality, or misfortunes of others. It was the effect of necessity with the deposit banks, exhausted by vain efforts to meet the quarterly deliveries of the forty millions to be deposited with the States; and pressed on all sides because they were government banks, and because the programme required them to stop first. It was an act of self-defence in others which were too weak to stand alone, and which followed with reluctance an example which they could not resist. With others it was an act of policy, and of criminal contrivance, as the means of carrying a real distress into the ranks of the people, and exciting them against the political party to whose acts the distress was attributed. But the prime mover, and master manager of the suspension, was the Bank of the United States, then rotten to the core and tottering to its fall, but strong enough to carry others with it, and seeking to hide its own downfall in the crash of a general catastrophe. Having contrived the suspension, it wished to appear as opposing it, and as having been dragged down by others; and accordingly took the attitude of a victim. But the impudence and emptiness of that pretension was soon exposed by the difficulty which other banks had in forcing her to resume; and by the facility with which she fell back, "solitary and alone," into the state of permanent insolvency from which the other banks had momentarily galvanized her. But the occasion was too good to be lost for one of those complacent epistles, models of quiet impudence and cool mendacity, with which Mr. Biddle was accustomed to regale the public in seasons of moneyed distress. It was impossible to forego such an opportunity; and, accordingly, three days after the New York suspension, and two days after his own, he held forth in a strain of which the following is a sample:

“All the deposit banks of the government of the United States in the city of New York suspended specie payments this week—the deposit banks elsewhere have followed their example; which was of course adopted by the State banks not connected with the government. I say of course, because it is certain that when the government banks cease to pay specie, all the other banks must cease, and for this clear reason. The great creditor in the United States is the government. It receives for duties the notes of the various banks, which are placed for collection in certain government banks, and are paid to those government banks in specie if requested. From the moment that the deposit banks of New York, failed to comply with their engagements, it was manifest that all the other deposit banks must do the same, that there must be a universal suspension throughout the country, and that the treasury itself in the midst of its nominal abundance must be practically bankrupt.”

This was all true. The stoppage of the deposit banks was the stoppage of the Treasury. Non-payment by the government, was an excuse for non-payment by others. Bankruptcy was the legal condition of non-payment; and that condition was the fate of the government as well as of others; and all this was perfectly known before by those who contrived, and those who resisted the deposit with the States and the use of paper money by the federal government. These two measures made the suspension and the bankruptcy; and all this was so obvious to the writer of this View that he proclaimed it incessantly in his speeches, and was amazed at the conduct of those professing friends of the administration who voted with the opposition on these measures, and by their votes insured the bankruptcy of the government which they professed to support. Mr. Biddle was right. The deposit banks were gone; the federal treasury was bankrupt; and those two events were two steps on the road which was to lead to the re-establishment of the Bank of the United States! and Mr. Biddle stood ready with his bank to travel that road. The next paragraph displayed this readiness.

“In the midst of these disorders the Bank of the United States occupies a peculiar position, and has special duties. Had it consulted merely its own strength it would have continued its payments without reserve. But in such a state of things the first consideration is how to escape from it—how to provide at the earliest practicable moment to change a condition which should not be tolerated beyond the necessity which commanded it. The old associations, the extensive connections, the established credit, the large capital of the Bank of the United States, rendered it the natural rallying point of the country for the resumption of specie payments. It seemed wiser, therefore, not to waste its strength in a struggle which might be doubtful while the Executive persevered in its present policy, but to husband all its resources so as to profit by the first favorable moment to take the lead in the early resumption of specie payments. Accordingly the Bank of the United States assumes that position. From this moment its efforts will be to keep itself strong, and to make itself stronger; always prepared and always anxious to assist in recalling the currency and the exchanges of the country to the point from which they have fallen. It will co-operate cordially and zealously with the government, with the government banks, with all the other banks, and with any other influences which can aid in that object.”

This was a bold face for an eviscerated institution to assume—one which was then nothing but the empty skin of an immolated victim—the contriver of the suspension to cover its own rottenness, and the architect of distress and ruin that out of the public calamity it might get again into existence and replenish its coffers out of the revenues and credit of the federal government. “Would have continued specie payments, if it had only consulted its own strength”—”only suspended from a sense of duty and patriotism”—”will take the lead in resuming”—”assumes the position of restorer of the currency”—”presents itself as the rallying point of the country in the resumption of specie payments”—”even promises to co-operate with the government:” such were the impudent professions at the very moment that

this restorer of currency, and rallying point of resumption, was plotting a continuance of the distress and suspension until it could get hold of the federal moneys to recover upon; and without which it never could recover.

Indissolubly connected with this bank suspension, and throwing a broad light upon its history, (if further light were wanted,) was Mr. Webster's tour to the West, and the speeches which he made in the course of it. The tour extended to the Valley of the Mississippi, and the speeches took for their burden the distress and the suspension, excusing and justifying the banks, throwing all blame upon the government, and looking to the Bank of the United States for the sole remedy. It was at Wheeling that he opened the series of speeches which he delivered in his tour, it being at that place that he was overtaken by the news of the suspension, and which furnished him with the text for his discourse.

"Recent evils have not at all surprised me, except that they have come sooner and faster than I had anticipated. But, though not surprised, I am afflicted; I feel any thing but pleasure in this early fulfilment of my own predictions. Much injury is done which the wisest future counsels can never repair, and much more that can never be remedied but by such counsels and by the lapse of time. From 1832 to the present moment I have foreseen this result. I may safely say I have foreseen it, because I have presented and proclaimed its approach in every important discussion and debate, in the public body of which I am a member. We learn to-day that most of the eastern banks have stopped payment; deposit banks as well as others. The experiment has exploded. That bubble, which so many of us have all along regarded as the offspring of conceit, presumption and political quackery, has burst. A general suspension of payment must be the result; a result which has come, even sooner than was predicted. Where is now that better currency that was promised? Where is that specie circulation? Where are those rupees of gold and silver, which were to fill the treasury of the government as well as the pockets of the people? Has the government a single hard dollar? Has the treasury any thing in the world but credit and deposits in banks that have already suspended payment? How are public creditors now to be paid in specie? How are the deposits, which the law requires to be made with the states on the 1st of July, now to be made."

This was the first speech that Mr. Webster delivered after the great one before the suspension in New York, and may be considered the epilogue after the performance as the former was the prologue before it. It is a speech of exultation, with bitter taunts to the government. In one respect his information was different from mine. He said the suspension came sooner than was expected: my information was that it came later, a month later; and that he himself was the cause of the delay. My information was that it was to take place in the first month of Mr. Van Buren's administration, and that the speech which was to precede it was to be delivered early in March, immediately after the adjournment of Congress: but it was not delivered till the middle of that month, nor got ready for *pamphlet* publication until the middle of April; which delay occasioned a corresponding postponement in all the subsequent proceedings. The complete shutting up of the treasury—the loss of its moneys—the substitution of broken bank paper for hard money—the impossibility of paying a dollar to a creditor: these were the points of his complacent declamation: and having made these points strong enough and clear enough, he came to the remedy, and fell upon the same one, in almost the same words, that Mr. Biddle was using at the same time, four hundred miles distant, in Philadelphia: and that without the aid of the electric telegraph, not then in use. The recourse to the Bank of the United States was that remedy! that bank strong enough to hold out, (unhappily the news of its suspending arrived while he was speaking:) patriotic enough to do so! but under no obligation to do better than the deposit banks! and justifiable in following their example. Hear him:

“The United States Bank, now a mere state institution, with no public deposits, no aid from government, but, on the contrary, long an object of bitter persecution by it, was at our latest advices still firm. But can we expect of that Bank to make sacrifices to continue specie payment? If it continue to do so, now the deposit banks have stopped, the government will draw from it its last dollar, if it can do so, in order to keep up a pretence of making its own payments in specie. I shall be glad if this institution find it prudent and proper to hold out; but as it owes no more duty to the government than any other bank, and, of course, much less than the deposit banks, I cannot see any ground for demanding from it efforts and sacrifices to favor the government, which those holding the public money, and owing duty to the government, are unwilling or unable to make; nor do I see how the New England banks can stand alone in the general crush.”

The suspension was now complete; and it was evident, and as good as admitted by those who had made it, that it was the effect of contrivance on the part of politicians, and the so-called Bank of the United States, for the purpose of restoring themselves to power. The whole process was now clear to the vision of those who could see nothing while it was going on. Even those of the democratic party whose votes had helped to do the mischief, could now see that the attempt to deposit forty millions with the States was destruction to the deposit banks;—that the repeal of the specie circular was to fill the treasury with paper money, to be found useless when wanted;—that distress was purposely created in order to throw the blame of it upon the party in power;—that the promptitude with which the Bank of the United States had been brought forward as a remedy for the distress, showed that it had been held in reserve for that purpose;—and the delight with which the whig party saluted the general calamity, showed that they considered it their own passport to power. All this became visible, after the mischief was over, to those who could see nothing of it before it was done.

6. Transmigration Of The Bank Of The United States From A Federal To A State Institution

This institution having again appeared on the public theatre, politically and financially, and with power to influence national legislation, and to control moneyed corporations, and with art and skill enough to deceive astute merchants and trained politicians,—(for it is not to be supposed that such men would have committed themselves in her favor if they had known her condition,)—it becomes necessary to trace her history since the expiration of her charter, and learn by what means she continued an existence, apparently without change, after having undergone the process which, in law and in reason, is the death of a corporation. It is a marvellous history, opening a new chapter in the necrology of corporations, very curious to study, and involving in its solution, besides the biological mystery, the exposure of a legal fraud and juggle, a legislative smuggle, and a corrupt enactment. The charter of the corporation had expired upon its own limitation in the year 1836: it was entitled to two years to wind up its affairs, engaging in no new business: but was seen to go on after the expiration, as if still in full life, and without the change of an attribute or feature. The explanation is this:

On the 19th day of January, in the year 1836, a bill was reported in the House of Representatives of the General Assembly of Pennsylvania, entitled, "*An act to repeal the State tax, and to continue the improvement of the State by railroads and canals; and for other purposes*." It came from the standing committee on "*Inland navigation and internal improvement*;" and was, in fact, a bill to repeal a tax and make roads and canals, but which, under the vague and usually unimportant generality of "*other purposes*," contained the entire draught of a charter for the Bank of the United States—adopting it as a Pennsylvania State bank. The introduction of the bill, with this addendum, colossal tail to it, was a surprise upon the House. No petition had asked for such a bank: no motion had been made in relation to it: no inquiry had been sent to any committee: no notice of any kind had heralded its approach: no resolve authorized its report: the unimportant clause of "*other purposes*," hung on at the end of the title, could excite no suspicion of the enormous measures which lurked under its unpretentious phraseology. Its advent was an apparition: its entrance an intrusion. Some members looked at each other in amazement. But it was soon evident that it was the minority only that was mystified—that a majority of the elected members in the House, and a cluster of exotics in the lobbies, perfectly understood the intrusive movement:—in brief, it had been smuggled into the House, and a power was present to protect it there. This was the first intimation that had reached the General Assembly, the people of Pennsylvania, or the people of the United States, that the Bank of the United States was transmigrating! changing itself from a national to a local institution—from a federal to a State charter—from an imperial to a provincial institution—retaining all the while its body and essence, its nature and attributes, its name and local habitation. It was a new species of metempsychosis, heretofore confined to souls separated from bodies, but now appearing in a body that never had a soul: for that, according to Sir Edward Coke, is the psychological condition of a corporation—and, above all, of a moneyed corporation.

The mystified members demanded explanations; and it was a case in which explanations could not be denied. Mr. Biddle, in a public letter to an eminent citizen, on whose name he had been accustomed to hang such productions, (Mr. John Quincy Adams,) attributed the procedure, so far as he had moved in it, to a "*formal application on the part of the legislature to know from him on what terms the expiring bank would receive a charter from it*;" and gave up the names of two members who had conveyed the application. The legislature had no

knowledge of the proceeding. The two members whose names had been vouched disavowed the legislative application, but admitted that, in compliance with suggestions, they had written a letter to Mr. Biddle in their own names, making the inquiry; but without the sanction of the legislature, or the knowledge of the committees of which they were members. They did not explain the reason which induced them to take the initiative in so important business; and the belief took root that their good nature had yielded to an importunity from an invisible source, and that they had consented to give a private and bungling commencement to what must have a beginning, and which could not find it in any open or parliamentary form. It was truly a case in which the first step cost the difficulty. How to begin was the puzzle, and so to begin as to conceal the beginning, was the desideratum. The finger of the bank must not be seen in it, yet, without the touch of that finger, the movement could not begin. Without something from the Bank—without some request or application from it, it would have been gratuitous and impertinent, and might have been insulting and offensive, to have offered it a State charter. To apply openly for a charter was to incur a publicity which would be the defeat of the whole movement. The answer of Mr. Biddle to the two members, dexterously treating their private letter, obtained by solicitation, as a formal legislative application, surmounted the difficulty! and got the Bank before the legislature, where there were friends enough secretly prepared for the purpose to pass it through. The terms had been arranged with Mr. Biddle beforehand, so that there was nothing to be done but to vote. The principal item in these terms was the stipulation to pay the State the sum of $1,300,000, to be expended in works of internal improvements; and it was upon this slender connection with the subject that the whole charter referred itself to the committee of "*Inland navigation and internal improvement*;"—to take its place as a proviso to a bill entitled, "*To repeal the State tax, and to continue the improvements of the State by railroads and canals*;"—and to be no further indicated in the title to that act than what could be found under the addendum of that vague and flexible generality, "*other purposes*;" usually added to point attention to something not worth a specification.

Having mastered the first step—the one of greatest difficulty, if there is truth in the proverb—the remainder of the proceeding was easy and rapid, the bill, with its proviso, being reported, read a first, second, and third time, passed the House—sent to the Senate; read a first, second, and third time there, and passed—sent to the Governor and approved, and made a law of the land: and all in as little time as it usually requires to make an act for changing the name of a man or a county. To add to its titles to infamy, the repeal of the State tax which it assumed to make, took the air of a bamboozle, the tax being a temporary imposition, and to expire within a few days upon its own limitation. The distribution of the bonus took the aspect of a bribe to the people, being piddled out in driblets to the inhabitants of the counties: and, to stain the bill with the last suspicion, a strong lobby force from Philadelphia hung over its progress, and cheered it along with the affection and solicitude of parents for their offspring. Every circumstance of its enactment announced corruption—bribery in the members who passed the act, and an attempt to bribe the people by distributing the bonus among them: and the outburst of indignation throughout the State was vehement and universal. People met in masses to condemn the act, demand its repeal, to denounce the members who voted for it, and to call for investigation into the manner in which it passed. Of course, the legislature which passed it was in no haste to respond to these demands; but their successors were different. An election intervened; great changes of members took place; two-thirds of the new legislature demanded investigation, and resolved to have it. A committee was appointed, with the usual ample powers, and sat the usual length of time, and worked with the usual indefatigability, and made the usual voluminous report; and with the usual "lame and impotent conclusion." A mass of pregnant circumstances were collected, covering the whole case with black suspicion: but direct bribery was proved upon no one. Probably, the case of the Yazoo fraud

is to be the last, as it was the first, in which a succeeding general assembly has fully and unqualifiedly condemned its predecessor for corruption.

The charter thus obtained was accepted: and, without the change of form or substance in any particular, the old bank moved on as if nothing had happened—as if the Congress charter was still in force—as if a corporate institution and all its affairs could be shifted by statute from one foundation to another;—as if a transmigration of corporate existence could be operated by legislative enactment, and the debtors, creditors, depositors, and stockholders in one bank changed, transformed, and constituted into debtors, creditors, depositors and stockholders in another. The illegality of the whole proceeding was as flagrant as it was corrupt—as scandalous as it was notorious—and could only find its motive in the consciousness of a condition in which detection adds infamy to ruin; and in which no infamy, to be incurred, can exceed that from which escape is sought. And yet it was this broken and rotten institution—this criminal committing crimes to escape from the detection of crimes—this "counterfeit presentment" of a defunct corporation—this addendum to a Pennsylvania railroad—this whited sepulchre filled with dead men's bones, thus bribed and smuggled through a local legislature—that was still able to set up for a power and a benefactor! still able to influence federal legislation—control other banks—deceive merchants and statesmen—excite a popular current in its favor—assume a guardianship over the public affairs, and actually dominate for months longer in the legislation and the business of the country. It is for the part she acted—the dominating part—in contriving the financial distress and the general suspension of the banks in 1837—the last one which has afflicted our country,—that renders necessary and proper this notice of her corrupt transit through the General Assembly of the State of Pennsylvania.

7. Effects Of The Suspension: General Derangement Of Business: Suppression And Ridicule Of The Specie Currency: Submission Of The People: Call Of Congress

A great disturbance of course took place in the business of the country, from the stoppage of the banks. Their agreement to receive each others' notes made these notes the sole currency of the country. It was a miserable substitute for gold and silver, falling far below these metals when measured against them, and very unequal to each other in different parts of the country. Those of the interior, and of the west, being unfit for payments in the great commercial Atlantic cities, were far below the standard of the notes of those cities, and suffered a heavy loss from difference of exchange, as it was called (although it was only the difference of depreciation,) in all remittances to those cities:—to which points the great payments tended. All this difference was considered a loss, and charged upon the mismanagement of the public affairs by the administration, although the clear effect of geographical position. Specie disappeared as a currency, being systematically suppressed. It became an article of merchandise, bought and sold like any other marketable commodity; and especially bought in quantities for exportation. Even metallic change disappeared, down to the lowest subdivision of the dollar. Its place was supplied by every conceivable variety of individual and corporation tickets—issued by some from a feeling of necessity; by others, as a means of small gains; by many, politically, as a means of exciting odium against the administration for having destroyed the currency. Fictitious and burlesque notes were issued with caricatures and grotesque pictures and devices, and reproachful sentences, entitled the "*better currency*:" and exhibited every where to excite contempt. They were sent in derision to all the friends of the specie circular, especially to him who had the credit (not untruly) of having been its prime mover—most of them plentifully sprinkled over with taunting expressions to give them a personal application: such as—"This is what you have brought the country to:" "the end of the experiment:" "the gold humbug exploded:" "is this what was promised us?" "behold the effects of tampering with the currency." The presidential mansion was infested, and almost polluted with these missives, usually made the cover of some vulgar taunt. Even gold and silver could not escape the attempted degradation—copper, brass, tin, iron pieces being struck in imitation of gold and silver coins—made ridiculous by figures and devices, usually the whole hog, and inscribed with taunting and reproachful expressions. Immense sums were expended in these derisory manufactures, extensively carried on, and universally distributed; and reduced to a system as a branch of party warfare, and intended to act on the thoughtless and ignorant through appeals to their eyes and passions. Nor were such means alone resorted to to inflame the multitude against the administration. The opposition press teemed with inflammatory publications. The President and his friends were held up as great state criminals, ruthlessly destroying the property of the people, and meriting punishment—even death. Nor did these publications appear in thoughtless or obscure papers only, but in some of the most weighty and influential of the bank party. Take, for example, this paragraph from a leading paper in the city of New York:

"We would put it directly to each and all of our readers, whether it becomes this great people, quietly and tamely to submit to any and every degree of lawless oppression which their rulers may inflict, merely because *resistance* may involve us in trouble and expose those who resist, to censure? We are very certain their reply will be, '*No*, but at what point is "resistance to

commence?"—is not the evil of resistance greater "than the evil of submission?"' We answer promptly, that resistance on the part of a free people, if they would preserve their freedom, should always commence whenever it is made plain and palpable that there has been a deliberate violation of their rights; and whatever temporary evils may result from such resistance, it can never be so great or so dangerous to our institutions, as a blind submission to a most manifest act of oppression and tyranny. And now, we would ask of all—what shadow of right, what plea of expediency, what constitutional or legal justification can Martin Van Buren offer to the people of the United States, for having brought upon them all their present difficulties by a continuance of the *specie circular*, after two-thirds of their representatives had declared their solemn convictions that it was injurious to the country and should be repealed? Most assuredly, none, and we unhesitatingly say, that it is a more high-handed measure of *tyranny* than that which cost *Charles* the 1st his crown and his head—more illegal and unconstitutional than the act of the British ministry which caused the patriots of the revolution to destroy the tea in the harbor of Boston—and one which calls more loudly for resistance than any act of Great Britain which led to the Declaration of Independence."

Taken by surprise in the deprivation of its revenues,—specie denied it by the banks which held its gold and silver,—the federal government could only do as others did, and pay out depreciated paper. Had the event been foreseen by the government, it might have been provided against, and much specie saved. It was now too late to enter into a contest with the banks, they in possession of the money, and the suspension organized and established. They would only render their own notes: the government could only pay in that which it received. Depreciated paper was their only medium of payment; and every such payment (only received from a feeling of duresse) brought resentment, reproach, indignation, loss of popularity to the administration; and loud calls for the re-establishment of the National Bank, whose notes had always been equal to specie, and were then contrived to be kept far above the level of those of other suspended banks. Thus the administration found itself, in the second month of its existence, struggling with that most critical of all government embarrassments—deranged finances, and depreciated currency; and its funds dropping off every day. Defections were incessant, and by masses, and sometimes by whole States: and all on account of these vile payments in depreciated paper. Take a single example. The State of Tennessee had sent numerous volunteers to the Florida Indian war. There were several thousands of them, and came from thirty different counties, requiring payments to be made through a large part of the State, and to some member of almost every family in it. The paymaster, Col. Adam Duncan Steuart, had treasury drafts on the Nashville deposit banks for the money to make the payments. They delivered their own notes, and these far below par—even twenty per cent. below those of the so-called Bank of the United States, which the policy of the suspension required to be kept in strong contrast with those of the government deposit banks. The loss on each payment was great—one dollar in every five. Even patriotism could not stand it. The deposit banks and their notes were execrated: the Bank of the United States and its notes were called for. It was the children of Israel wailing for the fleshpots of Egypt. Discontent, from individual became general, extending from persons to masses. The State took the infection. From being one of the firmest and foremost of the democratic States, Tennessee fell off from her party, and went into opposition. At the next election she showed a majority of 20,000 against her old friends; and that in the lifetime of General Jackson; and contrary to what it would have been if his foresight had been seconded. He foresaw the consequences of paying out this depreciated paper. The paymaster had foreseen them, and before drawing a dollar from the banks he went to General Jackson for his advice. This energetic man, then aged, and dying, and retired to his beloved hermitage,—but all head and nerve to the last, and scorning to see the government capitulate to insurgent banks,—acted up to his character. He advised the paymaster to proceed to Washington and ask for solid

money—for the gold and silver which was then lying in the western land offices. He went; but being a military subordinate, he only applied according to the rules of subordination, through the channels of official intercourse: and was denied the hard money, wanted for payments on debenture bonds and officers of the government. He did not go to Mr. Van Buren, as General Jackson intended he should do. He did not feel himself authorized to go beyond official routine. It was in the recess of Congress, and I was not in Washington to go to the President in his place (as I should instantly have done); and, returning without the desired orders, the payments were made, through a storm of imprecations, in this loathsome trash: and Tennessee was lost. And so it was, in more or less degree, throughout the Union. The first object of the suspension had been accomplished—a political revolt against the administration.

Miserable as was the currency which the government was obliged to use, it was yet in the still more miserable condition of not having enough of it! The deposits with the States had absorbed two sums of near ten millions each: two more sums of equal amount were demandable in the course of the year. Financial embarrassment, and general stagnation of business, diminished the current receipts from lands and customs: an absolute deficit—that horror, and shame, and mortal test of governments—showed itself ahead. An extraordinary session of Congress became a necessity, inexorable to any contrivance of the administration: and, on the 15th day of May—just five days after the suspension in the principal cities—the proclamation was issued for its assembling: to take place on the first Monday of the ensuing September. It was a mortifying concession to imperative circumstances; and the more so as it had just been refused to the grand committee of Fifty—demanding it in the imposing name of that great meeting in the city of New York.

8. Extra Session: Message, And Recommendations

The first session of the twenty-fifth Congress, convened upon the proclamation of the President, to meet an extraordinary occasion, met on the first Monday in September, and consisted of the following members:

SENATE.

New Hampshire—Henry Hubbard and Franklin Pierce.

Maine—John Ruggles and Ruel Williams.

Vermont—Samuel Prentiss and Benjamin Swift.

Massachusetts—Daniel Webster and John Davis.

Rhode Island—Nehemiah R. Knight and Asher Robbins.

Connecticut—John M. Niles and Perry Smith.

New York—Silas Wright and Nathaniel P. Tallmadge.

New Jersey—Garret D. Wall and Samuel L. Southard.

Delaware—Richard H. Bayard and Thomas Clayton.

Pennsylvania—James Buchanan and Samuel McKean.

Maryland—Joseph Kent and John S. Spence.

Virginia—William C. Rives and William H. Roane.

North Carolina—Bedford Brown and Robert Strange.

South Carolina—John C. Calhoun and Wm. Campbell Preston.

Georgia—John P. King and Alfred Cuthbert.

Alabama—Wm. Rufus King and Clement C. Clay.

Mississippi—John Black and Robert J. Walker.

Louisiana—Robert C. Nicholas and Alexander Mouton.

Tennessee—Hugh L. White and Felix Grundy.

Kentucky—Henry Clay and John Crittenden.

Arkansas—Ambrose H. Sevier and William S. Fulton.

Missouri—Thomas H. Benton and Lewis F. Linn.

Illinois—Richard M. Young and John M. Robinson.

Indiana—Oliver H. Smith and John Tipton.

Ohio—William Allen and Thomas Morris.

Michigan—Lucius Lyon and John Norvell.

HOUSE OF REPRESENTATIVES.

Maine—George Evans, John Fairfield, Timothy J. Carter, F. O. J. Smith, Thomas Davee, Jonathan Cilley, Joseph C. Noyes, Hugh J. Anderson.

New Hampshire—Samuel Cushman, James Farrington, Charles G. Atherton, Joseph Weeks, Jared W. Williams.

Massachusetts—Richard Fletcher, Stephen C. Phillips, Caleb Cushing, Wm. Parmenter, Levi Lincoln, George Grinnell, jr., George N. Briggs, Wm. B. Calhoun, Nathaniel B. Borden, John Q. Adams, John Reed, Abbott Lawrence, Wm. S. Hastings.

Rhode Island—Robert B. Cranston, Joseph L. Tillinghast.

Connecticut—Isaac Toucey, Samuel Ingham, Elisha Haley, Thomas T. Whittlesey, Launcelot Phelps, Orrin Holt.

Vermont—Hiland Hall, William Slade, Heman Allen, Isaac Fletcher, Horace Everett.

New York—Thomas B. Jackson, Abraham Vanderveer, C. C. Cambreleng, Ely Moore, Edward Curtis, Ogden Hoffman, Gouverneur Kemble, Obadiah Titus, Nathaniel Jones, John C. Broadhead, Zadoc Pratt, Robert McClelland, Henry Vail, Albert Gallup, John I. DeGraff, David Russell, John Palmer, James B. Spencer, John Edwards, Arphaxad Loomis, Henry A. Foster, Abraham P. Grant, Isaac H. Bronson, John H. Prentiss, Amasa J. Parker, John C. Clark, Andrew D. W. Bruyn, Hiram Gray, William Taylor, Bennett Bicknell, William H. Noble, Samuel Birdsall, Mark H. Sibley, John T. Andrews, Timothy Childs, William Patterson, Luther C. Peck, Richard P. Marvin, Millard Fillmore, Charles F. Mitchell.

New Jersey—John B. Aycrigg, John P. B. Maxwell, William Halstead, Jos. F. Randolph, Charles G. Stratton, Thomas Jones Yorke.

Pennsylvania—Lemuel Paynter, John Sergeant, George W. Toland, Charles Naylor, Edward Davies, David Potts, Edward Darlington, Jacob Fry, jr., Matthias Morris, David D. Wagener, Edward B. Hubley, Henry A. Muhlenberg, Luther Reilly, Henry Logan, Daniel Sheffer, Chas. McClure, Wm. W. Potter, David Petriken, Robert H. Hammond, Samuel W. Morris, Charles Ogle, John Klingensmith, Andrew Buchanan, T. M. T. McKennan, Richard Biddle, William Beatty, Thomas Henry, Arnold Plumer.

Delaware—John J. Milligan.

Maryland—John Dennis, James A. Pearce, J. T. H. Worthington, Benjamin C. Howard, Isaac McKim, William Cost Johnson, Francis Thomas, Daniel Jenifer.

Virginia—Henry A. Wise, Francis Mallory, John Robertson, Charles F. Mercer, John Taliaferro, R. T. M. Hunter, James Garland, Francis E. Rives, Walter Coles, George C. Dromgoole, James W. Bouldin, John M. Patton, James M. Mason, Isaac S. Pennybacker, Andrew Beirne, Archibald Stuart, John W. Jones, Robert Craig, Geo. W. Hopkins, Joseph Johnson, Wm. S. Morgan.

North Carolina—Jesse A. Bynum, Edward D. Stanley, Charles Shepard, Micajah T. Hawkins, James McKay, Edmund Deberry, Abraham Rencher, William Montgomery, Augustine H. Shepherd, James Graham, Henry Connor, Lewis Williams, Samuel T. Sawyer.

South Carolina—H. S. Legare, Waddy Thompson, Francis W. Pickens, W. K. Clowney, F. H. Elmore, John K. Griffin, R. B. Smith, John Campbell, John P. Richardson.

Georgia—Thomas Glascock, S. F. Cleveland, Seaton Grantland, Charles E. Haynes, Hopkins Holsey, Jabez Jackson, Geo. W. Owens, Geo. W. B. Townes, W. C. Dawson.

Tennessee—Wm. B. Carter, A. A. McClelland, Joseph Williams, (one vacancy,) H. L. Turney, Wm. B. Campbell, John Bell, Abraham P. Maury, James K. Polk, Ebenezer J. Shields, Richard Cheatham, John W. Crockett, Christopher H. Williams.

Kentucky—John L. Murray, Edward Rumsey, Sherrod Williams, Joseph R. Underwood, James Harlan, John Calhoun, John Pope, Wm. J. Graves, John White, Richard Hawes, Richard H. Menifee, John Chambers, Wm. W. Southgate.

Ohio—Alexander Duncan, Taylor Webster, Patrick G. Goode, Thomas Corwin, Thomas L. Hamer, Calvary Morris, Wm. K. Bond, J. Ridgeway, John Chaney, Samson Mason, J. Alexander, jr., Alexander Harper, D. P. Leadbetter, Wm. H. Hunter, John W. Allen, Elisha Whittlesey, A. W. Loomis, Matthias Shepler, Daniel Kilgore.

Alabama—Francis S. Lyon, Dixon H. Lewis, Joab Lawler, Reuben Chapman, J. L. Martin.

Indiana—Ratliff Boon, John Ewing, William Graham, George H. Dunn, James Rariden, William Herrod, Albert S. White.

Illinois—A. W. Snyder, Zadoc Casey, Wm. L. May.

Louisiana—Henry Johnson, Eleazer W. Ripley, Rice Garland.

Mississippi—John F. H. Claiborne, S. H. Gholson.

Arkansas—Archibald Yell.

Missouri—Albert G. Harrison, John Miller.

Michigan—Isaac E. Crary.

Florida—Charles Downing.

Wisconsin—George W. Jones.

In these ample lists, both of the Senate and of the House, will be discovered a succession of eminent names—many which had then achieved eminence, others to achieve it:—and, besides those which captivate regard by splendid ability, a still larger number of those less brilliant, equally respectable, and often more useful members, whose business talent performs the work of the body, and who in England are well called, the working members. Of these numerous members, as well the brilliant as the useful, it would be invidious to particularize part without enumerating the whole; and that would require a reproduction of the greater part of the list of each House. Four only can be named, and they entitled to that distinction from the station attained, or to be attained by them:—Mr. John Quincy Adams, who had been president; *Messrs.* James K. Polk, Millard Fillmore and Franklin Pierce, who became presidents. In my long service I have not seen a more able Congress; and it is only necessary to read over the names, and to possess some knowledge of our public men, to be struck with the number of names which would come under the description of useful or brilliant members.

The election of speaker was the first business of the House; and Mr. James K. Polk and Mr. John Bell, both of Tennessee, being put in nomination, Mr. Polk received 116 votes; and was elected—Mr. Bell receiving 103. Mr. Walter S. Franklin was elected clerk.

The message was delivered upon receiving notice of the organization of the two Houses; and, with temperance and firmness, it met all the exigencies of the occasion. That specie order which had been the subject of so much denunciation,—the imputed cause of the suspension, and the revocation of which was demanded with so much pertinacity and such imposing demonstration,—far from being given up was commended for the good effects it had produced; and the determination expressed not to interfere with its operation. In relation to that decried measure the message said:

“Of my own duties under the existing laws, when the banks suspended specie payments, I could not doubt. Directions were immediately given to prevent the reception into the Treasury of any thing but gold and silver, or its equivalent; and every practicable

arrangement was made to preserve the public faith, by similar or equivalent payments to the public creditors. The revenue from lands had been for some time substantially so collected, under the order issued by the directions of my predecessor. The effects of that order had been so salutary, and its forecast in regard to the increasing insecurity of bank paper had become so apparent, that, even before the catastrophe, I had resolved not to interfere with its operation. Congress is now to decide whether the revenue shall continue to be so collected, or not."

This was explicit, and showed that all attempts to operate upon the President at that point, and to coerce the revocation of a measure which he deemed salutary, had totally failed. The next great object of the party which had contrived the suspension and organized the distress, was to extort the re-establishment of the Bank of the United States; and here again was an equal failure to operate upon the firmness of the President. He reiterated his former objections to such an institution—not merely to the particular one which had been tried—but to any one in any form, and declared his former convictions to be strengthened by recent events. Thus:

"We have seen for nearly half a century, that those who advocate a national bank, by whatever motive they may be influenced, constitute a portion of our community too numerous to allow us to hope for an early abandonment of their favorite plan. On the other hand, they must indeed form an erroneous estimate of the intelligence and temper of the American people, who suppose that they have continued, on slight or insufficient grounds, their persevering opposition to such an institution; or that they can be induced by pecuniary pressure, or by any other combination of circumstances, to surrender principles they have so long and so inflexibly maintained. My own views of the subject are unchanged. They have been repeatedly and unreservedly announced to my fellow-citizens, who, with full knowledge of them, conferred upon me the two highest offices of the government. On the last of these occasions, I felt it due to the people to apprise them distinctly, that, in the event of my election, I would not be able to co-operate in the re-establishment of a national bank. To these sentiments, I have now only to add the expression of an increased conviction, that the re-establishment of such a bank, in any form, whilst it would not accomplish the beneficial purpose promised by its advocates, would impair the rightful supremacy of the popular will; injure the character and diminish the influence of our political system; and bring once more into existence a concentrated moneyed power, hostile to the spirit, and threatening the permanency, of our republican institutions."

Having noticed these two great points of pressure upon him, and thrown them off with equal strength and decorum, he went forward to a new point—the connection of the federal government with any bank of issue in any form, either as a depository of its moneys, or in the use of its notes;—and recommended a total and perpetual dissolution of the connection. This was a new point of policy, long meditated by some, but now first brought forward for legislative action, and cogently recommended to Congress for its adoption. The message, referring to the recent failure of the banks, took advantage of it to say:

"Unforeseen in the organization of the government, and forced on the Treasury by early necessities, the practice of employing banks, was, in truth, from the beginning, more a measure of emergency than of sound policy. When we started into existence as a nation, in addition to the burdens of the new government, we assumed all the large, but honorable load, of debt which was the price of our liberty; but we hesitated to weigh down the infant industry of the country by resorting to adequate taxation for the necessary revenue. The facilities of banks, in return for the privileges they acquired, were promptly offered, and perhaps too readily received, by an embarrassed treasury. During the long continuance of a national debt, and the intervening difficulties of a foreign war, the connection was continued from motives

of convenience; but these causes have long since passed away. We have no emergencies that make banks necessary to aid the wants of the Treasury; we have no load of national debt to provide for, and we have on actual deposit a large surplus. No public interest, therefore, now requires the renewal of a connection that circumstances have dissolved. The complete organization of our government, the abundance of our resources, the general harmony which prevails between the different States, and with foreign powers, all enable us now to select the system most consistent with the constitution, and most conducive to the public welfare."

This wise recommendation laid the foundation for the Independent Treasury—a measure opposed with unwonted violence at the time, but vindicated as well by experience as recommended by wisdom; and now universally concurred in—constituting an era in our financial history, and reflecting distinctive credit on Mr. Van Buren's administration. But he did not stop at proposing a dissolution of governmental connection with these institutions; he went further, and proposed to make them safer for the community, and more amenable to the laws of the land. These institutions exercised the privilege of stopping payment, qualified by the gentle name of suspension, when they judged a condition of the country existed making it expedient to do so. Three of these general suspensions had taken place in the last quarter of a century, presenting an evil entirely too large for the remedy of individual suits against the delinquent banks; and requiring the strong arm of a general and authoritative proceeding. This could only be found in subjecting them to the process of bankruptcy; and this the message boldly recommended. It was the first recommendation of the kind, and deserves to be commemorated for its novelty and boldness, and its undoubted efficiency, if adopted. This is the recommendation:

"In the mean time, it is our duty to provide all the remedies against a depreciated paper currency which the constitution enables us to afford. The Treasury Department, on several former occasions, has suggested the propriety and importance of a uniform law concerning bankruptcies of corporations, and other bankers. Through the instrumentality of such a law, a salutary check may doubtless be imposed on the issues of paper money, and an effectual remedy given to the citizen, in a way at once equal in all parts of the Union, and fully authorized by the constitution."

A bankrupt law for banks! That was the remedy. Besides its efficacy in preventing future suspensions, it would be a remedy for the actual one. The day fixed for the act to take effect would be the day for resuming payments, or going into liquidation. It would be the day of honesty or death to these corporations; and between these two alternatives even the most refractory bank would choose the former, if able to do so.

The banks of the District of Columbia, and their currency, being under the jurisdiction of Congress, admitted a direct remedy in its own legislation, both for the fact of their suspension and the evil of the small notes which they issued. The forfeiture of the charter, where the resumption did not take place in a limited time, and penalties on the issue of the small notes, were the appropriate remedies;—and, as such were recommended to Congress.

There the President not only met and confronted the evils of the actual suspension as they stood, but went further, and provided against the recurrence of such evils thereafter, in four cardinal recommendations: 1, never to have another national bank; 2, never to receive bank notes again in payment of federal dues; 3, never to use the banks again for depositories of the public moneys; 4, to apply the process of bankruptcy to all future defaulting banks. These were strong recommendations, all founded in a sense of justice to the public, and called for by the supremacy of the government, if it meant to maintain its supremacy; but recommendations running deep into the pride and interests of a powerful class, and well

calculated to inflame still higher the formidable combination already arrayed against the President, and to extend it to all that should support him.

The immediate cause for convoking the extraordinary session—the approaching deficit in the revenue—was frankly stated, and the remedy as frankly proposed. Six millions of dollars was the estimated amount; and to provide it neither loans nor taxes were proposed, but the retention of the fourth instalment of the deposit to be made with the States, and a temporary issue of treasury notes to supply the deficiency until the incoming revenue should replenish the treasury. The following was that recommendation:

"It is not proposed to procure the required amount by loans or increased taxation. There are now in the treasury nine millions three hundred and sixty-seven thousand two hundred and fourteen dollars, directed by the Act of the 23d of June, 1836, to be deposited with the States in October next. This sum, if so deposited, will be subject, under the law, to be recalled, if needed, to defray existing appropriations; and, as it is now evident that the whole, or the principal part of it, will be wanted for that purpose, it appears most proper that the deposits should be withheld. Until the amount can be collected from the banks, treasury notes may be temporarily issued, to be gradually redeemed as it is received."

Six millions of treasury notes only were required, and from this small amount required, it is easy to see how readily an adequate amount could have been secured from the deposit banks, if the administration had foreseen a month or two beforehand that the suspension was to take place. An issue of treasury notes, being an imitation of the exchequer bill issues of the British government, which had been the facile and noiseless way of swamping that government in bottomless debt, was repugnant to the policy of this writer, and opposed by him: but of this hereafter. The third instalment of the deposit, as it was called, had been received by the States—received in depreciated paper, and the fourth demanded in the same. A deposit demanded! and claimed as a debt!—that is to say: the word "*deposit*" used in the act admitted to be both by Congress and the States a fraud and a trick, and distribution the thing intended and done. Seldom has it happened that so gross a fraud, and one, too, intended to cheat the constitution, has been so promptly acknowledged by the high parties perpetrating it. But of this also hereafter.

The decorum and reserve of a State paper would not allow the President to expatiate upon the enormity of the suspension which had been contrived, nor to discriminate between the honest and solvent banks which had been taken by surprise and swept off in a current which they could not resist, and the insolvent or criminal class, which contrived the catastrophe and exulted in its success. He could only hint at the discrimination, and, while recommending the bankrupt process for one class, to express his belief that with all the honest and solvent institutions the suspension would be temporary, and that they would seize the earliest moment which the conduct of others would permit, to vindicate their integrity and ability by returning to specie payments.

9. Attacks On The Message: Treasury Notes

Under the first two of our Presidents, Washington, and the first Mr. Adams, the course of the British Parliament was followed in answering the address of the President, as the course of the sovereign was followed in delivering it. The Sovereign delivered his address in person to the two assembled Houses, and each answered it: our two first Presidents did the same, and the Houses answered. The purport of the answer was always to express a concurrence, or non-concurrence with the general policy of the government as thus authentically exposed; and the privilege of answering the address laid open the policy of the government to the fullest discussion. The effect of the practice was to lay open the state of the country, and the public policy, to the fullest discussion; and, in the character of the answer, to decide the question of accord or disaccord—of support or opposition—between the representative and the executive branches of the government. The change from the address delivered in person, with its answer, to the message sent by the private secretary, and no answer, was introduced by Mr. Jefferson, and considered a reform; but it was questioned at the time, whether any good would come of it, and whether that would not be done irregularly, in the course of the debates, which otherwise would have been done regularly in the discussion of the address. The administration policy would be sure to be attacked, and irregularly, in the course of business, if the spirit of opposition should not be allowed full indulgence in a general and regular discussion. The attacks would come, and many of Mr. Jefferson's friends thought it better they should come at once, and occupy the first week or two of the session, than to be scattered through the whole session and mixed up with all its business. But the change was made, and has stood, and now any bill or motion is laid hold of, to hang a speech upon, against the measures or policy of an administration. This was signally the case at this extra session, in relation to Mr. Van Buren's policy. He had staked himself too decisively against too large a combination of interests to expect moderation or justice from his opponents; and he received none. Seldom has any President been visited with more violent and general assaults than he received, almost every opposition speaker assailing some part of the message. One of the number, Mr. Caleb Cushing, of Massachusetts, made it a business to reply to the whole document, formally and elaborately, under two and thirty distinct heads—the number of points in the mariner's compass: each head bearing a caption to indicate its point: and in that speech any one that chooses, can find in a condensed form, and convenient for reading, all the points of accusation against the democratic policy from the beginning of the government down to that day.

Mr. Clay and Mr. Webster assailed it for what it contained, and for what it did not—for its specific recommendations, and for its omission to recommend measures which they deemed necessary. The specie payments—the disconnection with banks—the retention of the fourth instalment—the bankrupt act against banks—the brief issue of treasury notes; all were condemned as measures improper in themselves and inadequate to the relief of the country: while, on the other hand, a national bank appeared to them to be the proper and adequate remedy for the public evils. With them acted many able men:—in the Senate, Bayard, of Delaware, Crittenden, of Kentucky, John Davis, of Massachusetts, Preston, of South Carolina, Southard, of New Jersey, Rives, of Virginia:—in the House of Representatives, Mr. John Quincy Adams, Bell, of Tennessee, Richard Biddle, of Pennsylvania, Cushing, of Massachusetts, Fillmore, of New York, Henry Johnson, of Louisiana, Hunter and Mercer, of Virginia, John Pope, of Kentucky, John Sargeant, Underwood of Kentucky, Lewis Williams, Wise. All these were speaking members, and in their diversity of talent displayed all the

varieties of effective speaking—close reasoning, sharp invective, impassioned declamation, rhetoric, logic.

On the other hand was an equal array, both in number and speaking talent, on the other side, defending and supporting the recommendations of the President:—in the Senate, Silas Wright, Grundy, John M. Niles, King, of Alabama, Strange, of North Carolina, Buchanan, Calhoun, Linn, of Missouri, Benton, Bedford Brown, of North Carolina, William Allen, of Ohio, John P. King, of Georgia, Walker, of Mississippi:—in the House of Representatives, Cambreleng, of New York, Hamer, of Ohio, Howard and Francis Thomas, of Maryland, McKay, of North Carolina, John M. Patton, Francis Pickens.

The treasury note bill was one of the first measures on which the struggle took place. It was not a favorite with the whole body of the democracy, but the majority preferred a small issue of that paper, intended to operate, not as a currency, but as a ready means of borrowing money, and especially from small capitalists; and, therefore, preferable to a direct loan. It was opposed as a paper money bill in disguise, as germinating a new national debt, and as the easy mode of raising money, so ready to run into abuse from its very facility of use. The President had recommended the issue in general terms: the Secretary of the Treasury had descended into detail, and proposed notes as low as twenty dollars, and without interest. The Senate's committee rejected that proposition, and reported a bill only for large notes—none less than 100 dollars, and bearing interest; so as to be used for investment, not circulation. Mr. Webster assailed the Secretary's plan, saying—

"He proposes, sir, to issue treasury notes of small denominations, down even as low as twenty dollars, not bearing interest, and redeemable at no fixed period; they are to be received in debts due to government, but are not otherwise to be paid until at some indefinite time there shall be a certain surplus in the treasury beyond what the Secretary may think its wants require. Now, sir, this is plain, authentic, statutable paper money; it is exactly a new emission of old continental. If the genius of the old confederation were now to rise up in the midst of us, he could not furnish us, from the abundant stores of his recollection, with a more perfect model of paper money. It carries no interest; it has no fixed time of payment; it is to circulate as currency, and it is to circulate on the credit of government alone, with no fixed period of redemption! If this be not paper money, pray, sir, what is it? And, sir, who expected this? Who expected that in the fifth year of the *experiment for reforming the currency*, and bringing it to an absolute gold and silver circulation, the Treasury Department would be found recommending to us a regular emission of paper money? This, sir, is quite new in the history of this government; it belongs to that of the confederation which has passed away. Since 1789, although we have issued treasury notes on sundry occasions, we have issued none like these; that is to say, we have issued none not bearing interest, intended for circulation, and with no fixed mode of redemption. I am glad, however, Mr. President, that the committee have not adopted the Secretary's recommendation, and that they have recommended the issue of treasury notes of a description more conformable to the practice of the government."

Mr. Benton, though opposed to the policy of issuing these notes, and preferring himself a direct loan in this case, yet defended the particular bill which had been brought in from the character and effects ascribed to it, and said:

"He should not have risen in this debate, had it not been for the misapprehensions which seemed to pervade the minds of some senators as to the character of the bill. It is called by some a paper-money bill, and by others a bill to germinate a new national debt. These are serious imputations, and require to be answered, not by declamation and recrimination, but by

facts and reasons, addressed to the candor and to the intelligence of an enlightened and patriotic community.

“I dissent from the imputations on the character of the bill. I maintain that it is neither a paper-money bill, nor a bill to lay the foundation for a new national debt; and will briefly give my reasons for believing as I do on both points.

“There are certainly two classes of treasury notes—one for investment, and one for circulation; and both classes are known to our laws, and possess distinctive features, which define their respective characters, and confine them to their respective uses.

“The notes for investment bear an interest sufficient to induce capitalists to exchange gold and silver for them, and to lay them by as a productive fund. This is their distinctive feature, but not the only one; they possess other subsidiary qualities, such as transferability only by indorsement—payable at a fixed time—not re-issuable—nor of small denomination—and to be cancelled when paid. Notes of this class are, in fact, loan notes—notes to raise loans on, by selling them for hard money—either immediately by the Secretary of the Treasury, or, secondarily, by the creditor of the government to whom they have been paid. In a word, they possess all the qualities which invite investment, and forbid and impede circulation.

“The treasury notes for currency are distinguished by features and qualities the reverse of those which have been mentioned. They bear little or no interest. They are payable to bearer—transferable by delivery—re-issuable—of low denominations—and frequently reimbursable at the pleasure of the government. They are, in fact, paper money, and possess all the qualities which forbid investment, and invite to circulation. The treasury notes of 1815 were of that character, except for the optional clause to enable the holder to fund them at the interest which commanded loans—at seven per cent.

“These are the distinctive features of the two classes of notes. Now try the committee’s bill by the test of these qualities. It will be found that the notes which it authorizes belong to the first-named class; that they are to bear an interest, which may be six per cent.; that they are transferable only by indorsement; that they are not re-issuable; that they are to be paid at a day certain—to wit, within one year; that they are not to be issued of less denomination than one hundred dollars; are to be cancelled when taken up; and that the Secretary of the Treasury is expressly authorized to raise money upon them by loaning them.

“These are the features and qualities of the notes to be issued, and they define and fix their character as notes to raise loans, and to be laid by as investments, and not as notes for currency, to be pushed into circulation by the power of the government; and to add to the curse of the day by increasing the quantity of unconvertible paper money.”

Though yielding to an issue of these notes in this particular form, limited in size of the notes to one hundred dollars, yet Mr. Benton deemed it due to himself and the subject to enter a protest against the policy of such issues, and to expose their dangerous tendency, both to slide into a paper currency, and to steal by a noiseless march into the creation of public debt, and thus expressed himself:

“I trust I have vindicated the bill from the stigma of being a paper currency bill, and from the imputation of being the first step towards the creation of a new national debt. I hope it is fully cleared from the odium of both these imputations. I will now say a few words on the policy of issuing treasury notes in time of peace, or even in time of war, until the ordinary resources of loans and taxes had been tried and exhausted. I am no friend to the issue of treasury notes of any kind. As loans, they are a disguised mode of borrowing, and easy to slide into a currency: as a currency, it is the most seductive, the most dangerous, and the most liable to abuse of all the descriptions of paper money. ‘The stamping of paper (by government) is an

operation so much easier than the laying of taxes, or of borrowing money, that a government in the habit of paper emissions would rarely fail, in any emergency, to indulge itself too far in the employment of that resource, to avoid as much as possible one less auspicious to present popularity.' So said General Hamilton; and Jefferson, Madison Macon, Randolph, and all the fathers of the republican church, concurred with him. These sagacious statesmen were shy of this facile and seductive resource, 'so liable to abuse, and so certain of being abused.' They held it inadmissible to recur to it in time of peace, and that it could only be thought of amidst the exigencies and perils of war, and that after exhausting the direct and responsible alternative of loans and taxes. Bred in the school of these great men, I came here at this session to oppose, at all risks, an issue of treasury notes. I preferred a direct loan, and that for many and cogent reasons. There is clear authority to borrow in the constitution; but, to find authority to issue these notes, we must enter the field of constructive powers. To borrow, is to do a responsible act; it is to incur certain accountability to the constituent, and heavy censure if it cannot be justified; to issue these notes, is to do an act which few consider of, which takes but little hold of the public mind, which few condemn and some encourage, because it increases the quantum of what is vainly called money. Loans are limited by the capacity, at least, of one side to borrow, and of the other to lend: the issue of these notes has no limit but the will of the makers, and the supply of lamp-black and rags. The continental bills of the Revolution, and the assignats of France, should furnish some instructive lessons on this head. Direct loans are always voluntary on the part of the lender; treasury note loans may be a forced borrowing from the government creditor—as much so as if the bayonet were put to his breast; for necessity has no law, and the necessitous claimant must take what is tendered, whether with or without interest—whether ten or fifty per cent. below par. I distrust, dislike, and would fain eschew, this treasury note resource. I prefer the direct loans of 1820-'21. I could only bring myself to acquiesce in this measure when it was urged that there was not time to carry a loan through its forms; nor even then could I consent to it, until every feature of a currency character had been eradicated from the face of the bill."

The bill passed the Senate by a general vote, only Messrs. Clay, Crittenden, Preston, Southard, and Spence of Maryland, voting against it. In the House of Representatives it encountered a more strenuous resistance, and was subjected to some trials which showed the dangerous proclivity of these notes to slide from the foundation of investment into the slippery path of currency. Several motions were made to reduce their size—to make them as low as $25; and that failing, to reduce them to $50; which succeeded. The interest was struck at in a motion to reduce it to a nominal amount; and this motion, like that for reducing the minimum size to $25, received a large support—some ninety votes. The motion to reduce to $50 was carried by a majority of forty. Returning to the Senate with this amendment, Mr. Benton moved to restore the $100 limit, and intimated his intention, if it was not done, of withholding his support from the bill—declaring that nothing but the immediate wants of the Treasury, and the lack of time to raise the money by a direct loan as declared by the Secretary of the Treasury, could have brought him to vote for treasury notes in any shape. Mr. Clay opposed the whole scheme as a government bank in disguise, but supported Mr. Benton's motion as being adverse to that design. He said:

"He had been all along opposed to this measure, and he saw nothing now to change that opinion. Mr. C. would have been glad to aid the wants of the Treasury, but thought it might have been done better by suspending the action of many appropriations not so indispensably necessary, rather than by resorting to a loan. Reduction, economy, retrenchment, had been recommended by the President, and why not then pursued? Mr. C.'s chief objection, however, was, that these notes were mere post notes, only differing from bank notes of that kind in giving the Secretary a power of fixing the interest as he pleases.

“It is, said Mr. C., a government bank, issuing government bank notes; an experiment to set up a government bank. It is, in point of fact, an incipient bank. Now, if government has the power to issue bank notes, and so to form indirectly and covertly a bank, how is it that it has not the power to establish a national bank? What difference is there between a great government bank, with Mr. Woodbury as the great cashier, and a bank composed of a corporation of private citizens? What difference is there, except that the latter is better and safer, and more stable, and more free from political influences, and more rational and more republican? An attack is made at Washington upon all the banks of the country, when we have at least one hundred millions of bank paper in circulation. At such a time, a time too of peace, instead of aid, we denounce them, decry them, seek to ruin them, and begin to issue paper in opposition to them! You resort to paper, which you profess to put down; you resort to a bank, which you pretend to decry and to denounce; you resort to a government paper currency, after having exclaimed against every currency except that of gold and silver! Mr. C. said he should vote for Mr. Benton’s amendment, as far as it went to prevent the creation of a government bank and a government currency.”

Mr. Webster also supported the motion of Mr. Benton, saying:

”He would not be unwilling to give his support to the bill, as a loan, and that only a temporary loan. He was, however, utterly opposed to every modification of the measure which went to stamp upon it the character of a government currency. All past experience showed that such a currency would depreciate; that it will and must depreciate. He should vote for the amendment, inasmuch as $100 bills were less likely to get into common circulation than $50 bills. His objection was against the old continental money in any shape or in any disguise, and he would therefore vote for the amendment.”

The motion was lost by a vote of 16 to 25, the yeas and nays being:

Yeas—Messrs. Allen, Benton, Clay, of Kentucky, Clayton, Kent, King, of Georgia, McKean, Pierce, Rives, Robbins, Smith, of Connecticut, Southard, Spence, Tipton, Webster, White—16.

Nays—Messrs. Buchanan, Clay, of Alabama, Crittenden, Fulton, Grundy, Hubbard, King, of Alabama, Knight, Linn, Lyon, Morris, Nicholas, Niles, Norvell, Roane, Robinson, Smith, of Indiana, Strange, Swift, Talmadge, Walker, Williams, Wall, Wright, Young—25.

10. Retention Of The Fourth Deposit Instalment

The deposit with the States had only reached its second instalment when the deposit banks, unable to stand a continued quarterly drain of near ten millions to the quarter, gave up the effort and closed their doors. The first instalment had been delivered the first of January, in specie, or its equivalent; the second in April, also in valid money; the third one demandable on the first of June, was accepted by the States in depreciated paper: and they were very willing to receive the fourth instalment in the same way. It had cost the States nothing,—was not likely to be called back by the federal government, and was all clear gains to those who took it as a deposit and held it as a donation. But the Federal Treasury needed it also; and likewise needed ten millions more of that amount which had already been "*deposited*" with the States; and which "*deposit*" was made and accepted under a statute which required it to be paid back whenever the wants of the Treasury required it. That want had now come, and the event showed the delusion and the cheat of the bill under which a distribution had been made in the name of a deposit. The idea of restitution entered no one's head! neither of the government to demand it, nor of the States to render back. What had been delivered, was gone! that was a clear case; and reclamation, or rendition, even of the smallest part, or at the most remote period, was not dreamed of. But there was a portion behind—another instalment of ten millions—deliverable out of the "*surplus*" on the first day of October: but there was no surplus: on the contrary a deficit: and the retention of this sum would seem to be a matter of course with the government, only requiring the form of an act to release the obligation for the delivery. It was recommended by the President, counted upon in the treasury estimates, and its retention the condition on which the amount of treasury notes was limited to ten millions of dollars. A bill was reported for the purpose, in the mildest form, not to repeal but to postpone the clause; and the reception which it met, though finally successful, should be an eternal admonition to the federal government never to have any money transaction with its members—a transaction in which the members become the masters, and the devourers of the head. The finance committee of the Senate had brought in a bill to repeal the obligation to deposit this fourth instalment; and from the beginning it encountered a serious resistance. Mr. Webster led the way, saying:

"We are to consider that this money, according to the provisions of the existing law, is to go equally among all the States, and among all the people; and the wants of the Treasury must be supplied, if supplies be necessary, equally by all the people. It is not a question, therefore, whether some shall have money, and others shall make good the deficiency. All partake in the distribution, and all will contribute to the supply. So that it is a mere question of convenience, and, in my opinion, it is decidedly most convenient, on all accounts, that this instalment should follow its present destination, and the necessities of the Treasury be provided for by other means."

Mr. Preston opposed the repealing bill, principally on the ground that many of the States had already appropriated this money; that is to say, had undertaken public works on the strength of it; and would suffer more injury from not receiving it than the Federal Treasury would suffer from otherwise supplying its place. Mr. Crittenden opposed the bill on the same ground. Kentucky, he said, had made provision for the expenditure of the money, and relied upon it, and could not expect the law to be lightly rescinded, or broken, on the faith of which she had anticipated its use. Other senators treated the deposit act as a contract, which the United States was bound to comply with by delivering all the instalments.

In the progress of the bill Mr. Buchanan proposed an amendment, the effect of which would be to change the essential character of the so called, deposit act, and convert it into a real distribution measure. By the terms of the act, it was the duty of the Secretary of the Treasury to call upon the States for a return of the deposit when needed by the Federal Treasury: Mr. Buchanan proposed to release the Secretary from this duty, and devolve it upon Congress, by enacting that the three instalments already delivered, should remain on deposit with the States until called for by Congress. Mr. Niles saw the evil of the proposition, and thus opposed it:

"He must ask for the yeas and nays on the amendment, and was sorry it had been offered. If it was to be fully considered, it would renew the debate on the deposit act, as it went to change the essential principles and terms of that act. A majority of those who voted for that act, about which there had been so much said, and so much misrepresentation, had professed to regard it—and he could not doubt that at the time they did so regard it—as simply a deposit law; as merely changing the place of deposit from the banks to the States, so far as related to the surplus. The money was still to be in the Treasury, and liable to be drawn out, with certain limitations and restrictions, by the ordinary appropriation laws, without the direct action of Congress. The amendment, if adopted, will change the principles of the deposit act, and the condition of the money deposited with the States under it. It will no longer be a deposit; it will not be in the Treasury, even in point of legal effect or form: the deposit will be changed to a loan, or, perhaps more properly, a grant to the States. The rights of the United States will be changed to a mere claim, like that against the late Bank of the United States; and a claim without any means to enforce it. We were charged, at the time, of making a distribution of the public revenue to the States, in the disguise and form of a deposit; and this amendment, it appeared to him, would be a very bold step towards confirming the truth of that charge. He deemed the amendment an important one, and highly objectionable; but he saw that the Senate were prepared to adopt it, and he would not pursue the discussion, but content himself with repeating his request for the ayes and noes on the question."

Mr. Buchanan expressed his belief that the substitution of Congress for the Secretary of the Treasury, would make no difference in the nature of the fund: and that remark of his, if understood as sarcasm, was undoubtedly true; for the deposit was intended as a distribution by its authors from the beginning, and this proposed substitution was only taking a step, and an effectual one, to make it so: for it was not to be expected that a Congress would ever be found to call for this money from the States, which they were so eager to give to the States. The proposition of Mr. Buchanan was carried by a large majority—33 to 12—all the opponents of the administration, and a division of its friends, voting for it. Thus, the whole principle, and the whole argument on which the deposit act had been passed, was reversed. It was passed to make the State treasuries the Treasury *pro tanto* of the United States—to substitute the States for the banks, for the keeping of this surplus until it was wanted—and it was placed within the call of a federal executive officer that it might be had for the public service when needed. All this was reversed. The recall of the money was taken from the federal executive, and referred to the federal legislative department—to the Congress, composed of members representing the States—that is to say, from the payee to the payor, and was a virtual relinquishment of the payment. And thus the deposit was made a mockery and a cheat; and that by those who passed it.

In the House of Representatives the disposition to treat the deposit as a contract, and to compel the government to deliver the money (although it would be compelled to raise by extraordinary means what was denominated a surplus), was still stronger than in the Senate, and gave rise to a protracted struggle, long and doubtful in its issue. Mr. Cushing laid down the doctrine of contract, and thus argued it:

"The clauses of the deposit act, which appertain to the present question, seem to me to possess all the features of a contract. It provides that the whole surplus revenue of the United States, beyond a certain sum, which may be in the Treasury on a certain day, shall be deposited with the several States; which deposit the States are to keep safely, and to pay back to the United States, whenever the same shall be called for by the Secretary of the Treasury in a prescribed time and mode, and on the happening of a given contingency. Here, it seems to me, is a contract in honor; and, so far as there can be a contract between the United States and the several States, a contract in law; there being reciprocal engagements, for a valuable consideration, on both sides. It is, at any rate, a quasi-contract. They who impugn this view of the question argue on the supposition that the act, performed or to be performed by the United States, is an inchoate gift of money to the States. Not so. It is a contract of deposit; and that contract is consummated, and made perfect, on the formal reception of any instalment of the deposit by the States. Now, entertaining this view of the transaction, I am asked by the administration to come forward and break this contract. True, a contract made by the government of the United States cannot be enforced in law. Does that make it either honest or honorable for the United States to take advantage of its power and violate its pledged faith? I refuse to participate in any such breach of faith. But further. The administration solicits Congress to step in between the United States and the States as a volunteer, and to violate a contract, as the means of helping the administration out of difficulties, into which its own madness and folly have wilfully sunk it, and which press equally upon the government and the people. The object of the measure is to relieve the Secretary of the Treasury from the responsibility of acting in this matter as he has the power to do. Let him act. I will not go out of my way to interpose in this between the Executive and the several States, until the administration appeals to me in the right spirit. This it has not done. The Executive comes to us with a new doctrine, which is echoed by his friends in this House, namely, that the American government is not to exert itself for the relief of the American people. Very well. If this be your policy, I, as representing the people, will not exert myself for the relief of your administration."

Such was the chicanery, unworthy of a *pie-poudre* court—with which a statute of the federal Congress, stamped with every word, invested with every form, hung with every attribute, to define it a deposit—not even a loan—was to be pettifogged into a gift! and a contract for a gift! and the federal Treasury required to stand and deliver! and all that, not in a low law court, where attorneys congregate, but in the high national legislature, where candor and firmness alone should appear. History would be faithless to her mission if she did not mark such conduct for reprobation, and invoke a public judgment upon it.

After a prolonged contest the vote was taken, and the bill carried, but by the smallest majority—119 to 117;—a difference of two votes, which was only a difference of one member. But even that was a delusive victory. It was immediately seen that more than one had voted with the majority, not for the purpose of passing the bill, but to gain the privilege of a majority member to move for a reconsideration. Mr. Pickens, of South Carolina, immediately made that motion, and it was carried by a majority of 70! Mr. Pickens then proposed an amendment, which was to substitute definite for indefinite postponement—to postpone to a day certain instead of the pleasure of Congress: and the first day of January, 1839, was the day proposed; and that without reference to the condition of the Treasury (which might not then have any surplus), for the transfer of this fourth instalment of a deposit to the States. The vote being taken on this proposed amendment, it was carried by a majority of 40: and that amendment being concurred in by the Senate, the bill in that form became a law, and a virtual legalization of the deposit into a donation of forty millions to the States. And this was done by the votes of members who had voted for a deposit with the States;

because a donation to the States was unconstitutional. The three instalments already delivered were not to be recalled until Congress should so order; and it was quite certain that it never would so order. At the same time the nominal discretion of Congress over the deposit of the remainder was denied, and the duty of the Secretary made peremptory to deliver it in the brief space of one year and a quarter from that time. But events frustrated that order. The Treasury was in no condition on the first day of January, 1839, to deliver that amount of money. It was penniless itself. The compromise act of 1833, making periodical reductions in the tariff, until the whole duty was reduced to an *ad valorem* of twenty per cent., had nearly run its course, and left the Treasury in the condition of a borrower, instead of that of a donor or lender of money. This fourth instalment could not be delivered at the time appointed, nor subsequently;—and was finally relinquished, the States retaining the amount they had received: which was so much clear gain through the legislative fraud of making a distribution under the name of a deposit.

This was the end of one of the distribution schemes which had so long afflicted and disturbed Congress and the country. Those schemes began now to be known by their consequences—evil to those they were intended to benefit, and of no service to those whose popularity they were to augment. To the States the deposit proved to be an evil, in the contentions and combinations to which their disposition gave rise in the general assemblies—in the objects to which they were applied—and the futility of the help which they afforded. Popularity hunting, on a national scale, gave birth to the schemes in Congress: the same spirit, on a smaller and local scale, took them up in the States. All sorts of plans were proposed for the employment of the money, and combinations more or less interested, or designing, generally carried the point in the universal scramble. In some States a pro rata division of the money, per capite, was made; and the distributive share of each individual being but a few shillings, was received with contempt by some, and rejected with scorn by others. In other States it was divided among the counties, and gave rise to disjointed undertakings of no general benefit. Others, again, were stimulated by the unexpected acquisition of a large sum, to engage in large and premature works of internal improvement, embarrassing the State with debt, and commencing works which could not be finished. Other States again, looking upon the deposit act as a legislative fraud to cover an unconstitutional and demoralizing distribution of public money to the people, refused for a long time to receive their proffered dividend, and passed resolutions of censure upon the authors of the act. And thus the whole policy worked out differently from what had been expected. The States and the people were not grateful for the favor: the authors of the act gained no presidential election by it: and the gratifying fact became evident that the American people were not the degenerate Romans, or the volatile Greeks, to be seduced with their own money—to give their votes to men who lavished the public moneys on their wants or their pleasures—in grain to feed them, or in shows and games to delight and amuse them.

11. Independent Treasury And Hard Money Payments

These were the crowning measures of the session, and of Mr. Van Buren's administration,—not entirely consummated at that time, but partly, and the rest assured;—and constitute in fact an era in our financial history. They were the most strenuously contested measures of the session, and made the issue completely between the hard money and the paper money systems. They triumphed—have maintained their supremacy ever since—and vindicated their excellence on trial. Vehemently opposed at the time, and the greatest evil predicted, opposition has died away, and given place to support; and the predicted evils have been seen only in blessings. No attempt has been made to disturb these great measures since their final adoption, and it would seem that none need now be apprehended; but the history of their adoption presents one of the most instructive lessons in our financial legislation, and must have its interest with future ages as well as with the present generation. The bills which were brought in for the purpose were clear in principle—simple in detail: the government to receive nothing but gold and silver for its revenues, and its own officers to keep it—the Treasury being at the seat of government, with branches, or sub-treasuries at the principal points of collection and disbursement. And these treasuries to be real, not constructive—strong buildings to hold the public moneys, and special officers to keep the keys. The capacious, strong-walled and well-guarded custom houses and mints, furnished in the great cities the rooms that were wanted: the Treasury building at Washington was ready, and in the right place.

This proposed total separation of the federal government from all banks—called at the time in the popular language of the day, the divorce of Bank and State—naturally arrayed the whole bank power against it, from a feeling of interest; and all (or nearly so) acted in conjunction with the once dominant, and still potent, Bank of the United States. In the Senate, Mr. Webster headed one interest—Mr. Rives, of Virginia, the other; and Mr. Calhoun, who had long acted with the opposition, now came back to the support of the democracy, and gave the aid without which these great measures of the session could not have been carried. His temperament required him to have a lead; and it was readily yielded to him in the debate in all cases where he went with the recommendations of the message; and hence he appeared, in the debate on these measures, as the principal antagonist of Mr. Webster and Mr. Rives.

The present attitude of Mr. Calhoun gave rise to some taunts in relation to his former support of a national bank, and on his present political associations, which gave him the opportunity to set himself right in relation to that institution and his support of it in 1816 and 1834. In this vein Mr. Rives said:

"It does seem to me, Mr. President, that this perpetual and gratuitous introduction of the Bank of the United States into this debate, with which it has no connection, as if to alarm the imaginations of grave senators, is but a poor evidence of the intrinsic strength of the gentleman's cause. Much has been said of argument *ad captandum* in the course of this discussion. I have heard none that can compare with this solemn stalking of the ghost of the Bank of the United States through this hall, to 'frighten senators from their propriety.' I am as much opposed to that institution as the gentleman or any one else is, or can be. I think I may say I have given some proofs of it. The gentleman himself acquits me of any design to favor the interest of that institution, while he says such is the necessary consequence of my proposition. The suggestion is advanced for effect, and then retracted in form. Whatever be

the new-born zeal of the senator from South Carolina against the Bank of the United States, I flatter myself that I stand in a position that places me, at least, as much above suspicion of an undue leaning in favor of that institution as the honorable gentleman. If I mistake not, it was the senator from South Carolina who introduced and supported the bill for the charter of the United States Bank in 1816; it was he, also, who brought in a bill in 1834, to extend the charter of that institution for a term of twelve years; and none were more conspicuous than he in the well-remembered scenes of that day, in urging the restoration of the government deposits to this same institution."

The reply of Mr. Calhoun to those taunts, which impeached his consistency—a point at which he was always sensitive—was quiet and ready, and the same that he had often been heard to express in common conversation. He said:

"In supporting the bank of 1816, I openly declared that, as a question *de novo*, I would be decidedly against the bank, and would be the last to give it my support. I also stated that, in supporting the bank then, I yielded to the necessity of the case, growing out of the then existing and long-established connection between the government and the banking system. I took the ground, even at that early period, that so long as the connection existed, so long as the government received and paid away bank notes as money, they were bound to regulate their value, and had no alternative but the establishment of a national bank. I found the connection in existence and established before my time, and over which I could have no control. I yielded to the necessity, in order to correct the disordered state of the currency, which had fallen exclusively under the control of the States. I yielded to what I could not reverse, just as any member of the Senate now would, who might believe that Louisiana was unconstitutionally admitted into the Union, but who would, nevertheless, feel compelled to vote to extend the laws to that State, as one of its members, on the ground that its admission was an act, whether constitutional or unconstitutional, which he could not reverse. In 1834, I acted in conformity to the same principle, in proposing the renewal of the bank charter for a short period. My object, as expressly avowed, was to use the bank to break the connection between the government and the banking system gradually, in order to avert the catastrophe which has now befallen us, and which I then clearly perceived. But the connection, which I believed to be irreversible in 1816, has now been broken by operation of law. It is now an open question. I feel myself free, for the first time, to choose my course on this important subject; and, in opposing a bank, I act in conformity to principles which I have entertained ever since I have fully investigated the subject."

Going on with his lead in support of the President's recommendations, Mr. Calhoun brought forward the proposition to discontinue the use of bank paper in the receipts and disbursements of the federal government, and supported his motion as a measure as necessary to the welfare of the banks themselves as to the safety of the government. In this sense he said:

"We have reached a new era with regard to these institutions. He who would judge of the future by the past, in reference to them, will be wholly mistaken. The year 1833 marks the commencement of this era. That extraordinary man who had the power of imprinting his own feelings on the community, then commenced his hostile attacks, which have left such effects behind, that the war then commenced against the banks, I clearly see, will not terminate, unless there be a separation between them and the government,—until one or the other triumphs—till the government becomes the bank, or the bank the government. In resisting their union, I act as the friend of both. I have, as I have said, no unkind feeling toward the banks. I am neither a bank man, nor an anti-bank man. I have had little connection with them. Many of my best friends, for whom I have the highest esteem, have a deep interest in their

prosperity, and, as far as friendship or personal attachment extends, my inclination would be strongly in their favor. But I stand up here as the representative of no particular interest. I look to the whole, and to the future, as well as the present; and I shall steadily pursue that course which, under the most enlarged view, I believe to be my duty. In 1834 I saw the present crisis. I in vain raised a warning voice, and endeavored to avert it. I now see, with equal certainty, one far more portentous. If this struggle is to go on—if the banks will insist upon a reunion with the government, against the sense of a large and influential portion of the community—and, above all, if they should succeed in effecting it—a reflux flood will inevitably sweep away the whole system. A deep popular excitement is never without some reason, and ought ever to be treated with respect; and it is the part of wisdom to look timely into the cause, and correct it before the excitement shall become so great as to demolish the object, with all its good and evil, against which it is directed."

Mr. Rives treated the divorce of bank and State as the divorce of the government from the people, and said:

"Much reliance, Mr. President, has been placed on the popular catch-word of divorcing the government from all connection with banks. Nothing is more delusive and treacherous than catch-words. How often has the revered name of liberty been invoked, in every quarter of the globe, and every age of the world, to disguise and sanctify the most heartless despotisms. Let us beware that, in attempting to divorce the government from all connection with banks, we do not end with divorcing the government from the people. As long as the people shall be satisfied in their transactions with each other, with a sound convertible paper medium, with a due proportion of the precious metals forming the basis of that medium, and mingled in the current of circulation, why should the government reject altogether this currency of the people, in the operations of the public Treasury? If this currency be good enough for the masters it ought to be so for the servants. If the government sternly reject, for its uses, the general medium of exchange adopted by the community, is it not thereby isolated from the general wants and business of the country, in relation to this great concern of the currency? Do you not give it a separate, if not hostile, interest, and thus, in effect, produce a divorce between government and people?—a result, of all others, to be most deprecated in a republican system."

Mr. Webster's main argument in favor of the re-establishment of the National Bank (which was the consummation he kept steadily in his eye) was, as a regulator of currency, and of the domestic exchanges. The answer to this was, that these arguments, now relied on as the main ones for the continuance of the institution, were not even thought of at its commencement—that no such reasons were hinted at by General Hamilton and the advocates of the first bank—that they were new-fangled, and had not been brought forward by others until after the paper system had deranged both currency and exchanges;—and that it was contradictory to look for the cure of the evil in the source of the evil. It was denied that the regulation of exchanges was a government concern, or that the federal government was created for any such purpose. The buying and selling of bills of exchange was a business pursuit—a commercial business, open to any citizen or bank; and the loss or profit was an individual, and not a government concern. It was denied that there was any derangement of currency in the only currency which the constitution recognized—that of gold and silver. Whoever had this currency to be exchanged—that is, given in exchange at one place for the same in another place—now had the exchange effected on fair terms, and on the just commercial principle—that of paying a difference equal to the freight and insurance of the money: and, on that principle, gold was the best regulator of exchanges; for its small bulk and little weight in proportion to its value, made it easy and cheap of transportation; and brought down the exchange to the minimum cost of such transportation (even when necessary to be made), and

to the uniformity of a permanent business. That was the principle of exchange; but, ordinarily, there was no transportation in the case: the exchange dealer in one city had his correspondent in another: a letter often did the business. The regulation of the currency required an understanding of the meaning of the term. As used by the friends of a National Bank, and referred to its action, the paper currency alone was intended. The phrase had got into vogue since the paper currency had become predominant, and that is a currency not recognized by the constitution, but repudiated by it; and one of its main objects was to prevent the future existence of that currency—the evils of which its framers had seen and felt. Gold and silver was the only currency recognized by that instrument, and its regulation specially and exclusively given to Congress, which had lately discharged its duty in that particular, in regulating the relative value of the two metals. The gold act of 1834 had made that regulation, correcting the error of previous legislation, and had revived the circulation of gold, as an ordinary currency, after a total disappearance of it under an erroneous valuation, for an entire generation. It was in full circulation when the combined stoppage of the banks again suppressed it. That was the currency—gold and silver, with the regulation of which Congress was not only intrusted, but charged: and this regulation included preservation. It must be saved before it can be regulated; and to save it, it must be brought into the country—and kept in it. The demand of the federal treasury could alone accomplish these objects. The quantity of specie required for the use of that treasury—its large daily receipts and disbursements—all inexorably confined to hard money—would create the demand for the precious metals which would command their presence, and that in sufficient quantity for the wants of the people as well as of the government. For the government does not consume what it collects—does not melt up or hoard its revenue, or export it to foreign countries, but pays it out to the people; and thus becomes the distributor of gold and silver among them. It is the greatest paymaster in the country; and, while it pays in hard money, the people will be sure of a supply. We are taunted with the demand: "*Where is the better currency?*" We answer: "*Suppressed by the conspiracy of the banks!*" And this is the third time in the last twenty years in which paper money has suppressed specie, and now suppresses it: for this is a game—(the war between gold and paper)—in which the meanest and weakest is always the conqueror. The baser currency always displaces the better. Hard money needs support against paper, and that support can be given by us, by excluding paper money from all federal receipts and payments; and confining paper money to its own local and inferior orbit: and its regulation can be well accomplished by subjecting delinquent banks to the process of bankruptcy, and their small notes to suppression under a federal stamp duty.

The distress of the country figured largely in the speeches of several members, but without finding much sympathy. That engine of operating upon the government and the people had been over-worked in the panic session of 1833-'34 and was now a stale resource, and a crippled machine. The suspension appeared to the country to have been purposely contrived, and wantonly continued. There was now more gold and silver in the country than had ever been seen in it before—four times as much as in 1832, when the Bank of the United States was in its palmy state, and was vaunted to have done so much for the currency. Twenty millions of silver was then its own estimate of the amount of that metal in the United States, and not a particle of gold included in the estimate. Now the estimate of gold and silver was eighty millions; and with this supply of the precious metals, and the determination of all the sound banks to resume as soon as the Bank of the United States could be forced into resumption, or forced into open insolvency, so as to lose control over others, the suspension and embarrassment were obliged to be of brief continuance. Such were the arguments of the friends of hard money.

The divorce bill, as amended, passed the Senate, and though not acted upon in the House during this called session, yet received the impetus which soon carried it through, and gives it a right to be placed among the measures of that session.

12. Attempted Resumption Of Specie Payments

The suspension of the banks commenced at New York, and took place on the morning of the 10th of May: those of Philadelphia, headed by the Bank of the United States, closed their doors two days after, and merely in consequence, as they alleged, of the New York suspension; and the Bank of the United States especially declared its wish and ability to have continued specie payments without reserve, but felt it proper to follow the example which had been set. All this was known to be a fiction at the time; and the events were soon to come, to prove it to be so. As early as the 15th of August ensuing—in less than one hundred days after the suspension—the banks of New York took the initiatory steps towards resuming. A general meeting of the officers of the banks of the city took place, and appointed a committee to correspond with other banks to procure the appointment of delegates to agree upon a time of general resumption. In this meeting it was unanimously resolved: "*That the banks of the several States be respectfully invited to appoint delegates to meet on the 27th day of November next, in the city of New York, for the purpose of conferring on the time when specie payments may be resumed with safety; and on the measures necessary to effect that purpose.*" Three citizens, eminently respectable in themselves, and presidents of the leading institutions—*Messrs.* Albert Gallatin, George Newbold, and Cornelius W. Lawrence—were appointed a committee to correspond with other banks on the subject of the resolution. They did so; and, leaving to each bank the privilege of sending as many delegates as it pleased, they warmly urged the importance of the occasion, and that the banks from each State should be represented in the proposed convention. There was a general concurrence in the invitation; but the convention did not take place. One powerful interest, strong enough to paralyze the movement, refused to come into it. That interest was the Philadelphia banks, headed by the Bank of the United States! So soon were fallacious pretensions exploded when put to the test. And the test in this case was not resumption itself, but only a meeting to confer upon a time when it would suit the general interest to resume. Even to unite in that conference was refused by this arrogant interest, affecting such a superiority over all other banks; and pretending to have been only dragged into their condition by their example. But a reason had to be given for this refusal, and it was—and was worthy of the party; namely, that it was not proper to do any thing in the business until after the adjournment of the extra session of Congress. That answer was a key to the movements in Congress to thwart the government plans, and to coerce a renewal of the United States Bank charter. After the termination of the session it will be seen that another reason for refusal was found.

13. Bankrupt Act Against Banks

This was the stringent measure recommended by the President to cure the evil of bank suspensions. Scattered through all the States of the Union, and only existing as local institutions, the federal government could exercise no direct power over them; and the impossibility of bringing the State legislatures to act in concert, left the institutions to do as they pleased; or rather, left even the insolvent ones to do as they pleased; for these, dominating over the others, and governed by their own necessities, or designs, compelled the solvent banks, through panic or self-defence, to follow their example. Three of these general suspensions had occurred in the last twenty years. The notes of these banks constituting the mass of the circulating medium, put the actual currency into the hands of these institutions; leaving the community helpless; for it was not in the power of individuals to contend with associated corporations. It was a reproach to the federal government to be unable to correct this state of things—to see the currency of the constitution driven out of circulation, and out of the country; and substituted by depreciated paper; and the very evil produced which it was a main object of the constitution to prevent. The framers of that instrument were hard-money men. They had seen the evils of paper money, and intended to guard their posterity against what they themselves had suffered. They had done so, as they believed, in the prohibition upon the States to issue bills of credit; and in the prohibition upon the States to make any thing but gold and silver a tender in discharge of debts. The invention of banks, and their power over the community, had nullified this just and wise intention of the constitution; and certainly it would be a reproach to that instrument if it was incapable of protecting itself against such enemies, at such an important point. Thus far it had been found so incapable; but it was a question whether the fault was in the instrument, or in its administrators. There were many who believed it entirely to be the fault of the latter—who believed that the constitution had ample means of protection, within itself, against insolvent, or delinquent banks—and that, all that was wanted was a will in the federal legislature to apply the remedy which the evil required. This remedy was the process of bankruptcy, under which a delinquent bank might be instantly stopped in its operations—its circulation called in and paid off, as far as its assets would go—itself closed up, and all power of further mischief immediately terminated. This remedy it was now proposed to apply. President Van Buren recommended it: he was the first President who had had the merit of doing so; and all that was now wanted was a Congress to back him: and that was a great want! one hard to supply. A powerful array, strongly combined, was on the other side, both moneyed and political. All the local banks were against it; and they counted a thousand—their stockholders myriads;—and many of their owners and debtors were in Congress: the (still so-called) Bank of the United States was against it: and its power and influence were still great: the whole political party opposed to the administration were against it, as well because opposition is always a necessity of the party out of power, as a means of getting in, as because in the actual circumstances of the present state of things opposition was essential to the success of the outside party. Mr. Webster was the first to oppose the measure, and did so, seeming to question the right of Congress to apply the remedy rather than to question the expediency of it. He said:

“We have seen the declaration of the President, in which he says that he refrains from suggesting any specific plan for the regulation of the exchanges of the country, and for relieving mercantile embarrassments, or for interfering with the ordinary operation of foreign or domestic commerce; and that he does this from a conviction that such measures are not within the constitutional province of the general government; and yet he has made a recommendation to Congress which appears to me to be very remarkable, and it is of a

measure which he thinks may prove a salutary remedy against a depreciated paper currency. This measure is neither more nor less than a bankrupt law against corporations and other bankers.

"Now, Mr. President, it is certainly true that the constitution authorizes Congress to establish uniform rules on the subject of bankruptcies; but it is equally true, and abundantly manifest that this power was not granted with any reference to currency questions. It is a general power—a power to make uniform rules on the subject. How is it possible that such a power can be fairly exercised by seizing on corporations and bankers, but excluding all the other usual subjects of bankrupt laws! Besides, do such laws ordinarily extend to corporations at all? But suppose they might be so extended, by a bankrupt law enacted for the usual purposes contemplated by such laws; how can a law be defended, which embraces them and bankers alone? I should like to hear what the learned gentleman at the head of the Judiciary Committee, to whom the subject is referred, has to say upon it. How does the President's suggestion conform to his notions of the constitution? The object of bankrupt laws, sir, has no relation to currency. It is simply to distribute the effects of insolvent debtors among their creditors; and I must say, it strikes me that it would be a great perversion of the power conferred on Congress to exercise it upon corporations and bankers, with the leading and primary object of remedying a depreciated paper currency.

"And this appears the more extraordinary, inasmuch as the President is of opinion that the general subject of the currency is not within our province. Bankruptcy, in its common and just meaning, is within our province. Currency, says the message, is not. But we have a bankruptcy power in the constitution, and we will use this power, not for bankruptcy, indeed, but for currency. This, I confess, sir, appears to me to be the short statement of the matter. I would not do the message, or its author, any intentional injustice, nor create any apparent, where there was not a real inconsistency; but I declare, in all sincerity, that I cannot reconcile the proposed use of the bankrupt power with those opinions of the message which respect the authority of Congress over the currency of the country."

The right to use this remedy against bankrupt corporations was of course well considered by the President before he recommended it and also by the Secretary of the Treasury (Mr. Woodbury), bred to the bar, and since a justice of the Supreme Court of the United States, by whom it had been several times recommended. Doubtless the remedy was sanctioned by the whole cabinet before it became a subject of executive recommendation. But the objections of Mr. Webster, though rather suggested than urged, and confined to the *right* without impeaching the *expediency* of the remedy, led to a full examination into the nature and objects of the laws of bankruptcy, in which the right to use them as proposed seemed to be fully vindicated. But the measure was not then pressed to a vote; and the occasion for the remedy having soon passed away, and not recurring since, the question has not been revived. But the importance of the remedy, and the possibility that it may be wanted at some future time, and the high purpose of showing that the constitution is not impotent at a point so vital, renders it proper to present, in this View of the working of the government, the line of argument which was then satisfactory to its advocates: and this is done in the ensuing chapter.

14. Bankrupt Act For Banks: Mr. Benton's Speech

The power of Congress to pass bankrupt laws is expressly given in our constitution, and given without limitation or qualification. It is the fourth in the number of the enumerated powers, and runs thus: "Congress shall have power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States." This is a full and clear grant of power. Upon its face it admits of no question, and leaves Congress at full liberty to pass any kind of bankrupt laws they please, limited only by the condition, that whatever laws are passed, they are to be uniform in their operation throughout the United States. Upon the face of our own constitution there is no question of our right to pass a bankrupt law, limited to banks and bankers; but the senator from Massachusetts [Mr. Webster] and others who have spoken on the same side with him, must carry us to England, and conduct us through the labyrinth of English statute law, and through the chaos of English judicial decisions, to learn what this word bankruptcies, in our constitution, is intended to signify. In this he, and they, are true to the habits of the legal profession—those habits which, both in Great Britain and our America, have become a proverbial disqualification for the proper exercise of legislative duties. I know, Mr. President, that it is the fate of our lawyers and judges to have to run to British law books to find out the meaning of the phrases contained in our constitution; but it is the business of the legislator, and of the statesman, to take a larger view—to consider the difference between the political institutions of the two countries—to ascend to first principles—to know the causes of events—and to judge how far what was suitable and beneficial to one might be prejudicial and inapplicable to the other. We stand here as legislators and statesmen, not as lawyers and judges; we have a grant of power to execute not a statute to interpret; and our first duty is to look to that grant, and see what it is; and our next duty is to look over our country, and see whether there is any thing in it which requires the exercise of that grant of power. This is what our President has done, and what we ought to do. He has looked into the constitution, and seen there an unlimited grant of power to pass uniform laws on the subject of bankruptcies; and he has looked over the United States, and seen what he believes to be fit subjects for the exercise of that power, namely, about a thousand banks in a state of bankruptcy, and no State possessed of authority to act beyond its own limits in remedying the evils of a mischief so vast and so frightful. Seeing these two things—a power to act, and a subject matter requiring action—the President has recommended the action which the constitution permits, and which the subject requires; but the senator from Massachusetts has risen in his place, and called upon us to shift our view; to transfer our contemplation—from the constitution of the United States to the British statute book—from actual bankruptcy among ourselves to historical bankruptcy in England; and to confine our legislation to the characteristics of the English model.

As a general proposition, I lay it down that Congress is not confined, like jurists and judges, to the English statutory definitions, or the Nisi Prius or King's Bench construction of the phrases known to English legislation, and used in our constitution. Such a limitation would not only narrow us down to a mere lawyer's view of a subject, but would limit us, in point of time, to English precedents, as they stood at the adoption of our constitution, in the year 1789. I protest against this absurdity, and contend that we are to use our granted powers according to the circumstances of our own country, and according to the genius of our republican institutions, and according to the progress of events and the expansion of light and knowledge among ourselves. If not, and if we are to be confined to the "usual objects," and the "usual subjects," and the "usual purposes," of British legislation at the time of the

adoption of our constitution, how could Congress ever make a law in relation to steamboats, or to railroad cars, both of which were unknown to British legislation in 1789; and therefore, according to the idea that would send us to England to find out the meaning of our constitution, would not fall within the limits of our legislative authority. Upon their face, the words of the constitution are sufficient to justify the President's recommendation, even as understood by those who impugn that recommendation. The bankrupt clause is very peculiar in its phraseology, and the more strikingly so from its contrast with the phraseology of the naturalization clause, which is coupled with it. Mark this difference: there is to be a uniform rule of naturalization: there are to be uniform laws on the subject of bankruptcies. One is in the singular, the other in the plural; one is to be a rule, the other are to be laws; one acts on individuals, the other on the subject; and it is bankruptcies that are, and not bankruptcy that is, to be the objects of these uniform laws.

As a proposition, now limited to this particular case, I lay it down that we are not confined to the modern English acceptation of this term *bankrupt*; for it is a term, not of English, but of Roman origin. It is a term of the civil law, and borrowed by the English from that code. They borrowed from Italy both the name and the purpose of the law; and also the first objects to which the law was applicable. The English were borrowers of every thing connected with this code; and it is absurd in us to borrow from a borrower—to copy from a copyist—when we have the original lender and the original text before us. *Bancus* and *ruptus* signifies a broken bench; and the word *broken* is not metaphorical but literal, and is descriptive of the ancient method of cashiering an insolvent or fraudulent banker, by turning him out of the exchange or market place, and breaking the table bench to pieces on which he kept his money and transacted his business. The term *bankrupt*, then, in the civil law from which the English borrowed it, not only applied to bankers, but was confined to them; and it is preposterous in us to limit ourselves to an English definition of a civil law term.

Upon this exposition of our own constitution, and of the civil law derivation of this term *bankrupt*, I submit that the Congress of the United States is not limited to the English judicial or statutory acceptation of the term; and so I finish the first point which I took in the argument. The next point is more comprehensive, and makes a direct issue with the proposition of the senator from Massachusetts, [Mr. Webster.] His proposition is, that we must confine our bankrupt legislation to the usual objects, the usual subjects, and the usual purposes of bankrupt laws in England; and that currency (meaning paper money and shin-plasters of course), and banks, and banking, are not within the scope of that legislation. I take issue, sir, upon all these points, and am ready to go with the senator to England, and to contest them, one by one, on the evidences of English history, of English statute law, and of English judicial decision. I say English; for, although the senator did not mention England, yet he could mean nothing else, in his reference to the usual objects, usual subjects, and usual purposes of bankrupt laws. He could mean nothing else. He must mean the English examples and the English practice, or nothing; and he is not a person to speak, and mean nothing.

Protesting against this voyage across the high seas, I nevertheless will make it, and will ask the senator on what act, out of the scores which Parliament has passed upon this subject, or on what period, out of the five hundred years that she has been legislating upon it, will he fix for his example? Or, whether he will choose to view the whole together; and out of the vast chaotic and heterogeneous mass, extract a general power which Parliament possesses, and which he proposes for our exemplar? For myself, I am agreed to consider the question under the whole or under either of these aspects, and, relying on the goodness of the cause, expect a safe deliverance from the contest, take it in any way.

And first, as to the acts passed upon this subject; great is their number, and most dissimilar their provisions. For the first two hundred years, these acts applied to none but aliens, and a single class of aliens, and only for a single act, that of flying the realm to avoid their creditors. Then they were made to apply to all debtors, whether natives or foreigners, engaged in trade or not, and took effect for three acts: 1st, flying the realm; 2d, keeping the house to avoid creditors; 3d, taking sanctuary in a church to avoid arrest. For upwards of two hundred years—to be precise, for two hundred and twenty years—bankruptcy was only treated criminally, and directed against those who would not face their creditors, or abide the laws of the land; and the remedies against them were not civil, but criminal; it was not a distribution of the effects, but corporal punishment, to wit: imprisonment and outlawry.[12] The statute of Elizabeth was the first that confined the law to merchants and traders, took in the unfortunate as well as the criminal, extended the acts of bankruptcy to inability as well as to disinclination to pay, discriminated between innocent and fraudulent bankruptcy; and gave to creditors the remedial right to a distribution of effects. This statute opened the door to judicial construction, and the judges went to work to define by decisions, who were traders, and what acts constituted the fact, or showed an intent to delay or to defraud creditors. In making these decisions, the judges reached high enough to get hold of royal companies, and low enough to get hold of shoemakers; the latter upon the ground that they bought the leather out of which they made the shoes; and they even had a most learned consultation to decide whether a man who was a landlord for dogs, and bought dead horses for his four-legged boarders, and then sold the skins and bones of the horse carcases he had bought, was not a trader within the meaning of the act; and so subject to the statute of bankrupts. These decisions of the judges set the Parliament to work again to preclude judicial constructions by the precision, negatively and affirmatively, of legislative enactment. But, worse and worse! Out of the frying-pan into the fire. The more legislation the more construction; the more statutes Parliament made, the more numerous and the more various the judicial decisions; until, besides merchants and traders, near forty other descriptions of persons were included; and the catalogue of bankruptcy acts, innocent or fraudulent, is swelled to a length which requires whole pages to contain it. Among those who are now included by statutory enactment in England, leaving out the great classes comprehended under the names of merchants and traders, are bankers, brokers, factors, and scriveners; insurers against perils by sea and land; warehousemen, wharfingers, packers, builders, carpenters, shipwrights and victuallers; keepers of inns, hotels, taverns and coffee-houses; dyers, printers, bleachers, fullers, calendrers, sellers of cattle or sheep; commission merchants and consignees; and the agents of all these classes. These are the affirmative definitions of the classes liable to bankruptcy in England; then come the negative; and among these are farmers, graziers, and common laborers for hire; the receivers general of the king’s taxes, and members or subscribers to any incorporated companies established by charter of act of Parliament. And among these negative and affirmative exclusions and inclusions, there are many classes which have repeatedly changed position, and found themselves successively in and out of the bankrupt code. Now, in all this mass of variant and contradictory legislation, what part of it will the senator from Massachusetts select for his model? The improved, and approved parts, to be sure! But here a barrier presents itself—an impassable wall interposes—a veto power intervenes. For it so happens that the improvements in the British bankrupt code, those parts of it which are considered best, and most worthy of our imitation, are of modern origin—the creations of the last fifty years—actually made since the date of our constitution; and,

[12] Whereas divers and sundry persons craftily obtained into their hands great substance of other men's goods, do suddenly flee to parts unknown, or keep their houses, not minding to pay or restore to any of their creditors, their debts and duties, but at their own wills and own pleasures consume the substance obtained by credit of other men for their own pleasures and delicate living, against all reason, equity, and good conscience.

therefore, not within the pale of its purview and meaning. Yes, sir, made since the establishment of our constitution, and, therefore, not to be included within its contemplation; unless this doctrine of searching into British statutes for the meaning of our constitution, is to make us search forwards to the end of the British empire, as well as search backwards to its beginning. Fact is, that the actual bankrupt code of Great Britain—the one that preserves all that is valuable, that consolidates all that is preserved, and improves all that is improvable, is an act of most recent date—of the reign of George IV.; and not yet a dozen years old. Here, then, in going back to England for a model, we are cut off from her improvements in the bankrupt code, and confined to take it as it stood under the reign of the Plantagenets, the Tudors, the Stuarts, and the earlier reigns of the Brunswick sovereigns. This should be a consideration, and sufficiently weighty to turn the scale in favor of looking to our own constitution alone for the extent and circumscription of our powers.

But let us continue this discussion upon principles of British example and British legislation. We must go to England for one of two things; either for a case in point, to be found in some statute, or a general authority, to be extracted from a general practice. Take it either way, or both ways, and I am ready and able to vindicate, upon British precedents, our perfect right to enact a bankrupt law, limited in its application to banks and bankers. And first, for a case in point, that is to say, an English statute of bankruptcy, limited to these lords of the purse-strings: we have it at once, in the first act ever passed on the subject—the act of the 30th year of the reign of Edward III., against the Lombard Jews. Every body knows that these Jews were bankers, usually formed into companies, who, issuing from Venice, Milan, and other parts of Italy, spread over the south and west of Europe, during the middle ages; and established themselves in every country and city in which the dawn of reviving civilization, and the germ of returning industry, gave employment to money, and laid the foundation of credit. They came to London as early as the thirteenth century, and gave their name to a street which still retains it, as well as it still retains the particular occupation, and the peculiar reputation, which the Lombard Jews established for it. The first law against bankrupts ever passed in England, was against the banking company composed of these Jews, and confined exclusively to them. It remained in force two hundred years, without any alteration whatever, and was nothing but the application of the law of their own country to these bankers in the country of their sojournment—the Italian law, founded upon the civil law, and called in Italy *banco rotto*, broken bank. It is in direct reference to these Jews, and this application of the exotic bankrupt law to them, that Sir Edward Coke, in his institutes, takes occasion to say that both the name and the wickedness of bankruptcy were of foreign origin, and had been brought into England from foreign parts. It was enacted under the reign of one of the most glorious of the English princes—a reign as much distinguished for the beneficence of its civil administration as for the splendor of its military achievements. This act of itself is a full answer to the whole objection taken by the senator from Massachusetts. It shows that, even in England, a bankrupt law has been confined to a single class of persons, and that class a banking company. And here I would be willing to close my speech upon a compromise—a compromise founded in reason and reciprocity, and invested with the equitable mantle of a mutual concession. It is this: if we must follow English precedents, let us follow them chronologically and orderly. Let us begin at the beginning, and take them as they rise. Give me a bankrupt law for two hundred years against banks and bankers; and, after that, make another for merchants and traders.

The senator from Massachusetts [Mr. Webster] has emphatically demanded, how the bankrupt power could be fairly exercised by seizing on corporations and bankers, and excluding all the other usual subjects of bankrupt laws? I answer, by following the example of that England to which he has conducted us; by copying the act of the 30th of Edward III.,

by going back to that reign of heroism, patriotism, and wisdom; that reign in which the monarch acquired as much glory from his domestic policy as from his foreign conquests; that reign in which the acquisition of dyers and weavers from Flanders, the observance of law and justice, and the encouragement given to agriculture and manufactures, conferred more benefit upon the kingdom, and more glory upon the king, than the splendid victories of Poictiers, Agincourt, and Cressy.

But the senator may not be willing to yield to this example, this case in point, drawn from his own fountain, and precisely up to the exigency of the occasion. He may want something more; and he shall have it. I will now take the question upon its broadest bottom and fullest merits. I will go to the question of general power—the point of general authority—exemplified by the general practice of the British Parliament, for five hundred years, over the whole subject of bankruptcy. I will try the question upon this basis; and here I lay down the proposition, that this five hundred years of parliamentary legislation on bankruptcy establishes the point of full authority in the British Parliament to act as it pleased on the entire subject of bankruptcies. This is my proposition; and, when it is proved, I shall claim from those who carry me to England for authority, the same amount of power over the subject which the British Parliament has been in the habit of exercising. Now, what is the extent of that power? Happily for me, I, who have to speak, without any inclination for the task; still more happily for those who have to hear me, peradventure without profit or pleasure; happily for both parties, my proposition is already proved, partly by what I have previously advanced, and fully by what every senator knows. I have already shown the practice of Parliament upon this subject, that it has altered and changed, contracted and enlarged, put in and left out, abolished and created, precisely as it pleased. I have already shown, in my rapid view of English legislation on this subject, that the Parliament exercised plenary power and unlimited authority over every branch of the bankrupt question; that it confined the action of the bankrupt laws to a single class of persons, or extended it to many classes; that it was sometimes confined to foreigners, then applied to natives, and that now it comprehends natives, aliens, denizens, and women; that at one time all debtors were subject to it; then none but merchants and traders; and now, besides merchants and traders, a long list of persons who have nothing to do with trade; that at one time bankruptcy was treated criminally, and its object punished corporeally, while now it is a remedial measure for the benefit of the creditors, and the relief of unfortunate debtors; and that the acts of the debtor which may constitute him a bankrupt, have been enlarged from three or four glaring misdeeds, to so long a catalogue of actions, divided into the heads of innocent and fraudulent; constructive and positive; intentional and unintentional; voluntary and forced; that none but an attorney, with book in hand, can pretend to enumerate them. All this has been shown; and, from all this, it is incontestable that Parliament can do just what it pleases on the subject; and, therefore, our Congress, if referred to England for its powers, can do just what it pleases also. And thus, whether we go by the words of our own constitution, or by a particular example in England, or deduce a general authority from the general practice of that country, the result is still the same: we have authority to limit, if we please, our bankrupt law to the single class of banks and bankers.

The senator from Massachusetts [Mr. Webster] demands whether bankrupt laws ordinarily extend to corporations, meaning moneyed corporations. I am free to answer that, in point of fact, they do not. But why? because they ought not? or because these corporations have yet been powerful enough, or fortunate enough, to keep their necks out of that noose? Certainly the latter. It is the power of these moneyed corporations in England, and their good fortune in our America, which, enabling them to grasp all advantages on one hand, and to repulse all penalties on the other, has enabled them to obtain express statutory exemption from bankrupt

liabilities in England; and to escape, thus far, from similar liabilities in the United States. This, sir, is history, and not invective; it is fact, and not assertion; and I will speedily refresh the senator's memory, and bring him to recollect why it is, in point of fact, that bankrupt laws do not usually extend to these corporations. And, first, let us look to England, that great exemplar, whose evil examples we are so prompt, whose good ones we are so slow, to imitate. How stands this question of corporation unliability there? By the judicial construction of the statute of Elizabeth, the partners in all incorporated companies were held subject to the bankrupt law; and, under this construction, a commission of bankrupt was issued against Sir John Wolstenholme, a gentleman of large fortune, who had advanced a sum of money on an adventure in the East India Company's trade. The issue of this commission was affirmed by the Court of King's Bench; but this happened to take place in the reign of Charles II.—that reign during which so little is found worthy of imitation in the government of Great Britain—and immediately two acts of Parliament were passed, one to annul the judgment of the Court of King's Bench in the case of Sir John Wolstenholme, and the other to prevent any such judgments from being given in future. Here are copies of the two acts:

FIRST ACT, TO ANNUL THE JUDGMENT.

"Whereas a verdict and judgment was had in the Easter term of the King's Bench, whereby Sir John Wolstenholme, knight, and adventurer in the East India Company, was found liable to a commission of bankrupt only for, and by reason of, a share which he had in the joint stock of said company: Now, &c., Be it enacted, That the said judgment be reversed, annulled, vacated, and for naught held," &c.

SECOND ACT, TO PREVENT SUCH JUDGMENTS IN FUTURE.

"That whereas divers noblemen and gentlemen, and persons of quality, no ways bred up to trade, do often put in great stocks of money into the East India and Guinea Company: Be it enacted, That no persons adventurers for putting in money or merchandise into the said companies, or for venturing or managing the fishing trade, called the royal fishing trade, shall be reputed or taken to be a merchant or trader within any statutes for bankrupts."

Thus, and for these reasons, were chartered companies and their members exempted from the bankrupt penalties, under the dissolute reign of Charles II. It was not the power of the corporations at that time—for the Bank of England was not then chartered, and the East India Company had not then conquered India—which occasioned this exemption; but it was to favor the dignified characters who engaged in the trade—noblemen, gentlemen, and persons of quality. But, afterwards, when the Bank of England had become almost the government of England, and when the East India Company had acquired the dominions of the Great Mogul, an act of Parliament expressly declared that no member of any incorporated company, chartered by act of Parliament, should be liable to become bankrupt. This act was passed in the reign of George IV., when the Wellington ministry was in power, and when liberal principles and human rights were at the last gasp. So much for these corporation exemptions in England; and if the senator from Massachusetts finds any thing in such instances worthy of imitation, let him stand forth and proclaim it.

But, sir, I am not yet done with my answer to this question; do such laws ordinarily extend to corporations at all? I answer, most decidedly, that they do! that they apply in England to all the corporations, except those specially excepted by the act of George IV.; and these are few in number, though great in power—powerful, but few—nothing but units to myriads, compared to those which are not excepted. The words of that act are: "Members of, or subscribers to, any incorporated commercial or trading companies, established by charter act of Parliament." These words cut off at once the many ten thousand corporations in the British

empire existing by prescription, or incorporated by letters patent from the king; and then they cut off all those even chartered by act of Parliament which are not commercial or trading in their nature. This saves but a few out of the hundreds of thousands of corporations which abound in England, Scotland, Wales, and Ireland. It saves, or rather confirms, the exemption of the Bank of England, which is a trader in money; and it confirms, also, the exemption of the East India Company which is, in contemplation of law at least, a commercial company; and it saves or exempts a few others deriving charters of incorporation from Parliament; but it leaves subject to the law the whole wilderness of corporations, of which there are thousands in London alone, which derive from prescription or letters patent; and it also leaves subject to the same laws all the corporations created by charter act of Parliament, which are not commercial or trading. The words of the act are very peculiar—"charter act of Parliament;" so that corporations by a general law, without a special charter act, are not included in the exemption. This answer, added to what has been previously said, must be a sufficient reply to the senator's question, whether bankrupt laws ordinarily extend to corporations? Sir, out of the myriad of corporations in Great Britain, the bankrupt law extends to the whole, except some half dozen or dozen.

So much for the exemption of these corporations in England; now for our America. We never had but one bankrupt law in the United States, and that for the short period of three or four years. It was passed under the administration of the elder Mr. Adams, and repealed under Mr. Jefferson. It copied the English acts including among the subjects of bankruptcy, bankers, brokers, and factors. Corporations were not included; and it is probable that no question was raised about them, as, up to that time, their number was few, and their conduct generally good. But, at a later date, the enactment of a bankrupt law was again attempted in our Congress; and, at that period, the multiplication and the misconduct of banks presented them to the minds of many as proper subjects for the application of the law; I speak of the bill of 1827, brought into the Senate, and lost. That bill, like all previous laws since the time of George II., was made applicable to bankers, brokers, and factors. A senator from North Carolina [Mr. Branch] moved to include banking corporations. The motion was lost, there being but twelve votes for it; but in this twelve there were some whose names must carry weight to any cause to which they are attached. The twelve were, Messrs. Barton, Benton, Branch, Cobb, Dickerson, Hendricks, Macon, Noble, Randolph, Reed, Smith of South Carolina, and White. The whole of the friends of the bill, twenty-one in number, voted against the proposition, (the present Chief Magistrate in the number,) and for the obvious reason, with some, of not encumbering the measure they were so anxious to carry, by putting into it a new and untried provision. And thus stands our own legislation on this subject. In point of fact, then, chartered corporations have thus far escaped bankrupt penalties, both in England, and in our America; but ought they to continue to escape? This is the question—this the true and important inquiry, which is now to occupy the public mind.

The senator from Massachusetts [Mr. Webster] says the object of bankrupt laws has no relation to currency; that their object is simply to distribute the effects of insolvent debtors among their creditors. So says the senator, but what says history? What says the practice of Great Britain? I will show you what it says, and for that purpose will read a passage from McCulloch's notes on Smith's Wealth of Nations. He says:

"In 1814-'15, and '16, no fewer than 240 country banks stopped payment, and ninety-two commissions of bankruptcy were issued against these establishments, being at the rate of one commission against every seven and a half of the total number of country banks existing in 1813."

Two hundred and forty stopped payment at one dash, and ninety-two subjected to commissions of bankruptcy. They were not indeed chartered banks, for there are none such in England, except the Bank of England; but they were legalized establishments, existing under the first joint-stock bank act of 1708; and they were banks of issue. Yet they were subjected to the bankrupt laws, ninety-two of them in a single season of bank catalepsy; their broken "promises to pay" were taken out of circulation; their doors closed; their directors and officers turned out; their whole effects, real and personal, their money, debts, books, paper, and every thing, put into the hands of assignees; and to these assignees, the holders of their notes forwarded their demands, and were paid, every one in equal proportion—as the debts of the bank were collected, and its effects converted into money; and this without expense or trouble to any one of them. Ninety-two banks in England shared this fate in a single season of bank mortality; five hundred more could be enumerated in other seasons, many of them superior in real capital, credit, and circulation, to our famous chartered banks, most of which are banks of moonshine, built upon each other's paper; and the whole ready to fly sky-high the moment any one of the concern becomes sufficiently inflated to burst. The immediate effect of this application of the bankrupt laws to banks in England, is two-fold: first, to save the general currency from depreciation, by stopping the issue and circulation of irredeemable notes; secondly, to do equal justice to all creditors, high and low, rich and poor, present and absent, the widow and the orphan, as well as the cunning and the powerful, by distributing their effects in proportionate amounts to all who hold demands. This is the operation of bankrupt laws upon banks in England, and all over the British empire; and it happens to be the precise check upon the issue of broken bank paper, and the precise remedy for the injured holders of their dishonored paper which the President recommends. Here is his recommendation, listen to it:

"In the mean time, it is our duty to provide all the remedies against a depreciated paper currency which the constitution enables us to afford. The Treasury Department, on several former occasions, has suggested the propriety and importance of a uniform law concerning bankruptcies of corporations and other bankers. Through the instrumentality of such a law, a salutary check may doubtless be imposed on the issues of paper money, and an effectual remedy given to the citizen, in a way at once equal in all parts of the Union, and fully authorized by the constitution."

The senator from Massachusetts says he would not, intentionally, do injustice to the message or its author; and doubtless he is not conscious of violating that benevolent determination; but here is injustice, both to the message and to its author; injustice in not quoting the message as it is, and showing that it proposes a remedy to the citizen, as well as a check upon insolvent issues; injustice to the author in denying that the object of bankrupt laws has any relation to currency, when history shows that these laws are the actual instrument for regulating and purifying the whole local paper currency of the entire British empire, and saving that country from the frauds, losses, impositions, and demoralization of an irredeemable paper money.

The senator from Massachusetts says the object of bankrupt laws has no relation to currency. If he means hard-money currency, I agree with him; but if he means bank notes, as I am sure he does, then I point him to the British bankrupt code, which applies to every bank of issue in the British empire, except the Bank of England itself, and the few others, four or five in number, which are incorporated by charter acts. All the joint-stock banks, all the private banks, all the bankers of England, Scotland, Wales, and Ireland, are subject to the law of bankruptcy. Many of these establishments are of great capital and credit; some having hundreds, or even thousands of partners; and many of them having ten, or twenty, or thirty, and some even forty branches. They are almost the exclusive furnishers of the local and common bank note currency; the Bank of England notes being chiefly used in the great cities

for large mercantile and Government payments. These joint-stock banks, private companies, and individual bankers are, practically, in the British empire what the local banks are in the United States. They perform the same functions, and differ in name only; not in substance nor in conduct. They have no charters, but they have a legalized existence; they are not corporations, but they are allowed by law to act in a body; they furnish the actual paper currency of the great body of the people of the British empire, as much so as our local banks furnish the mass of paper currency to the people of the United States. They have had twenty-four millions sterling (one hundred and twenty millions of dollars) in circulation at one time; a sum nearly equal to the greatest issue ever known in the United States; and more than equal to the whole bank-note circulation of the present day. They are all subject to the law of bankruptcy, and their twenty-four millions sterling of currency along with them; and five hundred of them have been shut up and wound up under commissions of bankruptcy in the last forty years; and yet the senator from Massachusetts informs us that the object of bankrupt laws has no relation to currency!

But it is not necessary to go all the way to England to find bankrupt laws having relation to currency. The act passed in our own country, about forty years ago, applied to bankers; the bill brought into the House of Representatives, about fifteen years ago, by a gentleman then, and now, a representative from the city of Philadelphia, [Mr. Sergeant,] also applied to bankers; and the bill brought into this Senate, ten years ago, by a senator from South Carolina, not now a member of this body, [General Hayne,] still applied to bankers. These bankers, of whom there were many in the United States, and of whom Girard, in the East, and Yeatman and Woods, in the West, were the most considerable—these bankers all issued paper money; they all issued currency. The act, then, of 1798, if it had continued in force, or the two bills just referred to, if they had become law, would have operated upon these bankers and their banks—would have stopped their issues, and put their establishments into the hands of assignees, and distributed their effects among their creditors. This, certainly, would have been having some relation to currency: so that, even with our limited essays towards a bankrupt system, we have scaled the outworks of the banking empire; we have laid hold of bankers, but not of banks; we have reached the bank of Girard, but not the Girard Bank; we have applied our law to the bank of Yeatman and Woods, but not to the rabble of petty corporations which have not the tithe of their capital and credit. We have gone as far as bankers, but not as far as banks; and now give me a reason for the difference. Give me a reason why the act of 1798, the bill of Mr. Sergeant, in 1821, and the bill of General Hayne, in 1827, should not include banks as well as bankers. They both perform the same function—that of issuing paper currency. They both involve the same mischief when they stop payment—that of afflicting the country with a circulation of irredeemable and depreciated paper money. They are both culpable in the same mode, and in the same degree; for they are both violators of their "promises to pay." They both exact a general credit from the community, and they both abuse that credit. They both have creditors, and they both have effects; and these creditors have as much right to a *pro rata* distribution of the effects in one case as in the other. Why, then, a distinction in favor of the bank? Is it because corporate bodies are superior to natural bodies? because artificial beings are superior to natural beings? or, rather, is it not because corporations are assemblages of men; and assemblages are more powerful than single men; and, therefore, these corporations, in addition to all their vast privileges, are also to have the privilege of being bankrupt, and afflicting the country with the evils of bankruptcy, without themselves being subjected to the laws of bankruptcy? Be this as it may—be the cause what it will—the decree has gone forth for the decision of the question—for the trial of the issue—for the verdict and judgment upon the claim of the banks. They have many privileges and exemptions now, and they have the benefit of all laws against the community. They pay no taxes; the property of the stockholders is not liable for

their debts; they sue their debtors, sell their property, and put their bodies in jail. They have the privilege of stamping paper money; the privilege of taking interest upon double, treble, and quadruple their actual money. They put up and put down the price of property, labor, and produce, as they please. They have the monopoly of making the actual currency. They are strong enough to suppress the constitutional money, and to force their own paper upon the community, and then to redeem it or not, as they please. And is it to be tolerated, that, in addition to all these privileges, and all these powers, they are to be exempted from the law of bankruptcy? the only law of which they are afraid, and the only one which can protect the country against their insolvent issues, and give a fair chance for payment to the numerous holders of their violated "promises to pay!"

I have discussed, Mr. President, the right of Congress to apply a bankrupt law to banking corporations; I have discussed it on the words of our own constitution, on the practice of England, and on the general authority of Parliament; and on each and every ground, as I fully believe, vindicated our right to pass the law. The right is clear; the expediency is manifest and glaring. Of all the objects upon the earth, banks of circulation are the fittest subjects of bankrupt laws. They act in secret, and they exact a general credit. Nobody knows their means, yet every body must trust them. They send their "promises to pay" far and near. They push them into every body's hands; they make them small to go into small hands—into the hands of the laborer, the widow, the helpless, the ignorant. Suddenly the bank stops payment; all these helpless holders of their notes are without pay, and without remedy. A few on the spot get a little; those at a distance get nothing. For each to sue, is a vexatious and a losing business. The only adequate remedy—the only one that promises any justice to the body of the community, and the helpless holders of small notes—is the bankrupt remedy of assignees to distribute the effects. This makes the real effects available. When a bank stops, it has little or no specie; but it has, or ought to have, a good mass of solvent debts. At present, all these debts are unavailable to the community—they go to a few large and favored creditors; and those who are most in need get nothing. But a stronger view remains to be taken of these debts: the mass of them are due from the owners and managers of the banks—from the presidents, directors, cashiers, stockholders, attorneys; and these people do not make themselves pay. They do not sue themselves, nor protest themselves. They sue and protest others, and sell out their property, and put their bodies in jail; but, as for themselves, who are the main debtors, it is another affair! They take their time, and usually wait till the notes are heavily depreciated, and then square off with a few cents in the dollar! A commission of bankruptcy is the remedy for this evil; assignees of the effects of the bank are the persons to make these owners, and managers, and chief debtors to the institutions, pay up. Under the bankrupt law, every holder of a note, no matter how small in amount, nor how distant the holder may reside, on forwarding the note to the assignees, will receive his ratable proportion of the bank's effects, without expense, and without trouble to himself. It is a most potent, a most proper, and most constitutional remedy against delinquent banks. It is an equitable and a brave remedy. It does honor to the President who recommended it, and is worthy of the successor of Jackson.

Senators upon this floor have ventured the expression of an opinion that there can be no resumption of specie payments in this country until a national bank shall be established, meaning, all the while, until the present miscalled Bank of the United States shall be rechartered. Such an opinion is humiliating to this government, and a reproach upon the memory of its founders. It is tantamount to a declaration that the government, framed by the heroes and sages of the Revolution, is incapable of self-preservation; that it is a miserable image of imbecility, and must take refuge in the embraces of a moneyed corporation, to enable it to survive its infirmities. The humiliation of such a thought should expel it from the

imagination of every patriotic mind. Nothing but a dire necessity—a last, a sole, an only alternative—should bring this government to the thought of leaning upon any extraneous aid. But here is no necessity, no reason, no pretext, no excuse, no apology, for resorting to collateral aid; and, above all, to the aid of a master in the shape of a national bank. The granted powers of the government are adequate to the coercion of all the banks. As banks, the federal government has no direct authority over them; but as bankrupts, it has them in its own hands. It can pass bankrupt laws for these delinquent institutions. It can pass such laws either with or without including merchants and traders; and the day for such law to take effect, will be the day for the resumption of specie payments by every solvent bank, and the day for the extinction of the abused privileges of every insolvent one. So far from requiring the impotent aid of the miscalled Bank of the United States to effect a resumption, that institution will be unable to prevent a resumption. Its veto power over other banks will cease; and it will itself be compelled to resume specie payment, or die!

Besides these great objects to be attained by the application of a bankrupt law to banking corporations, there are other great purposes to be accomplished, and some most sacred duties to be fulfilled, by the same means. Our constitution contains three most vital prohibitions, of which the federal government is the guardian and the guarantee, and which are now publicly trodden under foot. No State shall emit bills of credit; no State shall make any thing but gold and silver coin a tender in payment of debts; no State shall pass any law impairing the obligation of contracts. No State shall do these things. So says the constitution under which we live, and which it is the duty of every citizen to protect, preserve, and defend. But a new power has sprung up among us, and has annulled the whole of these prohibitions. That new power is the oligarchy of banks. It has filled the whole land with bills of credit; for it is admitted on all hands that bank notes, not convertible into specie, are bills of credit. It has suppressed the constitutional currency, and made depreciated paper money a forced tender in payment of every debt. It has violated all its own contracts, and compelled all individuals, and the federal government and State governments, to violate theirs; and has obtained from sovereign States an express sanction, or a silent acquiescence, in this double violation of sacred obligations, and in this triple annulment of constitutional prohibitions. It is our duty to bring, or to try to bring, this new power under subordination to the laws and the government. It is our duty to go to the succor of the constitution—to rescue, if possible, these prohibitions from daily, and public and permanent infraction. The application of the bankrupt law to this new power, is the way to effect this rescue—the way to cause these vital prohibitions to be respected and observed, and to do it in a way to prevent collisions between the States and the federal government. The prohibitions are upon the States; it is they who are not to do these things, and, of course, are not to authorize others to do what they cannot do themselves. The banks are their delegates in this three-fold violation of the constitution; and, in proceeding against these delegates, we avoid collision with the States.

Mr. President, every form of government has something in it to excite the pride, and to rouse the devotion, of its citizens. In monarchies, it is the authority of the king; in republics, it is the sanctity of the laws. The loyal subject makes it the point of honor to obey the king; the patriot republican makes it his glory to obey the laws. We are a republic. We have had illustrious citizens, conquering generals, and victorious armies; but no citizen, no general, no army, has undertaken to dethrone the laws and to reign in their stead. This parricidal work has been reserved for an oligarchy of banks! Three times, in thrice seven years, this oligarchy has dethroned the law, and reigned in its place. Since May last, it has held the sovereign sway, and has not yet vouchsafed to indicate the day of its voluntary abdication. The Roman military dictators usually fixed a term to their dictatorships. I speak of the usurpers, not of the constitutional dictators for ten days. These usurpers usually indicated a time at which

usurpation should cease, and law and order again prevail. Not so with this new power which now lords it over our America. They fix no day; they limit no time; they indicate no period for their voluntary descent from power, and for their voluntary return to submission to the laws. They could agree in the twinkling of an eye—at the drop of a hat—at the crook of a finger—to usurp the sovereign power; they cannot agree, in four months, to relinquish it. They profess to be willing, but cannot agree upon the time. Let us perform that service for them. Let us name a day. Let us fix it in a bankrupt law. Let us pass that law, and fix a day for it to take effect; and that day will be the day for the resumption of specie payments, or for the trial of the question of permanent supremacy between the oligarchy of banks, and the constitutional government of the people.

We are called upon to have mercy upon the banks; the prayer should rather be to them, to have mercy upon the government and the people. Since May last the ex-deposit banks alone have forced twenty-five millions of depreciated paper through the federal government upon its debtors and the States, at a loss of at least two and a half millions to the receivers, and a gain of an equal amount to the payers. The thousand banks have the country and the government under their feet at this moment, owing to the community upwards of an hundred millions of dollars, of which they will pay nothing, not even ninepences, picayunes, and coppers. Metaphorically, if not literally, they give their creditors more kicks than coppers. It is for them to have mercy on us. But what is the conduct of government towards these banks? Even at this session, with all their past conduct unatoned for, we have passed a relief bill for their benefit—a bill to defer the collection of the large balance which they still owe the government. But there is mercy due in another quarter—upon the people, suffering from the use of irredeemable and depreciated paper—upon the government, reduced to bankruptcy—upon the character of the country, suffering in the eyes of Europe—upon the character of republican government, brought into question by the successful usurpation of these institutions. This last point is the sorest. Gentlemen speak of the failure of experiments—the failure of the specie experiment, as it is called by those who believe that paper is the ancient and universal money of the world; and that the use of a little specie for the first time is not to be attempted. They dwell upon the supposed failure of "the experiment;" while all the monarchists of Europe are rejoicing in the failure of the experiment of republican government, at seeing this government, the last hope of the liberal world, struck and paralyzed by an oligarchy of banks—seized by the throat, throttled and held as a tiger would hold a babe—stripped of its revenues, bankrupted, and subjected to the degradation of becoming their engine to force their depreciated paper upon helpless creditors. Here is the place for mercy—upon the people—upon the government—upon the character of the country—upon the character of republican government.

The apostle of republicanism, Mr. Jefferson, has left it as a political legacy to the people of the United States, never to suffer their government to fall under the control of any unauthorized, irresponsible, or self-created institutions of bodies whatsoever. His allusion was to the Bank of the United States, and its notorious machinations to govern the elections, and get command of the government; but his admonition applies with equal force to all other similar or affiliated institutions; and, since May last, it applies to the whole league of banks which then "shut up the Treasury," and reduced the government to helpless dependence.

It is said that bankruptcy is a severe remedy to apply to banks. It may be answered that it is not more severe here than in England, where it applies to all banks of issue, except the Bank of England, and a few others; and it is not more severe to them than it is to merchants and traders, and to bankers and brokers, and all unincorporated banks. Personally, I was disposed to make large allowances for the conduct of the banks. Our own improvidence tempted them into an expansion of near forty millions, in 1835 and 1836, by giving them the national

domain to bank upon; a temptation which they had not the fortitude to resist, and which expanded them to near the bursting point. Then they were driven almost to a choice of bankruptcy between themselves and their debtors, by the act which required near forty millions to be distributed in masses, and at brief intervals, among the States. Some failures were inevitable under these circumstances, and I was disposed to make liberal allowances for them; but there are three things for which the banks have no excuse, and which should forever weigh against their claims to favor and confidence. These things are, first, the political aspect which the general suspension of payment was permitted to assume, and which it still wears; secondly, the issue and use of shinplasters, and refusal to pay silver change, when there are eighty millions of specie in the country; thirdly, the refusal, by the deposit banks to pay out the sums which had been severed from the Treasury, and stood in the names of disbursing officers, and was actually due to those who were performing work and labor, and rendering daily services to the government. For these three things there is no excuse; and, while memory retains their recollection, there can be no confidence in those who have done them.

15. Divorce Of Bank And State: Mr. Benton's Speech

The bill is to divorce the government from the banks, or rather is to declare the divorce, for the separation has already taken place by the operation of law and by the delinquency of the banks. The bill is to declare the divorce; the amendment is to exclude their notes from revenue payments, not all at once, but gradually, and to be accomplished by the 1st day of January, 1841. Until then the notes of specie-paying banks may be received, diminishing one-fourth annually; and after that day, all payments to and from the federal government are to be made in hard money. Until that day, payments from the United States will be governed by existing laws. The amendment does not affect the Post Office department until January, 1841; until then, the fiscal operations of that Department remain under the present laws; after that day they fall under the principle of the bill, and all payments to and from that department will be made in hard money. The effect of the whole amendment will be to restore the currency of the constitution to the federal government—to re-establish the great acts of 1789 and of 1800—declaring that the revenues should be collected in gold and silver coin only; those early statutes which were enacted by the hard money men who made the constitution, who had seen and felt the evils of that paper money, and intended to guard against these evils in future by creating, not a paper, but a hard-money government.

I am for this restoration. I am for restoring to the federal treasury the currency of the constitution. I am for carrying back this government to the solidity projected by its founders. This is a great object in itself—a reform of the first magnitude—a reformation with healing on its wings, bringing safety to the government and blessings to the people. The currency is a thing which reaches every individual, and every institution. From the government to the washer-woman, all are reached by it, and all concerned in it; and, what seems parodoxical, all are concerned to the same degree; for all are concerned to the whole extent of their property and dealings; and all is all, whether it be much or little. The government with its many ten millions of revenue, suffers no more in proportion than the humble and meritorious laborer who works from sun to sun for the shillings which give food and raiment to his family. The federal government has deteriorated the currency, and carried mischief to the whole community, and lost its own revenues, and subjected itself to be trampled upon by corporations, by departing from the constitution, and converting this government from a hard-money to a paper money government. The object of the amendment and the bill is to reform these abuses, and it is a reform worthy to be called a reformation—worthy to engage the labor of patriots—worthy to unite the exertions of different parties—worthy to fix the attention of the age—worthy to excite the hopes of the people, and to invoke upon its success the blessings of heaven.

Great are the evils,—political, pecuniary, and moral,—which have flowed from this departure from our constitution. Through the federal government alone—through it, not by it—two millions and a half of money have been lost in the last four months. Thirty-two millions of public money was the amount in the deposit banks when they stopped payment; of this sum twenty-five millions have been paid over to government creditors, or transferred to the States. But how paid, and how transferred? In what? In real money, or its equivalent? Not at all! But in the notes of suspended banks—in notes depreciated, on an average, ten per cent. Here then were two and a half millions lost. Who bore the loss? The public creditors and the States. Who gained it? for where there is a loss to one, there must be a gain to another. Who gained the two and a half millions, thus sunk upon the hands of the creditors and the States? The

banks were the gainers; they gained it; the public creditors and the States lost it; and to the creditors it was a forced loss. It is in vain to say that they consented to take it. They had no alternative. It was that or nothing. The banks forced it upon the government; the government forced it upon the creditor. Consent was out of the question. Power ruled, and that power was in the banks; and they gained the two and a half millions which the States and the public creditors lost.

I do not pretend to estimate the moneyed losses, direct and indirect, to the government alone, from the use of local bank notes in the last twenty-five years, including the war, and covering three general suspensions. Leaving the people out of view, as a field of losses beyond calculation, I confine myself to the federal government, and say, its losses have been enormous, prodigious, and incalculable. We have had three general stoppages of the local banks in the short space of twenty-two years. It is at the average rate of one in seven years; and who is to guaranty us from another, and from the consequent losses, if we continue to receive their bills in payment of public dues? Another stoppage must come, and that, reasoning from all analogies, in less than seven years after the resumption. Many must perish in the attempt to resume, and would do better to wind up at once, without attempting to go on, without adequate means, and against appalling obstacles. Another revulsion must come. Thus it was after the last resumption. The banks recommenced payments in 1817—in two years, the failures were more disastrous than ever. Thus it was in England after the long suspension of twenty-six years. Payments recommenced in 1823—in 1825 the most desolating crash of banks took place which had ever been known in the kingdom, although the Bank of England had imported, in less than four years, twenty millions sterling in gold,—about one hundred millions of dollars, to recommence upon. Its effects reached this country, crushed the cotton houses in New Orleans, depressed the money market, and injured all business.

The senators from New York and Virginia (Messrs. Tallmadge and Rives) push this point of confidence a little further; they address a question to me, and ask if I would lose confidence in all steamboats, and have them all discarded, if one or two blew up in the Mississippi? I answer the question in all frankness, and say, that I should not. But if, instead of one or two in the Mississippi, all the steamboats in the Union should blow up at once—in every creek, river and bay—while all the passengers were sleeping in confidence, and the pilots crying out all is well; if the whole should blow up from one end of the Union to the other just as fast as they could hear each other's explosions; then, indeed, I should lose confidence in them, and never again trust wife, or child, or my own foot, or any thing not intended for destruction, on board such sympathetic and contagious engines of death. I answer further, and tell the gentlemen, that if only one or two banks had stopped last May in New York, I should not have lost all confidence in the remaining nine hundred and ninety-nine; but when the whole thousand stopped at once; tumbled down together—fell in a lump—lie there—and when ONE of their number, by a sign with the little finger, can make the whole lie still, then, indeed, confidence is gone! And this is the case with the banks. They have not only stopped altogether, but in a season of profound peace, with eighty millions of specie in the country, and just after the annual examinations by commissioners and legislative committees, and when all was reported well. With eighty millions in the country, they stop even for change! It did not take a national calamity—a war—to stop them! They fell in time of peace and prosperity! We read of people in the West Indies, and in South America, who rebuild their cities on the same spot where earthquakes had overthrown them; we are astonished at their fatuity; we wonder that they will build again on the same perilous foundations. But these people have a reason for their conduct; it is, that their cities are only destroyed by earthquakes; it takes an earthquake to destroy them; and when there is no earthquake, they are

safe. But suppose their cities fell down without any commotion in the earth, or the air—fell in a season of perfect calm and serenity—and after that the survivors should go to building again in the same place; would not all the world say that they were demented, and were doomed to destruction? So of the government of the United States by these banks. If it continues to use them, and to receive their notes for revenue, after what has happened, and in the face of what now exists, it argues fatuity, and a doom to destruction.

Resume when they will, or when they shall, and the longer it is delayed the worse for themselves, the epoch of resumption is to be a perilous crisis to many. This stopping and resuming by banks, is the realization of the poetical description of the descent into hell, and the return from it. *Facilis descensus Averni—sed revocare gradum—hic opus, hic labor est.* Easy is the descent into the regions below, but to return! this is work, this is labor indeed! Our banks have made the descent; they have gone down with ease; but to return—to ascend the rugged steps, and behold again the light above how many will falter, and fall back into the gloomy regions below.

Banks of circulation are banks of hazard and of failure. It is an incident of their nature. Those without circulation rarely fail. That of Venice has stood seven hundred years; those of Hamburgh, Amsterdam, and others, have stood for centuries. The Bank of England, the great mother of banks of circulation, besides an actual stoppage of a quarter of a century, has had her crisis and convulsion in average periods of seven or eight years, for the last half century—in 1783, ‘93, ‘97, 1814, ‘19, ‘25, ‘36—and has only been saved from repeated failure by the powerful support of the British government, and profuse supplies of exchequer bills. Her numerous progeny of private and joint stock banks of circulation have had the same convulsions; and not being supported by the government, have sunk by hundreds at a time. All the banks of the United States are banks of circulation; they are all subject to the inherent dangers of that class of banks, and are, besides, subject to new dangers peculiar to themselves. From the quantity of their stock held by foreigners, the quantity of other stocks in their hands, and the current foreign balance against the United States, our paper system has become an appendage to that of England. As such, it suffers from sympathy when the English system suffers. In addition to this, a new doctrine is now broached—that our first duty is to foreigners! and, upon this principle, when the banks of the two countries are in peril, ours are to be sacrificed to save those of England!

The power of a few banks over the whole presents a new feature of danger in our system. It consolidates the banks of the whole Union into one mass, and subjects them to one fate, and that fate to be decided by a few, without even the knowledge of the rest. An unknown divan of bankers sends forth an edict which sweeps over the empire, crosses the lines of States with the facility of a Turkish firman, prostrating all State institutions, breaking up all engagements, and levelling all law before it. This is consolidation of a kind which the genius of Patrick Henry had not even conceived. But while this firman is thus potent and irresistible for prostration, it is impotent and powerless for resurrection. It goes out in vain, bidding the prostrate banks to rise. A *veto* power intervenes. One voice is sufficient to keep all down; and thus we have seen one word from Philadelphia annihilate the New York proposition for resumption, and condemn the many solvent banks to the continuation of a condition as mortifying to their feelings as it is injurious to their future interests.

Again, from the mode of doing business among our banks—using each other’s paper to bank upon, instead of holding each other to weekly settlements, and liquidation of balances in specie, and from the fatal practice of issuing notes at one place, payable at another—our banks have all become links of one chain, the strength of the whole being dependent on the strength of each. A few govern all. Whether it is to fail, or to resume, the few govern; and not

only the few, but the weak. A few weak banks fail; a panic ensues, and the rest shut up; many strong ones are ready to resume; the weak are not ready, and the strong must wait. Thus the principles of safety, and the rules of government, are reversed. The weak govern the strong; the bad govern the good; and the insolvent govern the solvent. This is our system, if system it can be called, which has no feature of consistency, no principle of safety, and which is nothing but the floating appendage of a foreign and overpowering system.

The federal government and its creditors have suffered great pecuniary losses from the use of these banks and their paper; they must continue to sustain such losses if they continue to use such depositories and to receive such paper. The pecuniary losses have been, now are, and must be hereafter great; but, great as they have been, now are, and may be hereafter, all that loss is nothing compared to the political dangers which flow from the same source. These dangers affect the life of the government. They go to its existence. They involve anarchy, confusion, violence, dissolution! They go to deprive the government of support—of the means of living; they strip it in an instant of every shilling of revenue, and leave it penniless, helpless, lifeless. The late stoppage might have broken up the government, had it not been for the fidelity and affection of the people to their institutions and the eighty millions of specie which General Jackson had accumulated in the country. That stoppage presented a peculiar feature of peril which has not been brought to the notice of the public; it was the stoppage of the sums standing in the names of disbursing officers, and wanted for daily payments in all the branches of the public service.—These sums amounted to about five millions of dollars. They had been drawn from the Treasury, they were no longer standing to the credit of the United States; they had gone into the hands of innumerable officers and agents, in all parts of the Union, and were temporarily, and for mere safe-keeping from day to day, lodged with these deposit banks, to be incessantly paid out to those who were doing work and labor, performing contracts, or rendering service, civil or military, to the country. These five millions were stopped with the rest! In an instant, as if by enchantment, every disbursing officer, in every part of the Union, was stripped of the money which he was going to pay out! All officers of the government, high and low, the whole army and navy, all the laborers and contractors, post offices and all, were suddenly, instantaneously, left without pay; and consequently without subsistence. It was tantamount to a disbandment of the entire government. It was like a decree for the dissolution of the body politic. It was celebrated as a victory—as a conquest—as a triumph, over the government. The least that was expected was an immediate civil revolution—the overthrow of the democratic party, the change of administration, the reascension of the federal party to power, and the re-establishment of the condemned Bank of the United States. These consequences were counted upon; and that they did not happen was solely owing to the eighty millions of hard money which kept up a standard of value in the country, and prevented the dishonored bank notes from sinking too low to be used by the community. But it is not merely stoppage of the banks that we have to fear: collisions with the States may ensue. State legislatures may sanction the stoppage, withhold the poor right of suing, and thus interpose their authority between the federal government and its revenues. This has already happened, not in hostility to the government, but in protection of themselves; and the consequence was the same as if the intention had been hostile. It was interposition between the federal government and its depositories; it was deprivation of revenue; it was an act the recurrence of which should be carefully guarded against in future.

This is what we have seen; this is a danger which we have just escaped; and if these banks shall be continued as depositories of public money, or, which is just the same thing, if the government shall continue to receive their “paper promises to pay,” the same danger may be seen again, and under far more critical circumstances. A similar stoppage of the banks may

take place again—will inevitably take place again—and it may be when there is little specie in the country, or when war prevails. All history is full of examples of armies and navies revolting for want of pay; all history is full of examples of military and naval operations miscarried for want of money; all history is full of instances of governments overturned from deficits of revenue and derangements of finances. And are we to expose ourselves recklessly, and with our eyes open, to such dangers? And are we to stake the life and death of this government upon the hazards and contingencies of banking—and of such banking as exists in these United States? Are we to subject the existence of this government to the stoppages of the banks, whether those stoppages result from misfortune, improvidence, or bad faith? Are we to subject this great and glorious political fabric, the work of so many wise and patriotic heads, to be demolished in an instant, and by an unseen hand? Are we to suffer the machinery and the working of our boasted constitution to be arrested by a spring-catch, applied in the dark? Are men, with pens sticking behind their ears, to be allowed to put an end to this republic? No, sir! never. If we are to perish prematurely, let us at least have a death worthy of a great nation; let us at least have a field covered with the bodies of heroes and of patriots, and consecrated forever to the memory of a subverted empire. Rome had her Pharsalia—Greece her Chæronca—and many barbarian kingdoms have given immortality to the spot on which they expired; and shall this great republic be subjected to extinction on the contingencies of trade and banking?

But what excuse, what apology, what justification have we for surrendering, abandoning, and losing the precise advantage for which the present constitution was formed? What was that advantage—what the leading and governing object, which led to the abandonment of the old confederation, and induced the adoption of the present form of government? It was revenue! independent revenue! a revenue under the absolute control of this government, and free from the action of the States. This was the motive—the leading and the governing motive—which led to the formation of this government. The reason was, that the old confederation, being dependent upon the States, was often left without money. This state of being was incompatible with its existence; it deprived it of all power; its imbecility was a proverb. To extricate it from that condition was the design—and the cardinal design—of the new constitution. An independent revenue was given to it—independent, even, of the States. Is it not suicidal to surrender that independence, and to surrender it, not to States, but to money corporations? What does history record of the penury and moneyed destitution of the old confederation, comparable to the annihilation of the revenues of this government in May last? when the banks shut down, in one night, upon a revenue, in hand, of thirty-two millions; even upon that which was in the names of disbursing officers, and refuse a nine-pence, or a picaillon in money, from that day to this? What is there in the history of the old confederation comparable to this? The old confederation was often reduced low—often near empty-handed—but never saw itself stripped in an instant, as if by enchantment, of tens of millions, and heard the shout of triumph thundered over its head, and the notes of exultation sung over its supposed destruction! Yet, this is what we have seen—what we now see—from having surrendered to corporations our moneyed independence, and unwisely abandoned the precise advantage which led to the formation of this federal government.

I do not go into the moral view of this question. It is too obvious, too impressive, too grave, to escape the observation of any one. Demoralization follows in the train of an unconvertible paper money. The whole community becomes exposed to a moral pestilence. Every individual becomes the victim of some imposition; and, in self-defence, imposes upon some one else. The weak, the ignorant, the uninformed, the necessitous, are the sufferers; the crafty and the opulent are the gainers. The evil augments until the moral sense of the community,

revolting at the frightful accumulation of fraud and misery, applies the radical remedy of total reform.

Thus, pecuniary, political, and moral considerations require the government to retrace its steps, to return to first principles, and to restore its fiscal action to the safe and solid path of the constitution. Reform is demanded. It is called for by every public and by every private consideration. Now is the time to make it. The connection between Bank and State is actually dissolved. It is dissolved by operation of law, and by the delinquency of these institutions. They have forfeited the right to the deposits, and lost the privilege of paying the revenue in their notes, by ceasing to pay specie. The government is now going on without them, and all that is wanting is the appropriate legislation to perpetuate the divorce which, in point of fact, has already taken place. Now is the time to act; this the moment to restore the constitutional currency to the federal government; to restore the custody of the public moneys to national keepers; and to avoid, in time to come, the calamitous revulsions and perilous catastrophes of 1814, 1819, and 1837.

And what is the obstacle to the adoption of this course, so imperiously demanded by the safety of the republic and the welfare of the people, and so earnestly recommended to us by the chief magistrate? What is the obstacle—what the power that countervails the Executive recommendation, paralyzes the action of Congress, and stays the march of reform? The banks—the banks—the banks, are this obstacle, and this power. They set up the pretension to force their paper into the federal Treasury, and to force themselves to be constituted that Treasury. Though now bankrupt, their paper dishonored, their doors closed against creditors, every public and every private obligation violated, still they arrogate a supremacy over this federal government; they demand the guardianship of the public moneys, and the privilege of furnishing a federal currency; and, though too weak to pay their debts, they are strong enough to throttle this government, and to hold in doubtful suspense the issue of their vast pretensions.

The President, in his message, recommends four things: first, to discontinue the reception of local bank paper in payment of federal dues; secondly, to discontinue the same banks as depositories of the public moneys; thirdly, to make the future collection and disbursement of the public moneys in gold and silver; fourthly, to take the keeping of the public moneys into the hands of our own officers.

What is there in this but a return to the words and meaning of the constitution, and a conformity to the practice of the government in the first years of President Washington's administration? When this federal government was first formed, there was no Bank of the United States, and no local banks, except three north of the Potomac. By the act of 1789, the revenues were directed to be collected in gold and silver coin only; and it was usually drawn out of the hands of collectors by drafts drawn upon them, payable at sight. It was a most effectual way of drawing money out of their hands; far more so than an order to deposit in banks; for the drafts must be paid, or protested, at sight, while the order to deposit may be eluded under various pretexts.

The right and the obligation of the government to keep its own moneys in its own hands, results from first principles, and from the great law of self-preservation. Every thing else that belongs to her, she keeps herself; and why not keep that also, without which every thing else is nothing? Arms and ships—provisions, munitions, and supplies of every kind—are kept in the hands of government officers; money is the sinew of war, and why leave this sinew exposed to be cut by any careless or faithless hand? Money is the support and existence of the government—the breath of its nostrils, and why leave this support—this breath—to the custody of those over whom we have no control? How absurd to place our ships, our arms,

our military and naval supplies in the hands of those who could refuse to deliver them when requested, and put the government to a suit at law to recover their possession! Every body sees the absurdity of this; but to place our money in the same condition, and, moreover, to subject it to the vicissitudes of trade and the perils of banking, is still more absurd; for it is the life blood, without which the government cannot live—the oil, without which no part of its machinery can move.

England, with all her banks, trusts none of them with the collection, keeping, and disbursement of her public moneys. The Bank of England is paid a specific sum to manage the public debt; but the revenue is collected and disbursed through subordinate collectors and receivers general; and these receivers general are not subject to the bankrupt laws, because the government will not suffer its revenue to be operated upon by any law except its own will. In France, subordinate collectors and receivers general collect, keep, and disburse the public moneys. If they deposit any thing in banks, it is at their own risk. It is the same thing in England. A bank deposit by an officer is at the risk of himself and his securities. Too much of the perils and vicissitudes of banking is known in these countries to permit the government ever to jeopard its revenues in their keeping. All this is shown, fully and at large, in a public document now on our tables. And who does not recognize in these collectors and receivers general of France and England, the ancient Roman officers of quæstors and proquæstors? These fiscal officers of France and England are derivations from the Roman institutions; and the same are found in all the modern kingdoms of Europe which were formerly, like France and Britain, provinces of the Roman empire. The measure before the Senate is to enable us to provide for our future safety, by complying with our own constitution, and conforming to the practice of all nations, great or small, ancient or modern.

Coming nearer home, and looking into our own early history, what were the "continental treasurers" of the confederation, and the "provincial treasurers and collectors," provided for as early as July, 1775, but an imitation of the French and English systems, and very near the plan which we propose now to re-establish! These continental treasurers, and there were two of them at first, though afterwards reduced to one, were the receivers general; the provincial treasurers and collectors were their subordinates. By these officers the public moneys were collected, kept, and disbursed; for there were no banks then! and all government drafts were drawn directly upon these officers. This simple plan worked well during the Revolution, and afterwards, until the new government was formed; and continued to work, with a mere change of names and forms, during the first years of Washington's administration, and until General Hamilton's bank machinery got into play. This bill only proposes to re-establish, in substance, the system of the Revolution, of the Congress of the confederation, and of the first years of Washington's administration.

The bill reported by the chairman of the Committee on Finance [Mr. Wright of New York] presents the details of the plan for accomplishing this great result. That bill has been printed and read. Its simplicity, economy, and efficiency strike the sense of all who hear it, and annihilate without argument, the most formidable arguments of expense and patronage, which had been conceived against it. The present officers, the present mints, and one or two more mints in the South, in the West, and in the North, complete the plan. There will be no necessity to carry masses of hard money from one quarter of the Union to another. Government drafts will make the transfer without moving a dollar. A government draft upon a national mint, will be the highest order of bills of exchange. Money wanted by the government in one place, will be exchanged, through merchants, for money in another place. Thus it has been for thousands of years, and will for ever be. We read in Cicero's letters that, when he was Governor of Cilicia, in Asia Minor, he directed his *quæstor* to deposit the tribute of the province in Antioch, and exchange it for money in Rome with merchants

engaged in the Oriental trade, of which Antioch was one of the emporiums. This is the natural course of things, and is too obvious to require explanation, or to admit of comment.

We are taunted with these treasury notes; it seems to be matter of triumph that the government is reduced to the necessity of issuing them; but with what justice? And how soon can any government that wishes it, emerge from the wretchedness of depreciated paper, and stand erect on the solid foundations of gold and silver? How long will it take any respectable government, that so wills it, to accomplish this great change? Our own history, at the close of the Revolution, answers the question; and more recently, and more strikingly, the history of France answers it also. I speak of the French finances from 1800 to 1807; from the commencement of the consulate to the peace of Tilsit. This wonderful period is replete with instruction on the subject of finance and currency. The whole period is full of instruction; but I can only seize two views—the beginning and the end—and, for the sake of precision, will read what I propose to present. I read from Bignon, author of the civil and diplomatic history of France during the consulate and the first years of the empire; written at the testamentary request of the Emperor himself.

After stating that the expenditures of the republic were six hundred millions of francs—about one hundred and ten millions of dollars—when Bonaparte became First Consul, the historian proceeds:

"*At his arrival at power, a sum of 160,000 francs in money [about $32,000] was all that the public chests contained. In the impossibility of meeting the current service by the ordinary receipts, the Directorial Government had resorted to ruinous expedients, and had thrown into circulation bills of various values, and which sunk upon the spot fifty to eighty per cent. A part of the arrearages had been discharged in bills two-thirds on credit, payable to the bearer, but which, in fact, the treasury was not able to pay when due. The remaining third had been inscribed in the great book, under the name of consolidated third. For the payment of the forced requisitions to which they had been obliged to have recourse, there had been issued bills receivable in payment of the revenues. Finally, the government, in order to satisfy the most imperious wants, gave orders upon the receivers general, delivered in advance to contractors, which they negotiated before they began to furnish the supplies for which they were the payment.*"

This, resumed Mr. B., was the condition of the French finances when Bonaparte became First Consul at the close of the year 1799. The currency was in the same condition—no specie—a degraded currency of assignats, ruinously depreciated, and issued as low as ten sous. That great man immediately began to restore order to the finances, and solidity to the currency. Happily a peace of three years enabled him to complete the great work, before he was called to celebrate the immortal campaigns ending at Austerlitz, Jena, and Friedland. At the end of three years—before the rupture of the peace of Amiens—the finances and the currency were restored to order and to solidity; and, at the end of six years, when the vast establishments, and the internal ameliorations of the imperial government, had carried the annual expenses to eight hundred millions of francs, about one hundred and sixty millions of dollars; the same historian copying the words of the Minister of Finance, thus speaks of the treasury, and the currency:

"*The resources of the State have increased beyond its wants; the public chests are full; all payments are made at the day named; the orders upon the public treasury have become the most approved bills of exchange. The finances are in the most happy condition; France alone, among all the States of Europe, has no paper money.*"

What a picture! how simply, how powerfully drawn! and what a change in six years! Public chests full—payments made to the day—orders on the treasury the best bills of exchange—France alone, of all Europe, having no paper money; meaning no government paper money, for there were bank notes of five hundred francs, and one thousand francs. A government revenue of one hundred and sixty millions of dollars was paid in gold and silver; a hard money currency, of five hundred and fifty millions of dollars, saturated all parts of France with specie, and made gold and silver the every day currency of every man, woman and child, in the empire. These great results were the work of six years, and were accomplished by the simple process of gradually requiring hard money payments—gradually calling in the assignats—increasing the branch mints to fourteen, and limiting the Bank of France to an issue of large notes—five hundred francs and upwards. This simple process produced these results, and thus stands the French currency at this day; for the nation has had the wisdom to leave untouched the financial system of Bonaparte.

I have repeatedly given it as my opinion—many of my speeches declare it—that the French currency is the best in the world. It has hard money for the government; hard money for the common dealings of the people; and large notes for large transactions. This currency has enabled France to stand two invasions, the ravaging of 300,000 men, two changes of dynasty, and the payment of a *milliard* of contributions; and all without any commotion or revulsion in trade. It has saved her from the revulsions which have afflicted England and our America for so many years. It has saved her from expansions, contractions, and ruinous fluctuations of price. It has saved her, for near forty years, from a debate on currency. It has saved her even from the knowledge of our sweet-scented phrases: "sound currency—unsound currency; plethoric, dropsical, inflated, bloated; the money market tight to-day—a little easier this morning;" and all such verbiage, which the haberdashers' boys repeat. It has saved France from even a discussion on currency; while in England, and with us, it is banks! banks! banks!—morning, noon, and night; breakfast, dinner, and supper; levant, and couchant; sitting, or standing; at home, or abroad; steamboat, or railroad car; in Congress, or out of Congress, it is all the same thing: banks—banks—banks; currency—currency—currency; meaning, all the while, paper money and shin-plasters; until our very brains seem as if they would be converted into lampblack and rags.

The bill before the Senate dispenses with the further use of banks as depositories of the public moneys. In that it has my hearty concurrence. Four times heretofore, and on four different occasions, I have made propositions to accomplish a part of the same purpose. *First*, in proposing an amendment to the deposit bill of 1836, by which the mint, and the branch mints, were to be included in the list of depositories; *secondly*, in proposing that the public moneys here, at the seat of Government, should be kept and paid out by the Treasurer; *thirdly*, by proposing that a preference, in receiving the deposits, should be given to such banks as should cease to be banks of circulation; *fourthly*, in opposing the establishment of a bank agency in Missouri, and proposing that the moneys there should be drawn direct from the hands of the receivers. Three of these propositions are now included in the bill before the Senate; and the whole object at which they partially aimed is fully embraced. I am for the measure—fully, cordially, earnestly for it.

Congress has a sacred duty to perform in reforming the finances, and the currency; for the ruin of both has resulted from federal legislation, and federal administration. The States at the formation of the constitution, delivered a solid currency—I will not say sound, for that word implies subject to unsoundness, to rottenness, and to death—but they delivered a solid currency, one not liable to disease, to this federal government. They started the new government fair upon gold and silver. The first act of Congress attested this great fact; for it made the revenues payable in gold and silver coin only. Thus the States delivered a solid

currency to this government, and they reserved the same currency for themselves; and they provided constitutional sanctions to guard both. The thing to be saved, and the power to save it, was given to this government by the States; and in the hands of this government it became deteriorated. The first great error was General Hamilton's construction of the act of 1789, by which he nullified that act, and overturned the statute and the constitution together. The next great error was the establishment of a national bank of circulation, with authority to pay all the public dues in its own paper. This confirmed the overthrow of the constitution, and of the statute of 1789; and it set the fatal example to the States to make banks, and to receive their paper for public dues, as the United States had done. This was the origin of the evil—this the origin of the overthrow of the solid currency which the States had delivered to the federal government. It was the Hamiltonian policy that did the mischief; and the state of things in 1837, is the natural fruit of that policy. It is time for us to quit it—to return to the constitution and the statute of 1789, and to confine the federal Treasury to the hard money which was intended for it.

I repeat, this is a measure of reform, worthy to be called a reformation. It goes back to a fundamental abuse, nearly coeval with the foundation of the government. Two epochs have occurred for the reformation of this abuse; one was lost, the other is now in jeopardy. Mr. Madison's administration committed a great error at the expiration of the charter of the first Bank of the United States, in not reviving the currency of the constitution for the federal Treasury, and especially the gold currency. That error threw the Treasury back upon the local bank paper. This paper quickly failed, and out of that failure grew the second United States Bank. Those who put down the second United States Bank, warned by the calamity, determined to avoid the error of Mr. Madison's administration: they determined to increase the stock of specie, and to revive the gold circulation, which had been dead for thirty years. The accumulation of eighty millions in the brief space of five years, fifteen millions of it in gold, attest the sincerity of their design, and the facility of its execution. The country was going on at the rate of an average increase of twelve millions of specie per annum, when the general stoppages of the banks in May last, the exportation of specie, and the imposition of irredeemable paper upon the government and the people, seemed to announce the total failure of the plan. But it was a seeming only. The impetus given to the specie policy still prevails, and five millions are added to the stock during the present fiscal year. So far, then, as the counteraction of the government policy, and the suppression of the constitutional currency, might have been expected to result from that stoppage, the calculation seems to be in a fair way to be disappointed. The spirit of the people, and our hundred millions of exportable produce, are giving the victory to the glorious policy of our late illustrious President. The other great consequences expected to result from that stoppage, namely, the recharter of the Bank of the United States, the change of administration, the overthrow of the republican party, and the restoration of the federal dynasty, all seem to be in the same fair way to total miscarriage; but the objects are too dazzling to be abandoned by the party interested, and the destruction of the finances and the currency, is still the cherished road to success. The miscalled Bank of the United States, the soul of the federal dynasty, and the anchor of its hopes—believed by many to have been at the bottom of the stoppages in May, and known by all to be at the head of non-resumption—now displays her policy on this floor; it is to compel the repetition of the error of Mr. Madison's administration! Knowing that from the repetition of this error must come the repetition of the catastrophes of 1814, 1819, and 1837; and out of these catastrophes to extract a new clamor for the revivification of herself. This is her line of conduct; and to this line, the conduct of all her friends conforms. With one heart, one mind, one voice, they labor to cut off gold and silver from the federal government, and to impose paper upon it! they labor to deprive it of the keeping of its own revenues, and to place them again where they have been so often lost! This is the conduct of that bank and its friends. Let

us imitate their zeal, their unanimity, and their perseverance. The amendment and the bill now before the Senate, embodies our policy. Let us carry them, and the republic is safe.

The extra session had been called to relieve the distress of the federal treasury, and had done so by authorizing an issue of treasury notes. That object being accomplished, and the great measures for the divorce of Bank and State, and for the sole use of gold and silver in federal payments, having been recommended, and commenced, the session adjourned.

16. First Regular Session Under Mr. Van Buren's Administration: His Message

A brief interval of two months only intervened between the adjournment of the called session and the meeting of the regular one; and the general state of the public affairs, both at home and abroad, being essentially the same at both periods, left no new or extraordinary measures for the President to recommend. With foreign powers we were on good terms, the settlement of all our long-standing complaints under General Jackson's administration having left us free from the foreign controversies which gave trouble; and on that head the message had little but what was agreeable to communicate. Its topics were principally confined to home affairs, and that part of these affairs which were connected with the banks. That of the United States, as it still called itself, gave a new species of disregard of moral and legal obligation, and presented a new mode of depraving the currency and endangering property and contracts, by continuing to issue and to use the notes of the expired institution. Its currency was still that of the defunct bank. It used the dead notes of that institution, for which, of course, neither bank was liable. They were called resurrection notes; and their use, besides the injury to the currency and danger to property, was a high contempt and defiance of the authority which had created it; and called for the attention of the federal government. The President, therefore, thus formally brought the procedure to the notice of Congress:

"It was my hope that nothing would occur to make necessary, on this occasion, any allusion to the late national bank. There are circumstances, however, connected with the present state of its affairs that bear so directly on the character of the government and the welfare of the citizen, that I should not feel myself excused in neglecting to notice them. The charter which terminated its banking privileges on the 4th of March, 1836, continued its corporate powers two years more, for the sole purpose of closing its affairs, with authority 'to use the corporate name, style, and capacity, for the purpose of suits for a final settlement and liquidation of the affairs and acts of the corporation, and for the sale and disposition of their estate, real, personal and mixed, but for no other purpose or in any other manner whatsoever.' Just before the banking privileges ceased, its effects were transferred by the bank to a new State institution then recently incorporated, in trust, for the discharge of its debts and the settlement of its affairs. With this trustee, by authority of Congress, an adjustment was subsequently made of the large interest which the government had in the stock of the institution. The manner in which a trust unexpectedly created upon the act granting the charter, and involving such great public interests, has been executed, would, under any circumstances, be a fit subject of inquiry; but much more does it deserve your attention, when it embraces the redemption of obligations to which the authority and credit of the United States have given value. The two years allowed are now nearly at an end. It is well understood that the trustee has not redeemed and cancelled the outstanding notes of the bank, but has reissued, and is actually reissuing, since the 3d of March, 1836, the notes which have been received by it to a vast amount. According to its own official statement, so late as the 1st of October last, nineteen months after the banking privileges given by the charter had expired, it had under its control uncancelled notes of the late Bank of the United States to the amount of twenty-seven millions five hundred and sixty-one thousand eight hundred and sixty-six dollars, of which six millions one hundred and seventy-five thousand eight hundred and sixty-one dollars were in actual circulation, one million four hundred and sixty-eight thousand six hundred and twenty-seven dollars at State bank agencies, and three millions two thousand three hundred and ninety dollars *in transitu*; thus showing that upwards of ten millions and a half of the

notes of the old bank were then still kept outstanding. The impropriety of this procedure is obvious: it being the duty of the trustee to cancel and not to put forth the notes of an institution, whose concerns it had undertaken to wind up. If the trustee has a right to reissue these notes now, I can see no reason why it may not continue to do so after the expiration of the two years. As no one could have anticipated a course so extraordinary, the prohibitory clause of the charter above quoted was not accompanied by any penalty or other special provision for enforcing it; nor have we any general law for the prevention of similar acts in future.

"But it is not in this view of the subject alone that your interposition is required. The United States, in settling with the trustee for their stock, have withdrawn their funds from their former direct ability to the creditors of the old bank, yet notes of the institution continue to be sent forth in its name, and apparently upon the authority of the United States. The transactions connected with the employment of the bills of the old bank are of vast extent; and should they result unfortunately, the interests of individuals may be deeply compromised. Without undertaking to decide how far, or in what form, if any, the trustee could be made liable for notes which contain no obligation on its part; or the old bank, for such as are put in circulation after the expiration of its charter, and without its authority; or the government for indemnity, in case of loss, the question still presses itself upon your consideration, whether it is consistent with duty and good faith on the part of the government, to witness this proceeding without a single effort to arrest it."

On the subject of the public lands, and the most judicious mode of disposing of them—a question of so much interest to the new States—the message took the view of those who looked to the domain less as a source of revenue than as a means of settling and improving the country. He recommended graduated prices according to the value of the different classes of lands in order to facilitate their sale; and a prospective permanent pre-emption act to give encouragement to settlers. On the first of these points he said:

"Hitherto, after being offered at public sale, lands have been disposed of at one uniform price, whatever difference there might be in their intrinsic value. The leading considerations urged in favor of the measure referred to, are, that in almost all the land districts, and particularly in those in which the lands have been long surveyed and exposed to sale, there are still remaining numerous and large tracts of every gradation of value, from the government price downwards; that these lands will not be purchased at the government price, so long as better can be conveniently obtained for the same amount; that there are large tracts which even the improvements of the adjacent lands will never raise to that price; and that the present uniform price, combined with their irregular value, operates to prevent a desirable compactness of settlement in the new States, and to retard the full development of that wise policy on which our land system is founded, to the injury not only of the several States where the lands lie, but of the United States as a whole.

"The remedy proposed has been a reduction of prices according to the length of time the lands have been in market, without reference to any other circumstances. The certainty that the efflux of time would not always in such cases, and perhaps not even generally, furnish a true criterion of value; and the probability that persons residing in the vicinity, as the period for the reduction of prices approached, would postpone purchases they would otherwise make, for the purpose of availing themselves of the lower price, with other considerations of a similar character, have hitherto been successfully urged to defeat the graduation upon time. May not all reasonable desires upon this subject be satisfied without encountering any of these objections? All will concede the abstract principle, that the price of the public lands should be proportioned to their relative value, so far as that can be accomplished without

departing from the rule, heretofore observed, requiring fixed prices in cases of private entries. The difficulty of the subject seems to lie in the mode of ascertaining what that value is. Would not the safest plan be that which has been adopted by many of the States as the basis of taxation; an actual valuation of lands, and classification of them into different rates? Would it not be practicable and expedient to cause the relative value of the public lands in the old districts, which have been for a certain length of time in market, to be appraised, and classed into two or more rates below the present minimum price, by the officers now employed in this branch of the public service, or in any other mode deemed preferable, and to make those prices permanent, if upon the coming in of the report they shall prove satisfactory to Congress? Cannot all the objects of graduation be accomplished in this way, and the objections which have hitherto been urged against it avoided? It would seem to me that such a step, with a restriction of the sales to limited quantities, and for actual improvement, would be free from all just exception."

A permanent prospective pre-emption law was cogently recommended as a measure just in itself to the settlers, and not injurious to the public Treasury, as experience had shown that the auction system—that of selling to the highest bidder above the prescribed minimum price—had produced in its aggregate but a few cents on the acre above the minimum price. On this point he said:

"A large portion of our citizens have seated themselves on the public lands, without authority, since the passage of the last pre-emption law and now ask the enactment of another, to enable them to retain the lands occupied, upon payment of the minimum government price. They ask that which has been repeatedly granted before. If the future may be judged of by the past, little harm can be done to the interests of the Treasury by yielding to their request. Upon a critical examination, it is found that the lands sold at the public sales since the introduction of cash payments in 1820, have produced, on an average, the net revenue of only six cents an acre more than the minimum government price. There is no reason to suppose that future sales will be more productive. The government, therefore, has no adequate pecuniary interest to induce it to drive these people from the lands they occupy, for the purpose of selling them to others."

This wise recommendation has since been carried into effect, and pre-emptive rights are now admitted in all cases where settlements are made upon lands to which the Indian title shall have been extinguished; and the graduation of the price of the public lands, though a measure long delayed, yet prevailed in the end, and was made as originally proposed, by reductions according to the length of time the land had been offered at sale. Beginning at the minimum price of $1 25 per acre, the reduction of price went down through a descending scale, according to time, as low as 12½ cents per acre. But this was long after.

17. Pennsylvania Bank Of The United States. Its Use Of The Defunct Notes Of The Expired Institution

History gives many instances of armies refusing to be disbanded, and remaining in arms in defiance of the authority which created them; but the example of this bank presents, probably, the first instance in which a great moneyed corporation refused to be dissolved—refused to cease its operations after its legal existence had expired;—and continued its corporate transactions as if in full life. It has already been shown that its proviso charter, at the end of a local railroad act, made no difference in its condition—that it went on exactly as before. Its use of the defunct notes of the expired institution was a further instance of this conduct, transcending any thing conceived of, and presenting a case of danger to the public, and defiance of government, which the President had deemed it his duty to bring to the attention of Congress, and ask a remedy for a proceeding so criminal. Congress acted on the recommendation, and a bill was brought in to make the repetition of the offence a high misdemeanor, and the officers and managers of the institution personally and individually liable for its commission. In support of this bill, Mr. Buchanan gave the fullest and clearest account of this almost incredible misconduct. He said:

"The charter of the late Bank of the United States expired, by its own limitation, on the 3d of March, 1836. After that day, it could issue no notes, discount no new paper, and exercise none of the usual functions of a bank. For two years thereafter, until the 3d of March, 1838, it was merely permitted to use its corporate name and capacity 'for the purpose of suits for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, real, personal, and mixed; *but not for any other purpose, or in any other manner, whatsoever*.' Congress had granted the bank no power to make a voluntary assignment of its property to any corporation or any individual. On the contrary, the plain meaning of the charter was, that all the affairs of the institution should be wound up by its own president and directors. It received no authority to delegate this important trust to others, and yet what has it done? On the second day of March, 1836, one day before the charter had expired, this very president and these directors assigned all the property and effects of the old corporation to the Pennsylvania Bank of the United States. On the same day, this latter bank accepted the assignment, and agreed to 'pay, satisfy, and discharge all debts, contracts, and engagements, owing, entered into, or made by this [the old] bank, as the same shall become due and payable, *and fulfil and execute all trusts and obligations whatsoever arising from its transactions, or from any of them*, so that every creditor or rightful claimant shall be fully satisfied.' By its own agreement, it has thus expressly created itself a trustee of the old bank. But this was not necessary to confer upon it that character. By the bare act of accepting the assignment, it became responsible, under the laws of the land, for the performance of all the duties and trusts required by the old charter. Under the circumstances, it cannot make the slightest pretence of any want of notice.

"Having assumed this responsibility, the duty of the new bank was so plain that it could not have been mistaken. It had a double character to sustain. Under the charter from Pennsylvania, it became a new banking corporation; whilst, under the assignment from the old bank, it became a trustee to wind up the concerns of that institution under the Act of Congress. These two characters were in their nature separate and distinct, and never ought to have been blended. For each of these purposes it ought to have kept a separate set of books. Above all, as the privilege of circulating bank notes, and thus creating a paper currency is that function of a bank which most deeply and vitally affects the community, the new bank ought

to have cancelled or destroyed all the notes of the old bank which it found in its possession on the 4th of March, 1836, and ought to have redeemed the remainder at its counter, as they were demanded by the holders, and then destroyed them. This obligation no senator has attempted to doubt, or to deny. But what was the course of the bank? It has grossly violated both the old and the new charter. It at once declared independence of both, and appropriated to itself all the notes of the old bank,—not only those which were then still in circulation, but those which had been redeemed before it accepted the assignment, and were then lying dead in its vaults. I have now before me the first monthly statement which was ever made by the Bank to the Auditor-general of Pennsylvania. It is dated on the 2d of April, 1836, and signed J. Cowperthwaite, acting cashier. In this statement, the Bank charges itself with 'notes issued,' $36,620,420 16; whilst, in its cash account, along with its specie and the notes of State banks, it credits itself with 'notes of the Bank of the United States and offices,' on hand, $16,794,713 71. It thus seized these dead notes to the amount of $16,794,713 71, and transformed them into cash; whilst the difference between those on hand and those issued, equal to $19,825,706 45, was the circulation which the new bank boasted it had inherited from the old. It thus, in an instant, appropriated to itself, and adopted as its own circulation, all the notes and all the illegal branch drafts of the old bank which were then in existence. Its boldness was equal to its utter disregard of law. In this first return, it not only proclaimed to the Legislature and people of Pennsylvania that it had disregarded its trust as assignee of the old Bank, by seizing upon the whole of the old circulation and converting it to its own use, but that it had violated one of the fundamental provisions of its new charter."

Mr. Calhoun spoke chiefly to the question of the *right* of Congress to pass a bill of the tenor proposed. Several senators denied that right others supported it—among them Mr. Wright, Mr. Grundy, Mr. William H. Roane, Mr. John M. Niles, Mr. Clay, of Alabama, and Mr. Calhoun. Some passages from the speech of the latter are here given.

"He [Mr. Calhoun] held that the right proposed to be exercised in this case rested on the general power of legislation conferred on Congress, which embraces not only the power of making, but that of repealing laws. It was, in fact, a portion of the repealing power. No one could doubt the existence of the right to do either, and that the right of repealing extends as well to unconstitutional as constitutional laws. The case as to the former was, in fact, stronger than the latter; for, whether a constitutional law should be repealed or not, was a question of expediency, which left us free to act according to our discretion; while, in the case of an unconstitutional law, it was a matter of obligation and duty, leaving no option; and the more unconstitutional, the more imperious the obligation and duty. Thus far, there could be no doubt nor diversity of opinion. But there are many laws, the effects of which do not cease with their repeal or expiration, and which require some additional act on our part to arrest or undo them. Such, for instance, is the one in question. The charter of the late bank expired some time ago, but its notes are still in existence, freely circulating from hand to hand, and reissued and banked on by a bank chartered by the State of Pennsylvania, into whose possession the notes of the old bank have passed. In a word, our name and authority are used almost as freely for banking purposes as they were before the expiration of the charter of the late bank. Now, he held that the right of arresting or undoing these after-effects rested on the same principle as the right of repealing a law, and, like that, embraces unconstitutional as well as constitutional acts, superadding, in the case of the former, obligation and duty to right. We have an illustration of the truth of this principle in the case of the alien and sedition acts, which are now conceded on all sides to have been unconstitutional. Like the act incorporating the late bank, they expired by their own limitation; and, like it, also, their effects continued after the period of their expiration. Individuals had been tried, convicted, fined, and imprisoned under them; but, so far was their unconstitutionality from being

regarded as an impediment to the right of arresting or undoing these effects, that Mr. Jefferson felt himself compelled on that very account to pardon those who had been fined and convicted under their provisions, and we have at this session passed, on the same ground, an act to refund the money paid by one of the sufferers under them. The bill is limited to those only who are the trustees, or agents for winding up the concerns of the late bank, and it is those, and those only, who are subject to the penalties of the bill for reissuing its notes. They are, *pro tanto*, our officers, and, to that extent, subject to our jurisdiction, and liable to have their acts controlled as far as they relate to the trust or agency confided to them; just as much so as receivers or collectors of the revenue would be. No one can doubt that we could prohibit them from passing off any description of paper currency that might come into their hands in their official character. Nor is the right less clear in reference to the persons who may be comprehended in this bill. Whether Mr. Biddle or others connected with this bank are, in fact, trustees, or agents, within the meaning of the bill, is not a question for us to decide. They are not named, nor referred to by description. The bill is very properly drawn up in general terms, so as to comprehend all cases of the kind, and would include the banks of the District, should Congress refuse to re-charter them. It is left to the court and jury, to whom it properly belongs, to decide, when a case comes up, whether the party is, or is not, a trustee, or agent; and, of course, whether he is, or is not, included in the provisions of the bill. If he is, he will be subject to its penalties, but not otherwise; and it cannot possibly affect the question of the constitutionality of the bill, whether Mr. Biddle, and others connected with him, are, or are not, comprehended in its provisions, and subject to its penalties."

The bill was severe in its enactments, prescribing both fine and imprisonment for the repetition of the offence—the fine not to exceed ten thousand dollars—the imprisonment not to be less than one nor more than five years. It also gave a preventive remedy in authorizing injunctions from the federal courts to prevent the circulation of such defunct notes, and proceedings in chancery to compel their surrender for cancellation. And to this "complexion" had the arrogant institution come which so lately held itself to be a *power*, and a great one, in the government—now borne on the statute book as criminally liable for a high misdemeanor, and giving its name to a new species of offence in the criminal catalogue—*exhumer and resurrectionist of defunct notes*. And thus ended the last question between the federal government and this, once so powerful moneyed corporation; and certainly any one who reads the history of that bank as faithfully shown in our parliamentary history, and briefly exhibited in this historic View, can ever wish to see another national bank established in our country, or any future connection of any kind between the government and the banks. The last struggle between it and the government was now over—just seven years since that struggle began: but its further conduct will extort a further notice from history.

18. Florida Indian War: Its Origin And Conduct

This was one of the most troublesome, expensive and unmanageable Indian wars in which the United States had been engaged; and from the length of time which it continued, the amount of money it cost, and the difficulty of obtaining results, it became a convenient handle of attack upon the administration; and in which party spirit, in pursuit of its object, went the length of injuring both individual and national character. It continued about seven years—as long as the revolutionary war—cost some thirty millions of money—and baffled the exertions of several generals; recommenced when supposed to be finished; and was only finally terminated by changing military campaigns into an armed occupation by settlers. All the opposition presses and orators took hold of it, and made its misfortunes the common theme of invective and declamation. Its origin was charged to the oppressive conduct of the administration—its protracted length to their imbecility—its cost to their extravagance—its defeats to the want of foresight and care. The Indians stood for an innocent and persecuted people. Heroes and patriots were made of their chiefs. Our generals and troops were decried; applause was lavished upon a handful of savages who could thus defend their country; and corresponding censure upon successive armies which could not conquer them. All this going incessantly into the Congress debates and the party newspapers, was injuring the administration at home, and the country abroad; and, by dint of iteration and reiteration, stood a good chance to become history, and to be handed down to posterity. At the same time the war was one of flagrant and cruel aggression on the part of these Indians. Their removal to the west of the Mississippi was part of the plan for the general removal of all the Indians, and every preparation was complete for their departure by their own agreement, when it was interrupted by a horrible act. It was the 28th day of December, 1835, that the United States agent in Florida, and several others, were suddenly massacred by a party under Osceola, who had just been at the hospitable table with them: at the same time the sutler and others were attacked as they sat at table: same day two expresses were killed: and to crown these bloody deeds, the same day witnessed the destruction of Major Dade's command of 112 men, on its march from Tampa Bay to Withlacootchee. All these massacres were surprises, the result of concert, and executed as such upon unsuspecting victims. The agent (Mr. Thompson), and some friends were shot from the bushes while taking a walk near his house: the sutler and his guests were shot at the dinner table: the express riders were waylaid, and shot in the road: Major Dade's command was attacked on the march, by an unseen foe, overpowered, and killed nearly to the last man. All these deadly attacks took place on the same day, and at points wide apart—showing that the plot was as extensive as it was secret, and cruel as it was treacherous; for not a soul was spared in either of the four relentless attacks.

It was two days after the event that an infantry soldier of Major Dade's command, appeared at Fort King, on Tampa Bay, from which it had marched six days before, and gave information of what had happened. The command was on the march, in open pine woods, tall grass all around, and a swamp on the left flank. The grass concealed a treacherous ambuscade. The advanced guard had passed, and was cut off. Both the advance and the main body were attacked at the same moment, but divided from each other. A circle of fire enclosed each—fire from an invisible foe. To stand, was to be shot down: to advance was to charge upon concealed rifles. But it was the only course—was bravely adopted—and many savages thus sprung from their coverts, were killed. The officers, courageously exposing themselves, were rapidly shot—Major Dade early in the action. At the end of an hour successive charges had roused the savages from the grass, (which seemed to be alive with their naked and painted bodies, yelling and leaping,) and driven beyond the range of shot. But

the command was too much weakened for a further operation. The wounded were too numerous to be carried along: too precious to be left behind to be massacred. The battle ground was maintained, and a small band had conquered respite from attack: but to advance or retreat was equally impossible. The only resource was to build a small pen of pine logs, cut from the forest, collect the wounded and the survivors into it, as into a little fort, and repulse the assailants as long as possible. This was done till near sunset—the action having began at ten in the morning. By that time every officer was dead but one, and he desperately wounded, and helpless on the ground. Only two men remained without wounds, and they red with the blood of others, spirted upon them, or stained in helping the helpless. The little pen was filled with the dead and the dying. The firing ceased. The expiring lieutenant told the survivors he could do no more for them, and gave them leave to save themselves as they could. They asked his advice. He gave it to them; and to that advice we are indebted for the only report of that bloody day's work. He advised them all to lay down among the dead—to remain still—and take their chance of being considered dead. This advice was followed. All became still, prostrate and motionless; and the savages, slowly and cautiously approaching, were a long time before they would venture within the ghastly pen, where danger might still lurk under apparent death. A squad of about forty negroes—fugitives from the Southern States, more savage than the savage—were the first to enter. They came in with knives and hatchets, cutting throats and splitting skulls wherever they saw a sign of life. To make sure of skipping no one alive, all were pulled and handled, punched and kicked; and a groan or movement, an opening of the eye, or even the involuntary contraction of a muscle, was an invitation to the knife and the tomahawk. Only four of the living were able to subdue sensations, bodily and mental, and remain without sign of feeling under this dreadful ordeal; and two of these received stabs, or blows—as many of the dead did. Lying still until the search was over, and darkness had come on, and the butchers were gone, these four crept from among their dead comrades and undertook to make their way back to Tampa Bay—separating into two parties for greater safety. The one that came in first had a narrow escape. Pursuing a path the next day, an Indian on horseback, and with a rifle across the saddle bow, met them full in the way. To separate, and take the chance of a divided pursuit, was the only hope for either: and they struck off into opposite directions. The one to the right was pursued; and very soon the sharp crack of a rifle made known his fate to the one that had gone to the left. To him it was a warning, that his comrade being despatched, his own turn came next. It was open pine woods, and a running, or standing man, visible at a distance. The Indian on horseback was already in view. Escape by flight was impossible. Concealment in the grass, or among the palmettos, was the only hope: and this was tried. The man laid close: the Indian rode near him. He made circles around, eyeing the ground far and near. Rising in his stirrups to get a wider view, and seeing nothing, he turned the head of his horse and galloped off—the poor soldier having been almost under the horse's feet. This man, thus marvellously escaping, was the first to bring in the sad report of the Dade defeat—followed soon after by two others with its melancholy confirmation. And these were the only reports ever received of that completest of defeats. No officer survived to report a word. All were killed in their places—men and officers, each in his place, no one breaking ranks or giving back: and when afterwards the ground was examined, and events verified by signs, the skeletons in their places, and the bullet holes in trees and logs, and the little pen with its heaps of bones, showed that the carnage had taken place exactly as described by the men. And this was the slaughter of Major Dade and his command—of 108 out of 112: as treacherous, as barbarous, as perseveringly cruel as ever was known. One single feature is some relief to the sadness of the picture, and discriminates this defeat from most others suffered at the hands of Indians. There were no prisoners put to death; for no man surrendered. There were no fugitives slain in vain attempts at flight; for no one fled. All stood, and fought, and fell in their places, returning blow for

blow while life lasted. It was the death of soldiers, showing that steadiness in defeat which is above courage in victory.

And this was the origin of the Florida Indian war: and a more treacherous, ferocious, and cold-blooded origin was never given to any Indian war. Yet such is the perversity of party spirit that its author—the savage Osceola—has been exalted into a hero-patriot; our officers, disparaged and ridiculed; the administration loaded with obloquy. And all this by our public men in Congress, as well as by writers in the daily and periodical publications. The future historian who should take these speeches and publications for their guide, (and they are too numerous and emphatic to be overlooked,) would write a history discreditable to our arms, and reproachful to our justice. It would be a narrative of wickedness and imbecility on our part—of patriotism and heroism on the part of the Indians: those Indians whose very name (Seminole—wild,) define them as the fugitives from all tribes, and made still worse than fugitive Indians by a mixture with fugitive negroes, some of whom became their chiefs. It was to obviate the danger of such a history as that would be, that the author of this View delivered at the time, and in the presence of all concerned, an historical speech on the Florida Indian war, fortified by facts, and intended to stand for true; and which has remained unimpeached. Extracts from that speech will constitute the next chapter, to which this brief sketch will serve as a preface and introduction.

19. Florida Indian War: Historical Speech Of Mr. Benton

A senator from New Jersey [Mr. Southard] has brought forward an accusation which must affect the character of the late and present administrations at home, and the character of the country abroad; and which, justice to these administrations, and to the country, requires to be met and answered upon the spot. That senator has expressly charged that a fraud was committed upon the Florida Indians in the treaty negotiated with them for their removal to the West; that the war which has ensued was the consequence of this fraud; and that our government was responsible to the moral sense of the community, and of the world, for all the blood that has been shed, and for all the money that has been expended, in the prosecution of this war. This is a heavy accusation. At home, it attaches to the party in power, and is calculated to make them odious; abroad, it attaches to the country, and is calculated to blacken the national character. It is an accusation, without the shadow of a foundation! and, both, as one of the party in power, and as an American citizen, I feel myself impelled by an imperious sense of duty to my friends, and to my country, to expose its incorrectness at once, and to vindicate the government, and the country, from an imputation as unfounded as it is odious.

The senator from New Jersey first located this imputed fraud in the Payne's Landing treaty, negotiated by General Gadsden, in Florida, in the year 1832; and, after being tendered an issue on the fairness and generosity of that treaty by the senator from Alabama [Mr. Clay], he transferred the charge to the Fort Gibson treaty, made in Arkansas, in the year 1833, by Messrs. Stokes, Ellsworth and Schermerhorn. This was a considerable change of locality, but no change in the accusation itself; the two treaties being but one, and the last being a literal performance of a stipulation contained in the first. These are the facts; and, after stating the case, I will prove it as stated. This is the statement: The Seminole Indians in Florida being an emigrant band of the Creeks, and finding game exhausted, subsistence difficult, and white settlements approaching, concluded to follow the mother tribe, the Creeks, to the west of the Mississippi, and to reunite with them. This was conditionally agreed to be done at the Payne's Landing treaty; and in that treaty it was stipulated that a deputation of Seminole chiefs, under the sanction of the government of the United States, should proceed to the Creek country beyond the Mississippi—there to ascertain first whether a suitable country could be obtained for them there; and, secondly, whether the Creeks would receive them back as a part of their confederacy: and if the deputation should be satisfied on these two points, then the conditional obligation to remove, contained in the Payne's Landing treaty, to become binding and obligatory upon the Seminole tribe. The deputation went: the two points were solved in the affirmative the obligation to remove became absolute on the part of the Indians; and the government of the United States commenced preparations for effecting their easy, gradual, and comfortable removal.

The entire emigration was to be completed in three years, one-third going annually, commencing in the year 1833, and to be finished in the years 1834, and 1835. The deputation sent to the west of the Mississippi, completed their agreement with the Creeks on the 28th of March, 1833; they returned home immediately, and one-third of the tribe was to remove that year. Every thing was got ready on the part of the United States, both to transport the Indians to their new homes, and to subsist them for a year after their arrival there. But, instead of removing, the Indians began to invent excuses, and to interpose delays, and to pass off the time without commencing the emigration. The year 1833, in which one-third of the tribe were

to remove, passed off without any removal; the year 1834, in which another third was to go, was passed off in the same manner; the year 1835, in which the emigration was to have been completed, passed away, and the emigration was not begun. On the contrary, on the last days of the last month of that year, while the United States was still peaceably urging the removal, an accumulation of treacherous and horrible assassinations and massacres were committed. The United States agent, General Thompson, Lieutenant Smith, of the artillery, and five others, were assassinated in sight of Fort King; two expresses were murdered; and Major Dade's command was massacred.

In their excuses and pretexts for not removing, the Indians never thought of the reasons which have been supplied to them on this floor. They never thought of alleging fraud. Their pretexts were frivolous; as that it was a long distance, and that bad Indians lived in that country, and that the old treaty of Fort Moultrie allowed them twenty years to live in Florida. Their real motive was the desire of blood and pillage on the part of many Indians, and still more on the part of the five hundred runaway negroes mixed up among them; and who believed that they could carry on their system of robbery and murder with impunity, and that the swamps of the country would for ever protect them against the pursuit of the whites.

This, Mr. President, is the plain and brief narrative of the causes which led to the Seminole war; it is the brief historical view of the case; and if I was speaking under ordinary circumstances, and in reply to incidental remarks, I should content myself with this narrative, and let the question go to the country upon the strength and credit of this statement. But I do not speak under ordinary circumstances; I am not replying to incidental and casual remarks. I speak in answer to a formal accusation, preferred on this floor; I speak to defend the late and present administrations from an odious charge; and, in defending them, to vindicate the character of our country from the accusation of the senator from New Jersey [Mr. Southard], and to show that fraud has not been committed upon these Indians, and that the guilt of a war, founded in fraud, is not justly imputable to them.

The Seminoles had stipulated that the agent, Major Phagan, and their own interpreter, the negro Abraham, should accompany them; and this was done. It so happened, also, that an extraordinary commission of three members sent out by the United States to adjust Indian difficulties generally, was then beyond the Mississippi; and these commissioners were directed to join in the negotiations on the part of the United States, and to give the sanction of our guarantee to the agreements made between the Seminoles and the Creeks for the reunion of the former to the parent tribe. This was done. Our commissioners, Messrs. Stokes, Ellsworth, and Schermerhorn, became party to a treaty with the Creek Indians for the reunion of the Seminoles, made at Fort Gibson, the 14th of February, 1833. The treaty contained this article:

"Article IV. It is understood and agreed that the Seminole Indians of Florida, whose removal to this country is provided for by their treaty with the United States, dated May 9, 1832, shall also have a permanent and comfortable home on the lands hereby set apart as the country of the Creek nation; and they, the Seminoles, will hereafter be considered as a constituent part of the said nation, but are to be located on some part of the Creek country by themselves, which location shall be selected for them by the commissioners who have seen these articles of agreement."

This agreement with the Creeks settled one of the conditions on which the removal of the Seminoles was to depend. We will now see how the other condition was disposed of.

In a treaty made at the same Fort Gibson, on the 28th of March, 1833, between the same three commissioners on the part of the United States, and the seven delegated Seminole chiefs,

after reciting the two conditions precedent contained in the Payne's Landing treaty, and reciting, also, the convention with the Creeks on the 14th of February preceding, it is thus stipulated:

"Now, therefore, the commissioners aforesaid, by virtue of the power and authority vested in them by the treaty made with the Creek Indians on the 14th of February, 1833, as above stated, hereby designate and assign to the Seminole tribe of Indians, for their separate future residence for ever, a tract of country lying between the Canadian River and the south fork thereof, and extending west to where a line running north and south between the main Canadian and north branch will strike the forks of Little River; provided said west line does not extend more than twenty-five miles west from the mouth of said Little River. And the undersigned Seminole chiefs, delegated as aforesaid, on behalf of the nation, hereby declare themselves well satisfied with the location provided for them by the commissioners, and agree that their nation shall commence the removal to their new home as soon as the government will make the arrangements for their emigration satisfactory to the Seminole nation."

This treaty is signed by the delegation, and by the commissioners of the United States, and witnessed, among others, by the same Major Phagan, agent, and Abraham, interpreter, whose presence was stipulated for at Payne's Landing.

Thus the two conditions on which the removal depended, were complied with; they were both established in the affirmative. The Creeks, under the solemn sanction and guarantee of the United States, agree to receive back the Seminoles as a part of their confederacy, and agree that they shall live adjoining them on lands designated for their residence. The delegation declare themselves well satisfied with the country assigned them, and agree that the removal should commence as soon as the United States could make the necessary arrangements for the removal of the people.

This brings down the proof to the conclusion of all questions beyond the Mississippi; it brings it down to the conclusion of the treaty at Fort Gibson—that treaty in which the senator from New Jersey [Mr. Southard] has located the charge of fraud, after withdrawing the same charge from the Payne's Landing treaty. It brings us to the end of the negotiations at the point selected for the charge; and now how stands the accusation? How stands the charge of fraud? Is there a shadow, an atom, a speck, of foundation on which to rest it? No, sir: Nothing—nothing—nothing! Every thing was done that was stipulated for; done by the persons who were to do it; and done in the exact manner agreed upon. In fact, the nature of the things to be done west of the Mississippi was such as not to admit of fraud. Two things were to be done, one to be seen with the eyes, and the other to be heard with the ears. The deputation was to see their new country, and say whether they liked it. This was a question to their own senses—to their own eyes—and was not susceptible of fraud. They were to *hear* whether the Creeks would receive them back as a part of their confederacy; this was a question to their own *ears*, and was also unsusceptible of fraud. Their own eyes could not deceive them in looking at land; their own ears could not deceive them in listening to their own language from the Creeks. No, sir: there was no physical capacity, or moral means, for the perpetration of fraud; and none has ever been pretended by the Indians from that day to this. The Indians themselves have never thought of such a thing. There is no assumption of a deceived party among them. It is not a deceived party that is at war—a party deceived by the delegation which went to the West—but that very delegation itself, with the exception of Charley Emarthla, are the hostile leaders at home! This is reducing the accusation to an absurdity. It is making the delegation the dupes of their own eyes and of their own ears, and then going to war with the United States, because their own eyes deceived them in looking at land on the

Canadian River, and their own ears deceived them in listening to their own language from the Creeks; and then charging these frauds upon the United States. All this is absurd; and it is due to these absent savages to say that they never committed any such absurdity—that they never placed their objection to remove upon any plea of deception practised upon them beyond the Mississippi, but on frivolous pretexts invented long after the return of the delegation; which pretexts covered the real grounds growing out of the influence of runaway slaves, and some evilly disposed chiefs, and that thirst for blood and plunder, in which they expected a long course of enjoyment and impunity in their swamps, believed to be impenetrable to the whites.

Thus, sir, it is clearly and fully proved that there was no fraud practised upon these Indians; that they themselves never pretended such a thing; and that the accusation is wholly a charge of recent origin sprung up among ourselves. Having shown that there was no fraud, this might be sufficient for the occasion, but having been forced into the inquiry, it may be as well to complete it by showing what were the causes of this war. To understand these causes, it is necessary to recur to dates, to see the extreme moderation with which the United States acted, the long time which they tolerated the delays of the Indians, and the treachery and murder with which their indulgence and forbearance was requited. The emigration was to commence in 1833, and be completed in the years 1834 and 1835. The last days of the last month of this last year had arrived, and the emigration had not yet commenced. Wholly intent on their peaceable removal, the administration had despatched a disbursing agent, Lieutenant Harris of the army, to take charge of the expenditures for the subsistence of these people. He arrived at Fort King on the afternoon of the 28th of December, 1835; and as he entered the fort, he became almost an eye-witness of a horrid scene which was the subject of his first despatch to his government. He describes it in these words:

“I regret that it becomes my first duty after my arrival here to be the narrator of a story, which it will be, I am sure, as painful for you to hear, as it is for me, who was almost an eye witness to the bloody deed, to relate to you. Our excellent superintendent, General Wiley Thompson, has been most cruelly murdered by a party of the hostile Indians, and with him Lieutenant Constant Smith, of the 2d regiment of artillery, Erastus Rogers, the suttler to the post, with his two clerks, a Mr. Kitzler, and a boy called Robert. This occurred on the afternoon of the 28th instant (December), between three and four o’clock. On the day of the massacre, Lieutenant Smith had dined with the General, and after dinner invited him to take a short stroll with him. They had not proceeded more than three hundred yards beyond the agency office, when they were fired upon by a party of Indians, who rose from ambush in the hammock, within sight of the fort, and on which the suttler’s house borders. The reports of the rifles fired, the war-whoop twice repeated, and after a brief space, several other volleys more remote, and in the quarter of Mr. Rogers’s house, were heard, and the smoke of the firing seen from the fort. Mr. Rogers and his clerks were surprised at dinner. Three escaped: the rest murdered. The bodies of General Thompson, Lieutenant Smith, and Mr. Kitzler, were soon found and brought in. Those of the others were not found until this morning. That of General Thompson was perforated with fourteen bullets. Mr. Rogers had received seventeen. All were scalped, except the boy. The cowardly murderers are supposed to be a party of Micasookees, 40 or 50 strong, under the traitor Powell (Osceola), whose shrill, peculiar war-whoop, was recognized by our interpreters, and the one or two friendly Indians we have in the fort, and who knew it well. Two expresses (soldiers) were despatched upon fresh horses on the evening of this horrid tragedy, with tidings of it to General Clinch; but not hearing from him or them, we conclude they were cut off. We are also exceedingly anxious for the fate of the two companies (under Major Dade) which had been ordered up from Fort Brooke, and of whom we learn nothing.”

Sir, this is the first letter of the disbursing agent, specially detached to furnish the supplies to the emigrating Indians. He arrives in the midst of treachery and murder; and his first letter is to announce to the government the assassination of their agent, an officer of artillery, and five citizens; the assassination of two expresses, for they were both waylaid and murdered; and the massacre of one hundred and twelve men and officers under Major Dade. All this took place at once; and this was the beginning of the war. Up to that moment the government of the United States were wholly employed in preparing the Indians for removal, recommending them to go, and using no force or violence upon them. This is the way the war was brought on; this is the way it began; and was there ever a case in which a government was so loudly called upon to avenge the dead, to protect the living, and to cause itself to be respected by punishing the contemners of its power? The murder of the agent was a double offence, a peculiar outrage to the government whose representative he was, and a violation even of the national law of savages. Agents are seldom murdered even by savages; and bound as every government is to protect all its citizens, it is doubly bound to protect its agents and representatives abroad. Here, then, is a government agent, and a military officer, five citizens, two expresses, and a detachment of one hundred and twelve men, in all one hundred and twenty-one persons, treacherously and inhumanly massacred in one day! and because General Jackson's administration did not submit to this horrid outrage, he is charged with the guilt of a war founded in fraud upon innocent and unoffending Indians! Such is the spirit of opposition to our own government! such the love of Indians and contempt of whites! and such the mawkish sentimentality of the day in which we live—a sentimentality which goes moping and sorrowing about in behalf of imaginary wrongs to Indians and negroes, while the whites themselves are the subject of murder, robbery and defamation.

The prime mover in all this mischief, and the leading agent in the most atrocious scene of it, was a half-blooded Indian of little note before this time, and of no consequence in the councils of his tribe; for his name is not to be seen in the treaty either of Payne's Landing or Fort Gibson. We call him Powell; by his tribe he was called Osceola. He led the attack in the massacre of the agent, and of those who were killed with him, in the afternoon of the 28th of December. The disbursing agent, whose letter has been read, in his account of that massacre, applies the epithet *traitor* to the name of this Powell. Well might he apply that epithet to that assassin; for he had just been fed and caressed by the very person whom he waylaid and murdered. He had come into the agency shortly before that time with seventy of his followers, professed his satisfaction with the treaty, his readiness to remove, and received subsistence and supplies for himself and all his party. The most friendly relations seemed to be established; and the doomed and deceived agent, in giving his account of it to the government, says: "The result was that we closed with the utmost good feeling; and I have never seen Powell and the other chiefs so cheerful and in so fine a humor, at the close of a discussion upon the subject of removal."

This is Powell (Osceola), for whom all our sympathies are so pathetically invoked! a treacherous assassin, not only of our people, but of his own—for he it was who waylaid, and shot in the back, in the most cowardly manner, the brave chief Charley Emarthla, whom he dared not face, and whom he thus assassinated because he refused to join him and his runaway negroes in murdering the white people. The collector of Indian curiosities and portraits, Mr. Catlin, may be permitted to manufacture a hero out of this assassin, and to make a poetical scene of his imprisonment on Sullivan's island; but it will not do for an American senator to take the same liberties with historical truth and our national character. Powell ought to have been hung for the assassination of General Thompson; and the only fault of our officers is, that they did not hang him the moment they caught him. The fate of Arbuthnot and Ambrister was due to him a thousand times over.

I have now answered the accusation of the senator from New Jersey [Mr. Southard]. I have shown the origin of this war. I have shown that it originated in no fraud, no injustice, no violence, on the part of this government, but in the thirst for blood and rapine on the part of these Indians, and in their confident belief that their swamps would be their protection against the pursuit of the whites; and that, emerging from these fastnesses to commit robbery and murder, and retiring to them to enjoy the fruits of their marauding expeditions, they had before them a long perspective of impunity in the enjoyment of their favorite occupation. This I have shown to be the cause of the war; and having vindicated the administration and the country from the injustice of the imputation cast upon them, I proceed to answer some things said by a senator from South Carolina [Mr. Preston], which tended to disparage the troops generally which have been employed in Florida; to disparage a particular general officer, and also to accuse that general officer of a particular and specified offence. That senator has decried our troops in Florida for the general inefficiency of their operations; he has decried General Jesup for the general imbecility of his operations, and he has charged this General with the violation of a flag, and the commission of a perfidious act, in detaining and imprisoning the Indian Powell, who came into his camp.

I think there is great error and great injustice in all these imputations, and that it is right for some senator on this floor to answer them. My position, as chairman of the Committee on Military Affairs, would seem to assign that duty to me, and it may be the reason why others who have spoken have omitted all reply on these points. Be that as it may, I feel impelled to say something in behalf of those who are absent, and cannot speak for themselves—those who must always feel the wound of unmerited censure, and must feel it more keenly when the blow that inflicts the wound falls from the elevated floor of the American Senate. So far as the army, generally, is concerned in this censure, I might leave them where they have been placed by the senator from South Carolina [Mr. Preston], and others on that side of the House, if I could limit myself to acting a political part here. The army, as a body, is no friend of the political party to which I belong. Individuals among them are friendly to the administration; but, as a body, they go for the opposition, and would terminate our political existence, if they could, and put our opponents in our place, at the first general election that intervenes. Asa politician, then, I might abandon them to the care of their political friends; but, as an American, as a senator, and as having had some connection with the military profession, I feel myself called upon to dissent from the opinion which has been expressed, and to give my reasons for believing that the army has not suffered, and ought not to suffer, in character, by the events in Florida. True, our officers and soldiers have not performed the same feats there which they performed in Canada, and elsewhere. But why? Certainly because they have not got the same, or an equivalent, theatre to act upon, nor an enemy to cope with over whom brilliant victories can be obtained. The peninsula of Florida, where this war rages, is sprinkled all over with swamps, hammocks, and lagoons, believed for three hundred years to be impervious to the white man's tread. The theatre of war is of great extent, stretching over six parallels of latitude; all of it in the sultry region below thirty-one degrees of north latitude. The extremity of this peninsula approaches the tropic of Capricorn; and at this moment, while we speak here, the soldier under arms at mid-day there will cast no shadow: a vertical sun darts its fiery rays direct upon the crown of his head. Suffocating heat oppresses the frame; annoying insects sting the body; burning sands, a spongy morass, and the sharp cutting saw grass, receive the feet and legs; disease follows the summer's exertion; and a dense foliage covers the foe. Eight months in the year military exertions are impossible; during four months only can any thing be done. The Indians well understand this; and, during these four months, either give or receive an attack, as they please, or endeavor to consume the season in wily parleys. The possibility of splendid military exploits does not exist in such a country, and against such a foe: but there is room there, and ample room there, for the

exhibition of the highest qualities of the soldier. There is room there for patience, and for fortitude, under every variety of suffering, and under every form of privation. There is room there for courage and discipline to exhibit itself against perils and trials which subject courage and discipline to the severest tests. And has there been any failure of patience, fortitude, courage, discipline, and subordination in all this war? Where is the instance in which the men have revolted against their officers, or in which the officer has deserted his men? Where is the instance of a flight in battle? Where the instance of orders disobeyed, ranks broken, or confusion of corps? On the contrary, we have constantly seen the steadiness, and the discipline, of the parade maintained under every danger, and in the presence of massacre itself. Officers and men have fought it out where they were told to fight; they have been killed in the tracks in which they were told to stand. None of those pitiable scenes of which all our Indian wars have shown some—those harrowing scenes in which the helpless prisoner, or the hapless fugitive, is massacred without pity, and without resistance: none of these have been seen. Many have perished; but it was the death of the combatant in arms, and not of the captive or the fugitive. In no one of our savage wars have our troops so stood together, and conquered together, and died together, as they have done in this one; and this standing together is the test of the soldier's character. Steadiness, subordination, courage, discipline,—these are the test of the soldier; and in no instance have our troops, or any troops, ever evinced the possession of these qualities in a higher degree than during the campaigns in Florida. While, then, brilliant victories may not have been seen, and, in fact, were impossible, yet the highest qualities of good soldiership have been eminently displayed throughout this war. Courage and discipline have shown themselves, throughout all its stages, in their noblest forms.

From the general imputation of inefficiency in our operations in Florida, the senator from South Carolina [Mr. Preston] comes to a particular commander, and charges inefficiency specifically upon him. This commander is General Jesup. The senator from South Carolina has been lavish, and even profuse, in his denunciation of that general, and has gone so far as to talk about military courts of inquiry. Leaving the general open to all such inquiry, and thoroughly convinced that the senator from South Carolina has no idea of moving such inquiry, and intends to rest the effect of his denunciation upon its delivery here, I shall proceed to answer him here—giving speech for speech on this floor, and leaving the general himself to reply when it comes to that threatened inquiry, which I undertake to affirm will never be moved.

General Jesup is charged with imbecility and inefficiency; the continuance of the war is imputed to his incapacity; and he is held up here, on the floor of the Senate, to public reprehension for these imputed delinquencies. This is the accusation; and now let us see with how much truth and justice it is made. Happily for General Jesup, this happens to be a case in which we have data to go upon, and in which there are authentic materials for comparing the operations of himself with those of other generals—his predecessors in the same field—with whose success the senator from South Carolina is entirely satisfied. Dates and figures furnish this data and these materials; and, after refreshing the memory of the Senate with a few dates, I will proceed to the answers which the facts of the case supply. The first date is, as to the time of the commencement of this war; the second, as to the time that General Jesup assumed the command; the third, as to the time when he was relieved from the command. On the first point, it will be recollected that the war broke out upon the assassination of General Thompson, the agent, Lieutenant Smith, who was with him; the sutler and his clerks; the murder of the two expresses; and the massacre of Major Dade's command;—events which came together in point of time, and compelled an immediate resort to war by the United States. These assassinations, these murders, and this massacre, took place on the 28th day of

December, 1835. The commencement of the war, then, dates from that day. The next point is, the time of General Jesup's appointment to the command. This occurred in December, 1836. The third point is, the date of General Jesup's relief from the command, and this took place in May, of the present year, 1838. The war has then continued—counting to the present time—two years and a half; and of that period, General Jesup has had command something less than one year and a half. Other generals had command for a year before he was appointed in that quarter. Now, how much had those other generals done? All put together, how much had they done? And I ask this question not to disparage their meritorious exertions, but to obtain data for the vindication of the officer now assailed. The senator from South Carolina [Mr. Preston] is satisfied with the operations of the previous commanders; now let him see how the operations of the officer whom he assails will compare with the operations of those who are honored with his approbation. The comparison is brief and mathematical. It is a problem in the exact sciences. General Jesup reduced the hostiles in the one year and a half of his command, 2,200 souls: all his predecessors together had reduced them 150 in one year. Where does censure rest now?

Sir, I disparage nobody. I make no exhibit of comparative results to undervalue the operations of the previous commanders in Florida. I know the difficulty of military operations there, and the ease of criticism here. I never assailed those previous commanders; on the contrary, often pointed out the nature of the theatre on which they operated as a cause for the miscarriage of expeditions, and for the want of brilliant and decisive results. Now for the first time I refer to the point, and, not to disparage others, but to vindicate the officer assailed. His vindication is found in the comparison of results between himself and his predecessors, and in the approbation of the senator from South Carolina of the results under the predecessors of General Jesup. Satisfied with *them*, he must be satisfied with *him*; for the difference is as fifteen to one in favor of the decried general.

Besides the general denunciation for inefficiency, which the senator from South Carolina has lavished upon General Jesup, and which denunciation has so completely received its answer in this comparative statement; besides this general denunciation, the senator from South Carolina brought forward a specific accusation against the honor of the same officer—an accusation of perfidy, and of a violation of flag of truce, in the seizure and detention of the Indian Osceola, who had come into his camp. On the part of General Jesup, I repel this accusation, and declare his whole conduct in relation to this Indian, to have been *justifiable*, under the laws of civilized or savage warfare; that it was *expedient* in point of policy; and that if any blame could attach to the general, it would be for the contrary of that with which he is blamed; it would be for an excess of forbearance and indulgence.

The justification of the general for the seizure and detention of this half-breed Indian, is the first point; and that rests upon several and distinct grounds, either of which fully justifies the act.

1. *This Osceola had broken his parole; and, therefore, was liable to be seized and detained.*

The facts were these: In the month of May, 1837, this chief, with his followers, went into Fort Mellon, under the cover of a white flag, and there surrendered to Lieutenant Colonel Harney. He declared himself done with the war, and ready to emigrate to the west of the Mississippi, and solicited subsistence and transportation for himself and his people for that purpose. Lieutenant Colonel Harney received him, supplied him with provisions, and, relying upon his word and apparent sincerity, instead of sending him under guard, took his parole to go to Tampa Bay, the place at which he preferred to embark, to take shipping there for the West. Supplied with every thing, Osceola and his people left Fort Mellon, under the pledge to go to Tampa Bay. He never went there! but returned to the hostiles; and it was afterwards

ascertained that he never had any idea of going West, but merely wished to live well for a while at the expense of the whites, examine their strength and position, and return to his work of blood and pillage. After this, he had the audacity to approach General Jesup's camp in October of the same year, with another piece of white cloth over his head, thinking, after his successful treacheries to the agent, General Thompson, and Lieut. Colonel Harney, that there was no end to his tricks upon white people. General Jesup ordered him to be seized and carried a prisoner to Sullivan's Island, where he was treated with the greatest humanity, and allowed every possible indulgence and gratification. This is one of the reasons in justification of General Jesup's conduct to that Indian, and it is sufficient of itself; but there are others, and they shall be stated.

2. *Osceola had violated an order in coming in, with a view to return to the hostiles; and, therefore, was liable to be detained.*

The facts were these: Many Indians, at different times, had come in under the pretext of a determination to emigrate; and after receiving supplies, and viewing the strength and position of the troops, returned again to the hostiles, and carried on the war with renewed vigor. This had been done repeatedly. It was making a mockery of the white flag, and subjecting our officers to ridicule as well as to danger. General Jesup resolved to put an end to these treacherous and dangerous visits, by which spies and enemies obtained access to the bosom of his camp. He made known to the chief, Coi Hadjo, his determination to that effect. In August, 1837, he declared peremptorily to this chief, for the information of all the Indians, that none were to come in, except to remain, and to emigrate; that no one coming into his camp again should be allowed to go out of it, but should be considered as having surrendered with a view to emigrate under the treaty, and should be detained for that purpose. In October, Osceola came in, in violation of that order, and was detained in compliance with it. This is a second reason for the justification of General Jesup, and is of itself sufficient to justify him; but there is more justification yet, and I will state it.

3. *Osceola, had broken a truce, and, therefore, was liable to be detained whenever he could be taken.*

The facts were these: The hostile chiefs entered into an agreement for a truce at Fort King, in August, 1837, and agreed: 1. Not to commit any act of hostility upon the whites; 2. Not to go east of the St. John's river, or north of Fort Mellon. This truce was broken by the Indians in both points. A citizen was killed by them, and they passed both to the east of the St. John's and far north of Fort Mellon. As violators of this truce, General Jesup had a right to detain any of the hostiles which came into his hands, and Osceola was one of these.

Here, sir, are three grounds of justification, either of them sufficient to justify the conduct of General Jesup towards Powell, as the gentlemen call him. The first of the three reasons applies personally and exclusively to that half-breed; the other two apply to all the hostile Indians, and justify the seizure and detention of others, who have been sent to the West.

So much for justification; now for the expediency of having detained this Indian Powell. I hold it was expedient to exercise the right of detaining him, and prove this expediency by reasons both *a priori* and *a posteriori*. His previous treachery and crimes, and his well known disposition for further treachery and crimes, made it right for the officers of the United States to avail themselves of the first justifiable occasion to put an end to his depredations by confining his person until the war was over. This is a reason *a priori*. The reason *a posteriori* is, that it has turned out right; it has operated well upon the mass of the Indians, between eighteen and nineteen hundred of which, negroes inclusive, have since surrendered to Gen. Jesup. This, sir, is a fact which contains an argument which overturns all that can be

said on this floor against the detention of Osceola. The Indians themselves do not view that act as perfidious or dishonorable, or the violation of a flag, or even the act of an enemy. They do not condemn General Jesup on account of it, but no doubt respect him the more for refusing to be made the dupe of a treacherous artifice. A bit of white linen, stripped, perhaps from the body of a murdered child, or its murdered mother, was no longer to cover the insidious visits of spies and enemies. A firm and manly course was taken, and the effect was good upon the minds of the Indians. The number since surrendered is proof of its effect upon their minds; and this proof should put to blush the lamentations which are here set up for Powell, and the censure thrown upon General Jesup.

No, sir, no. General Jesup has been guilty of no perfidy, no fraud, no violation of flags. He has done nothing to stain his own character, or to dishonor the flag of the United States. If he has erred, it has been on the side of humanity, generosity, and forbearance to the Indians. If he has erred, as some suppose, in losing time to parley with the Indians, that error has been on the side of humanity, and of confidence in them. But has he erred? Has his policy been erroneous? Has the country been a loser by his policy? To all these questions, let results give the answer. Let the twenty-two hundred Indians, abstracted from the hostile ranks by his measures, be put in contrast with the two hundred, or less, killed and taken by his predecessors. Let these results be compared; and let this comparison answer the question whether, in point of fact, there has been any error, even a mistake of judgment, in his mode of conducting the war.

The senator from South Carolina [Mr. Preston] complains of the length of time which General Jesup has consumed without bringing the war to a close. Here, again, the chapter of comparisons must be resorted to in order to obtain the answer which justice requires. How long, I pray you, was General Jesup in command? from December, 1836, to May, 1838; nominally he was near a year and a half in command; in reality not one year, for the summer months admit of no military operations in that peninsula. His predecessors commanded from December, 1835, to December, 1836; a term wanting but a few months of as long a period as the command of General Jesup lasted. Sir, there is nothing in the length of time which this general commanded, to furnish matter for disadvantageous comparisons to him; but the contrary. He reduced the hostiles about one-half in a year and a half; they reduced them about the one-twentieth in a year. The whole number was about 5,000; General Jesup diminished their number, during his command, 2,200; the other generals had reduced them about 150. At the rate he proceeded, the work would be finished in about three years; at the rate they proceeded, in about twenty years. Yet he is to be censured here for the length of time consumed without bringing the war to a close. He, and he alone, is selected for censure. Sir, I dislike these comparisons; it is a disagreeable task for me to make them; but I am driven to it, and mean no disparagement to others. The violence with which General Jesup is assailed here—the comparisons to which he has been subjected in order to degrade him—leave me no alternative but to abandon a meritorious officer to unmerited censure, or to defend him in the same manner in which he has been assailed.

The essential policy of General Jesup has been to induce the Indians to come in—to surrender—and to emigrate under the treaty. This has been his main, but not his exclusive, policy; military operations have been combined with it; many skirmishes and actions have been fought since he had command; and it is remarkable that this general, who has been so much assailed on this floor, is the only commander-in-chief in Florida who has been wounded in battle at the head of his command. His person marked with the scars of wounds received in Canada during the late war with Great Britain, has also been struck by a bullet, in the face, in the peninsula of Florida; yet these wounds—the services in the late war with Great Britain—the removal of upwards of 16,000 Creek Indians from Alabama and Georgia

to the West, during the summer of 1836—and more than twenty-five years of honorable employment in the public service—all these combined, and an unsullied private character into the bargain, have not been able to protect the feelings of this officer from laceration on this floor. Have not been sufficient to protect his feelings! for, as to his character, that is untouched. The base accusation—the vague denunciation—the offensive epithets employed here, may lacerate feelings, but they do not reach character; and as to the military inquiry, which the senator from South Carolina speaks of, I undertake to say that no such inquiry will ever take place. Congress, or either branch of Congress, can order an inquiry if it pleases; but before it orders an inquiry, *a probable cause has to be shown for it*; and that probable cause never has been, and never will be, shown in General Jesup's case.

The senator from South Carolina speaks of the large force which was committed to General Jesup, and the little that was effected with that force. Is the senator aware of the extent of the country over which his operations extended? that it extended from 31 to 25 degrees of north latitude? that it began in the Okefenokee swamp in Georgia, and stretched to the Everglades in Florida? that it was near five hundred miles in length in a straight line, and the whole sprinkled over with swamps, one of which alone was equal in length to the distance between Washington City and Philadelphia? But it was not extent of country alone, with its fastnesses, its climate, and its wily foe, that had to be contended with; a new element of opposition was encountered by General Jesup, in the poisonous information which was conveyed to the Indians' minds, which encouraged them to hold out, and of which he had not even knowledge for a long time. This was the quantity of false information which was conveyed to the Indians, to stimulate and encourage their resistance. General Jesup took command just after the presidential election of 1836. The Indians were informed of this change of presidents, and were taught to believe that the white people had *broke* General Jackson—that was the phrase—had *broke* General Jackson for making war upon them. They were also informed that General Jesup was carrying on the war without the leave of Congress; that Congress would give no more money to raise soldiers to fight them; and that he dared not come home to Congress. Yes, he dared not come home to Congress! These poor Indians seem to have been informed of intended movements against the general in Congress, and to have relied upon them both to stop supplies and to punish the general. Moreover, they were told, that, if they surrendered to emigrate, they would receive the worst treatment on the way; that, if a child cried, it would be thrown overboard; if a chief gave offence, he would be put in irons. Who the immediate informants of all these fine stories were, cannot be exactly ascertained. They doubtless originated with that mass of fanatics, devoured by a morbid sensibility for negroes and Indians, which are now *Don Quixoting* over the land, and filling the public ear with so many sympathetic tales of their own fabrication.

General Jesup has been censured for writing a letter disparaging to his predecessor in command. If he did so, and I do not deny it, though I have not seen the letter, nobly has he made the amends. Publicly and officially has he made amends for a private and unofficial wrong. In an official report to the war department, published by that department, he said:

"As an act of justice to all my predecessors in command, I consider it my duty to say that the difficulties attending military operations in this country, can be properly appreciated only by those acquainted with them. I have advantages which neither of them possessed, in better preparations and more abundant supplies; and I found it impossible to operate with any prospect of success, until I had established a line of depots across the country. If I have at any time said aught in disparagement of the operations of others in Florida, either verbally or in writing, officially or unofficially, knowing the country as I now know it, I consider myself bound as a man of honor solemnly to retract it."

Such are the amends which General Jesup makes—frank and voluntary—full and kindly—worthy of a soldier towards brother soldiers; and far more honorable to his predecessors in command than the disparaging comparisons which have been instituted here to do them honor at his expense.

The expenses of this war is another head of attack pressed into this debate, and directed more against the administration than against the commanding general. It is said to have cost twenty millions of dollars; but that is an error—an error of near one-half. An actual return of all expenses up to February last, amounts to nine and a half millions; the rest of the twenty millions go to the suppression of hostilities in other places, and with other Indians, principally in Georgia and Alabama, and with the Cherokees and Creeks. Sir, this charge of expense seems to be a standing head with the opposition at present. Every speech gives us a dish of it; and the expenditures under General Jackson and Mr. Van Buren are constantly put in contrast with those of previous administrations. Granted that these expenditures are larger—that they are greatly increased; yet what are they increased for? Are they increased for the personal expenses of the officers of the government, or for great national objects? The increase is for great objects; such as the extinction of Indian titles in the States east of the Mississippi—the removal of whole nations of Indians to the west of the Mississippi—their subsistence for a year after they arrive there—actual wars with some tribes—the fear of it with others, and the consequent continual calls for militia and volunteers to preserve peace—large expenditures for the permanent defences of the country, both by land and water, with a pension list for ever increasing; and other heads of expenditure which are for future national benefit; and not for present individual enjoyment. Stripped of all these heads of expenditure, and the expenses of the present administration have nothing to fear from a comparison with other periods. Stated in the gross, as is usually done, and many ignorant people are deceived and imposed upon, and believe that there has been a great waste of public money; pursued into the detail, and these expenditures will be found to have been made for great national objects—objects which no man would have undone, to get back the money, even if it was possible to get back the money by undoing the objects. No one, for example, would be willing to bring back the Creeks, the Cherokees, the Choctaws, and Chickasaws into Alabama, Mississippi, Georgia, Tennessee and North Carolina, even if the tens of millions which it has cost to remove them could be got back by that means; and so of the other expenditures: yet these eternal croakers about expense are blaming the government for these expenditures.

Sir, I have gone over the answers, which I proposed to make to the accusations of the senators from New Jersey and South Carolina. I have shown them to be totally mistaken in all their assumptions and imputations. I have shown that there was no fraud upon the Indians in the treaty at Fort Gibson—that the identical chiefs who made that treaty have since been the hostile chiefs—that the assassination and massacre of an agent, two government expresses, an artillery officer, five citizens, and one hundred and twelve men of Major Dade’s command, caused the war—that our troops are not subject to censure for inefficiency—that General Jesup has been wrongfully denounced upon this floor—and that even the expense of the Florida war, resting as it does in figures and in documents, has been vastly overstated to produce effect upon the public mind. All these things I have shown; and I conclude with saying that cost, and time, and loss of men, are all out of the question; that, for outrages so wanton and so horrible as those which occasioned this war, the national honor requires the most ample amends; and the national safety requires a future guarantee in prosecuting this war to a successful close, and completely clearing the peninsula of Florida of all the Indians that are upon it.

20. Resumption Of Specie Payments By The New York Banks

The suspension commenced on the 10th of May in New York, and was followed throughout the country. In August the New York banks proposed to all others to meet in convention, and agree upon a time to commence a general resumption. That movement was frustrated by the opposition of the Philadelphia banks, for the reason, as given, that it was better to await the action of the extra session of Congress, then convoked, and to meet in September. The extra session adjourned early in October, and the New York banks, faithful to the promised resumption of specie payments, immediately issued another invitation for the general convention of the banks in that city on the 27th of November ensuing, to carry into effect the object of the meeting which had been invited in the month of August. The 27th of November arrived; a large proportion of the delinquent banks had accepted the invitation to send delegates to the convention: but its meeting was again frustrated—and from the same quarter—the Bank of the United States, and the institutions under its influence. They then resolved to send a committee to Philadelphia to ascertain from the banks when they would be ready, and to invite them to name a day when they would be able to resume; and if no day was definitely fixed, to inform them that the New York banks would commence specie payments without waiting for their co-operation. The Philadelphia banks would not co-operate. They would not agree to any definite time to take even initiatory steps towards resumption. This was a disappointment to the public mind—that large part of it which still had faith in the Bank of the United States; and the contradiction which it presented to all the previous professions of that institution, required explanations, and, if possible, reconciliation with past declarations. The occasion called for the pen of Mr. Biddle, always ready, always confident, always presenting an easy remedy, and a sure one, for all the diseases to which banks, currency, and finance were heir. It called for another letter to Mr. John Quincy Adams, that is to say, to the public, through the distinction of that gentleman's name. It came—the most elaborate and ingenious of its species; its burden, to prove the entire ability of the bank over which he presided to pay in full, and without reserve, but its intention not to do so on account of its duty to others not able to follow its example, and which might be entirely ruined by a premature effort to do so. And he concluded with condensing his opinion into a sentence of characteristic and sententious brevity: "*On the whole, the course which in my judgment the banks ought to pursue, is simply this: The banks should remain exactly as they are—prepared to resume, but not yet resuming.*" But he did not stop there, but in another publication went the length of a direct threat of destruction against the New York banks if they should, in conformity to their promise, venture to resume, saying: "Let the banks of the Empire State come up from their Elba, and enjoy their hundred days of resumption! a Waterloo awaits them, and a Saint Helena is prepared for them."

The banks of New York were now thrown upon the necessity of acting without the concurrence of those of Pennsylvania, and in fact under apprehension of opposition and counteraction from that quarter. They were publicly pledged to act without her, and besides were under a legal obligation to do so. The legislature of the State, at the time of the suspension, only legalized it for one year. The indulgence would be out on the 15th of May, and forfeiture of charter was the penalty to be incurred throughout the State for continuing it beyond that time. The city banks had the control of the movement, and they invited a convention of delegates from all the banks in the Union to meet in New York on the 15th of April. One hundred and forty-three delegates, from the principal banks in a majority of the

States, attended. Only delegates from fifteen States voted—Pennsylvania, Maryland and South Carolina among the absent; which, as including the three principal commercial cities on the Atlantic board south of New York, was a heavy defalcation from the weight of the convention. Of the fifteen States, thirteen voted for resuming on the 1st day of January, 1839—a delay of near nine months; two voted against that day—New York and Mississippi; and (as it often happens in concurring votes) for reasons directly opposite to each other. The New York banks so voted because the day was too distant—those of Mississippi because it was too near. The New York delegates wished the 15th of May, to avoid the penalty of the State law: those of Mississippi wished the 1st of January, 1840, to allow them to get in two more cotton crops before the great pay-day came. The result of the voting showed the still great power of the Bank of the United States. The delegates of the banks of ten States, including those with which she had most business, either refused to attend the convention, or to vote after having attended. The rest chiefly voted the late day, "*to favor the views of Philadelphia and Baltimore rather than those of New York*." So said the delegates, "*frankly avowing that their interests and sympathies were with the former two rather than with the latter*." The banks of the State of New York were then left to act alone—and did so. Simultaneously with the issue of the convention recommendation to resume on the first day of January, 1839, they issued another, recommending all the banks of the State of New York to resume on the 10th day of May, 1838; that is to say, within twenty-five days of that time. Those of the city declared their determination to begin on that day, or earlier, expressing their belief that they had nothing to fear but from the opposition and "deliberate animosity of others"—meaning the Bank of the United States. The New York banks all resumed at the day named. Their example was immediately followed by others, even by the institutions in those States whose delegates had voted for the long day; so that within sixty days thereafter the resumption was almost general, leaving the Bank of the United States uncovered, naked, and prominent at the head of all the delinquent banks in the Union. But her power was still great. Her stock stood at one hundred and twelve dollars to the share, being a premium of twelve dollars on the hundred. In Congress, which was still in session, not a tittle was abated of her pretensions and her assurance—her demands for a recharter—for the repeal of the specie circular—and for the condemnation of the administration, as the author of the misfortunes of the country; of which evils there were none except the bank suspensions, of which she had been the secret prime contriver and was now the detected promoter. Briefly before the New York resumption, Mr. Webster the great advocate of the Bank of the United States, and the truest exponent of her wishes, harangued the Senate in a set speech in her favor, of which some extracts will show the design and spirit:

"And now, sir, we see the upshot of the experiment. We see around us bankrupt corporations and broken promises; but we see no promises more really and emphatically broken than all those promises of the administration which gave us assurance of a better currency. These promises, now broken, notoriously and openly broken, if they cannot be performed, ought, at least, to be acknowledged. The government ought not, in common fairness and common honesty, to deny its own responsibility, seek to escape from the demands of the people, and to hide itself, out of the way and beyond the reach of the process of public opinion, by retreating into this sub-treasury system. Let it, at least, come forth; let it bear a port of honesty and candor; let it confess its promises, if it cannot perform them; and, above all, now, even now, at this late hour, let it renounce schemes and projects, the inventions of presumption, and the resorts of desperation, and let it address itself, in all good faith, to the great work of restoring the currency by approved and constitutional means.

"What say these millions of souls to the sub-treasury? In the first place, what says the city of New York, that great commercial emporium, worthy the gentleman's [Mr. Wright]

commendation in 1834, and worthy of his commendation and my commendation, and all commendation, at all times? What sentiments, what opinions, what feelings, are proclaimed by the thousands of merchants, traders, manufacturers, and laborers? What is the united shout of all the voices of all her classes? What is it but that you will put down this new-fangled sub-treasury system, alike alien to their interests and their feelings, at once, and for ever? What is it, but that in mercy to the mercantile interest, the trading interest, the shipping interest, the manufacturing interest, the laboring class, and all classes, you will give up useless and pernicious political schemes and projects, and return to the plain, straight course of wise and wholesome legislation? The sentiments of the city cannot be misunderstood. A thousand pens and ten thousand tongues, and a spirited press, make them all known. If we have not already heard enough, we shall hear more. Embarrassed, vexed, pressed and distressed, as are her citizens at this moment, yet their resolution is not shaken, their spirit is not broken; and, depend upon it, they will not see their commerce, their business, their prosperity and their happiness, all sacrificed to preposterous schemes and political empiricism, without another, and a yet more vigorous struggle.

"Sir, I think there is a revolution in public opinion now going on, whatever may be the opinion of the member from New York, or others. I think the fall elections prove this, and that other more recent events confirm it. I think it is a revolt against the absolute dictation of party, a revolt against coercion on the public judgment; and, especially, against the adoption of new mischievous expedients on questions of deep public interest; a revolt against the rash and unbridled spirit of change; a revolution, in short, against further revolution. I hope, most sincerely, that this revolution may go on; not, sir, for the sake of men, but for the sake of measures, and for the sake of the country. I wish it to proceed, till the whole country, with an imperative unity of voice, shall call back Congress to the true policy of the government.

"I verily believe a majority of the people of the United States are now of the opinion that a national bank, properly constituted, limited, and guarded, is both constitutional and expedient, and ought now to be established. So far as I can learn, three-fourths of the western people are for it. Their representatives here can form a better judgment; but such is my opinion upon the best information which I can obtain. The South may be more divided, or may be against a national institution; but, looking again to the centre, the North and the East, and comprehending the whole in one view, I believe the prevalent sentiment is such as I have stated.

"At the last session great pains were taken to obtain a vote of this and the other House against a bank, for the obvious purpose of placing such an institution out of the list of remedies, and so reconciling the people to the sub-treasury scheme. Well, sir, and did those votes produce any effect? None at all. The people did not, and do not, care a rush for them. I never have seen, or heard, a single man, who paid the slightest respect to those votes of ours. The honorable member, to-day, opposed as he is to a bank, has not even alluded to them. So entirely vain is it, sir, in this country, to attempt to forestall, commit, or coerce the public judgment. All those resolutions fell perfectly dead on the tables of the two Houses. We may resolve what we please, and resolve it when we please; but if the people do not like it, at their own good pleasure they will rescind it; and they are not likely to continue their approbation long to any system of measures, however plausible, which terminates in deep disappointment of all their hopes, for their own prosperity."

All the friends of the Bank of the United States came to her assistance in this last trial. The two halls of Congress resounded with her eulogium, and with condemnation of the measures of the administration. It was a last effort to save her, and to force her upon the federal government. Multitudes of speakers on one side brought out numbers on the other—among

those on the side of the sub-treasury and hard money, and against the whole paper system, of which he considered a national bank the citadel, was the writer of this View, who undertook to collect into a speech, from history and experience, the facts and reasons which would bear upon the contest, and act upon the judgment of candid men, and show the country to be independent of banks, if it would only will it. Some extracts from that speech make the next chapter.

21. Resumption Of Specie Payments: Historical Notices: Mr. Benton’s Speech: Extracts

There are two of those periods, each marking the termination of a national bank charter, and each presenting us with the actual results of the operations of those institutions upon the general currency, and each replete with lessons of instruction applicable to the present day, and to the present state of things. The first of these periods is the year 1811, when the first national bank had run its career of twenty years, and was permitted by Congress to expire upon its own limitation. I take for my guide the estimate of Mr. Lloyd, then a senator in Congress from the State of Massachusetts, whose dignity of character and amenity of manners is so pleasingly remembered by those who served with him here, and whose intelligence and accuracy entitle his statements to the highest degree of credit. That eminent senator estimated the total currency of the country, at the expiration of the charter of the first national bank, at sixty millions of dollars, to wit: ten millions of specie, and fifty millions in bank notes. Now compare the two quantities, and mark the results. Our population has precisely doubled itself since 1811. The increase of our currency should, therefore, upon the same principle of increase, be the double of what it then was; yet it is three times as great as it then was! The next period which challenges our attention is the veto session of 1832, when the second Bank of the United States, according to the opinion of its eulogists, had carried the currency to the ultimate point of perfection. What was the amount then? According to the estimate of a senator from Massachusetts, then and now a member of this body [Mr. Webster], then a member of the Finance Committee, and with every access to the best information, the whole amount of currency was then estimated at about one hundred millions; to wit: twenty millions in specie, and seventy-five to eighty millions in bank notes. The increase of our population since that time is estimated at twenty per cent.; so that the increase of our currency, upon the basis of increased population, should also be twenty per cent. This would give an increase of twenty millions of dollars, making, in the whole, one hundred and twenty millions. Thus, our currency in actual existence, is nearly one-third more than either the ratio of 1811 or of 1832 would give. Thus, we have actually about fifty millions more, in this season of ruin and destitution, than we should have, if supplied only in the ratio of what we possessed at the two periods of what is celebrated as the best condition of the currency, and most prosperous condition of the country. So much for quantity; now for the solidity of the currency at these respective periods. How stands the question of solidity? Sir, it stands thus: in 1811, five paper dollars to one of silver; in 1822, four to one; in 1838, one to one, as near as can be! Thus, the comparative solidity of the currency is infinitely preferable to what it ever was before; for the increase, under the sagacious policy of General Jackson, has taken place precisely where it was needed—at the bottom, and not at the top; at the foundation, and not in the roof; at the base, and not at the apex. Our paper currency has increased but little; we may say nothing, upon the bases of 1811 and 1832; our specie has increased immeasurably; no less than eight-fold, since 1811, and four-fold since 1832. The whole increase is specie; and of that we have seventy millions more than in 1811, and sixty millions more than in 1832. Such are the fruits of General Jackson’s policy! a policy which we only have to persevere in for a few years, to have our country as amply supplied with gold and silver as France and Holland are; that France and Holland in which gold is borrowed at three per cent. per annum, while we often borrow paper money at three per cent. a month.

But there is no specie. Not a ninepence to be got for a servant; not a picayune for a beggar; not a ten cent piece for the post-office. Such is the assertion; but how far is it true? Go to the

banks, and present their notes at their counter, and it is all too true. No gold, no silver, no copper to be had there in redemption of their solemn promises to pay. Metaphorically, if not literally speaking, a demand for specie at the counter of a bank might bring to the unfortunate applicant more kicks than coppers. But change the direction of the demand; go to the brokers; present the bank note there; no sooner said than done; gold and silver spring forth in any quantity; the notes are cashed; you are thanked for your custom, invited to return again; and thus, the counter of the broker, and not the counter of the bank, becomes the place for the redemption of the notes of the bank. The only part of the transaction that remains to be told, is the per centum which is shaved off! And, whoever will submit to that shaving, can have all the bank notes cashed which he can carry to them. Yes, Mr. President, the brokers, and not the bankers, now redeem the bank notes. There is no dearth of specie for that purpose. They have enough to cash all the notes of the banks, and all the treasury notes of the government into the bargain. Look at their placards! not a village, not a city, not a town in the Union, in which the sign-boards do not salute the eye of the passenger, inviting him to come in and exchange his bank notes, and treasury notes, for gold and silver. And why cannot the banks redeem, as well as the brokers? Why can they not redeem their own notes? Because a *veto* has issued from the city of Philadelphia, and because a political revolution is to be effected by injuring the country, and then charging the injury upon the folly and wickedness of the republican administrations. This is the reason, and the sole reason. The Bank of the United States, its affiliated institutions, and its political confederates, are the sole obstacles to the resumption of specie payments. They alone prevent the resumption. It is they who are now in terror lest the resumption shall begin and to prevent it, we hear the real shout, and feel the real application of the rallying cry, so pathetically uttered on this floor by the senator from Massachusetts [Mr. Webster]—*once more to the breach, dear friends, once more!*

Yes, Mr. President, the cause of the non-resumption of specie payments is now plain and undeniable. It is as plain as the sun at high noon, in a clear sky. No two opinions can differ about it, how much tongues may differ. The cause of not resuming is known, and the cause of suspension will soon be known likewise. Gentlemen of the opposition charge the suspension upon the folly, the wickedness, the insanity, the misrule, and misgovernment of the outlandish administration, as they classically call it; expressions which apply to the people who created the administration which have been so much vilified, and who have sanctioned their policy by repeated elections. The opposition charge the suspension to them—to their policy—to their acts—to the veto of 1832—the removal of the deposits of 1833—the Treasury order of 1836—and the demand for specie for the federal Treasury. This is the charge of the politicians, and of all who follow the lead, and obey the impulsion of the denationalized Bank of the United States. But what say others whose voice should be potential, and even omnipotent, on this question? What say the New York city banks, where the suspension began, and whose example was alleged for the sole cause of suspension by all the rest? What say these banks, whose position is at the fountain-head of knowledge, and whose answer for themselves is an answer for all. What say they? Listen, and you shall hear! for I hold in my hand a report of a committee of these banks, made under an official injunction, by their highest officers, and deliberately approved by all the city institutions. It is signed by Messrs. Albert Gallatin, George Newbold, C. C. Lawrence, C. Heyer, J. J. Palmer, Preserved Fish, and G. A. Worth,—seven gentlemen of known and established character; and not more than one out of the seven politically friendly to the late and present administrations of the federal government. This is their report:

“The immediate causes which thus compelled the banks of the city of New York to suspend specie payments on the 10th of May last, are well known. The simultaneous withdrawing of the large public deposits, and of excessive foreign credits, combined with the great and

unexpected fall in the price of the principal article of our exports, with an import of corn and bread stuffs, such as had never before occurred, and with the consequent inability of the country, particularly in the south-western States, to make the usual and expected remittances, did, at one and the same time, fall principally and necessarily, on the greatest commercial emporium of the Union. After a long and most arduous struggle, during which the banks, though not altogether unsuccessfully, resisting the imperative foreign demand for the precious metals, were gradually deprived of a great portion of their specie; some unfortunate incidents of a *local* nature, operating in concert with other previous exciting causes, produced distrust and panic, and finally one of those general runs, which, if continued, no banks that issue paper money, payable on demand, can ever resist; and which soon put it out of the power of those of this city to sustain specie payments. The example was followed by the banks throughout the whole country, with as much *rapidity* as the news of the suspension in New York reached them, without waiting for an *actual run*; and principally, if not exclusively, on the alleged grounds of the effects to be apprehended from that suspension. Thus, whilst the New York city banks were almost *drained* of their specie, those in other places preserved the *amount* which they held before the final catastrophe."

These are the reasons! and what becomes now of the Philadelphia cry, re-echoed by politicians and subaltern banks, against the ruinous measures of the administration? Not a measure of the administration mentioned! not one alluded to! Not a word about the Treasury order; not a word about the veto of the National Bank charter; not a word about the removal of the deposits from the Bank of the United States; not a word about, the specie policy of the administration! Not one word about any act of the government, except that distribution act, disguised as a deposit law, which was a measure of Congress, and not of the administration, and the work of the opponents, and not the friends of the administration, and which encountered its only opposition in the ranks of those friends. I opposed it, with some half dozen others; and among my grounds of opposition, one was, that it would endanger the deposit banks, especially the New York city deposit banks,—that it would reduce them to the alternative of choosing between breaking their customers, and being broken themselves. This was the origin of that act—the work of the opposition on this floor; and now we find that very act to be the cause which is put at the head of all the causes which led to the suspension of specie payments. Thus, the administration is absolved. Truth has performed its office. A false accusation is rebuked and silenced. Censure falls where it is due; and the authors of the mischief stand exposed in the double malefaction of having done the mischief, and then charged it upon the heads of the innocent.

But, gentlemen of the opposition say, there can be no resumption until Congress "*acts upon the currency*." Until Congress acts upon the currency! that is the phrase! and it comes from Philadelphia; and the translation of it is, that there shall be no resumption until Congress submits to Mr. Biddle's bank, and recharters that institution. This is the language from Philadelphia, and the meaning of the language; but, happily, a different voice issues from the city of New York! The authentic notification is issued from the banks of that city, pledging themselves to resume by the 10th day of May. They declare their ability to resume, and to continue specie payments; and declare they have nothing to fear, except from "*deliberate hostility*"—an hostility for which they allege there can be no motive—but of which they delicately intimate there is danger. Philadelphia is distinctly unveiled as the seat of this danger. The resuming banks fear hostility—deliberate acts of hostility—from that quarter. They fear nothing from the hostility, or folly, or wickedness of this administration. They fear nothing from the Sub-Treasury bill. They fear Mr. Biddle's bank, and nothing else but his bank, with its confederates and subalterns. They mean to resume, and Mr. Biddle means that they shall not. Henceforth two flags will be seen, hoisted from two great cities. The New

York flag will have the word resumption inscribed upon it; the Philadelphia flag will bear the inscription of non-resumption, and destruction to all resuming banks.

I have carefully observed the conduct of the leading banks in the United States. The New York banks, and the principal deposit banks, had a cause for stopping which no others can plead, or did plead. I announced that cause, not once, but many times, on this floor; not only during the passage of the distribution law, but during the discussion of those famous land bills, which passed this chamber; and one of which ordered a peremptory distribution of sixty-four millions, by not only taking what was in the Treasury, but by reaching back, and taking all the proceeds of the land sales for years preceding. I then declared in my place, and that repeatedly, that the banks, having lent this money under our instigation, if called upon to reimburse it in this manner, must be reduced to the alternative of breaking their customers, or of being broken themselves. When the New York banks stopped, I made great allowances for them, but I could not justify others for the rapidity with which they followed their example; and still less can I justify them for their tardiness in following the example of the same banks in resuming. Now that the New York banks have come forward to redeem their obligations, and have shown that sensibility to their own honor, and that regard for the punctual performance of their promises, which once formed the pride and glory of the merchant's and the banker's character, I feel the deepest anxiety for their success in the great contest which is to ensue. Their enemy is a cunning and a powerful one, and as wicked and unscrupulous as it is cunning and strong. Twelve years ago, the president of that bank which now forbids other banks to resume, declared in an official communication to the Finance Committee of this body, "*that there were but few State banks which the Bank of the United States could not DESTROY by an exertion of its POWER*." Since that time it has become more powerful; and, besides its political strength, and its allied institutions, and its exhaustless mine of resurrection notes, it is computed by its friends to wield a power of one hundred and fifty millions of dollars! all at the beck and nod of one single man! for his automaton directors are not even thought of! The wielding of this immense power, and its fatal direction to the destruction of the resuming banks, presents the prospect of a fearful conflict ahead. Many of the local banks will doubtless perish in it; many individuals will be ruined; much mischief will be done to the commerce and to the business of different places; and all the destruction that is accomplished will be charged upon some act of the administration—no matter what—for whatever is given out from the Philadelphia head is incontinently repeated by all the obsequious followers, until the signal is given to open upon some new cry.

Sir, the honest commercial banks have resumed, or mean to resume. They have resumed, not upon the fictitious and delusive credit of legislative enactments, but upon the solid basis of gold and silver. The hundred millions of specie which we have accumulated in the country has done the business. To that hundred millions the country is indebted for this early, easy, proud and glorious resumption!—and here let us do justice to the men of this day—to the policy of General Jackson—and to the success of the experiments—to which we are indebted for these one hundred millions. Let us contrast the events and effects of the stoppages in 1814, and in 1819, with the events and effects of the stoppage in 1837, and let us see the difference between them, and the causes of that difference. The stoppage of 1814 compelled the government to use depreciated bank notes during the remainder of the war, and up to the year 1817. Treasury notes, even bearing a large interest, were depreciated ten, twenty, thirty per cent. Bank notes were at an equal depreciation. The losses to the government from depreciated paper in loans alone, during the war, were computed by a committee of the House of Representatives at eighty millions of dollars. Individuals suffered in the same proportion; and every transaction of life bore the impress of the general calamity. Specie was not to be had. There was, nationally speaking, none in the country. The specie standard was

gone; the measure of values was lost; a fluctuating paper money, ruinously depreciated, was the medium of all exchanges. To extricate itself from this deplorable condition, the expedient of a National Bank was resorted to—that measure of so much humiliation, and of so much misfortune to the republican party. For the moment it seemed to give relief, and to restore national prosperity; but treacherous and delusive was the seeming boon. The banks resumed—relapsed—and every evil of the previous suspension returned upon the country with increased and aggravated force.

Politicians alone have taken up this matter and have proposed, for the first time since the foundation of the government—for the first time in 48 years—to compel the government to receive paper money for its dues. The pretext is, to aid the banks in resuming! This, indeed, is a marvellous pretty conception! Aid the banks to resume! Why, sir, we cannot prevent them from resuming. Every solvent, commercial bank in the United States either has resumed, or has declared its determination to do so in the course of the year. The insolvent, and the political banks, which did not mean to resume, will have to follow the New York example, or die! Mr. Biddle's bank must follow the New York lead, or die! The good banks are with the country: the rest we defy. The political banks may resume or not, as they please, or as they dare. If they do not, they die! Public opinion, and the laws of the land, will exterminate them. If the president of the miscalled Bank of the United States has made a mistake in recommending indefinite non-resumption, and in proposing to establish a confederation of broken banks, and has found out his mistake, and wants a pretext for retreating, let him invent one. There is no difficulty in the case. Any thing that the government does, or does not—any thing that has happened, will happen, or can happen—will answer the purpose. Let the president of the Bank of the United States give out a tune: incontinently it will be sung by every bank man in the United States; and no matter how ridiculous the ditty may be, it will be celebrated as superhuman music.

But an enemy lies in wait for them! one that foretells their destruction, is able to destroy them, and which looks for its own success in their ruin. The report of the committee of the New York banks expressly refers to "*acts of deliberate hostility*" from a neighboring institution as a danger which the resuming banks might have to dread. The reference was plain to the miscalled Bank of the United States as the source of this danger. Since that time an insolent and daring threat has issued from Philadelphia, bearing the marks of its bank paternity, openly threatening the resuming banks of New York with destruction. This is the threat: "*Let the banks of the Empire State come up from their Elba, and enjoy their hundred days of resumption; a Waterloo awaits them, and a St. Helena is prepared for them.*" Here is a direct menace, and coming from a source which is able to make good what it threatens. Without hostile attacks, the resuming banks have a perilous process to go through. The business of resumption is always critical. It is a case of impaired credit, and a slight circumstance may excite a panic which may be fatal to the whole. The public having seen them stop payment, can readily believe in the mortality of their nature, and that another stoppage is as easy as the former. On the slightest alarm—on the stoppage of a few inconsiderable banks, or on the noise of a groundless rumor—a general panic may break out. *Sauve qui peut*—save himself who can—becomes the cry with the public; and almost every bank may be run down. So it was in England after the long suspension there from 1797 to 1823; so it was in the United States after the suspension from 1814 to 1817; in each country a second stoppage ensued in two years after resumption; and these second stoppages are like relapses to an individual after a spell of sickness: the relapse is more easily brought on than the original disease, and is far more dangerous.

The banks in England *suspended* in 1797—they *broke* in 1825; in the United States it was a *suspension* during the war, and a *breaking* in 1819-20. So it may be again with us. There is

imminent danger to the resuming banks, without the pressure of premeditated hostility; but, with that hostility, their prostration is almost certain. The Bank of the United States can crush hundreds on any day that it pleases. It can send out its agents into every State of the Union, with sealed orders to be opened on a given day, like captains sent into different seas; and can break hundreds of local banks within the same hour, and over an extent of thousands of miles. It can do this with perfect ease—the more easily with resurrection notes—and thus excite a universal panic, crush the resuming banks, and then charge the whole upon the government. This is what it can do; this is what it has threatened; and stupid is the bank, and doomed to destruction, that does not look out for the danger, and fortify against it. In addition to all these dangers, the senator from Kentucky, the author of the resolution himself, tells you that these banks must fail again! he tells you they will fail! and in the very same moment he presses the compulsory reception of all the notes on all these banks upon the federal treasury! What is this but a proposition to ruin the finances—to bankrupt the Treasury—to disgrace the administration—to demonstrate the incapacity of the State banks to serve as the fiscal agents of the government, and to gain a new argument for the creation of a national bank, and the elevation of the bank party to power? This is the clear inference from the proposition; and viewing it in this light, I feel it to be my duty to expose, and to repel it, as a proposition to inflict mischief and disgrace upon the country.

But to return to the point, the contrast between the effects and events of former bank stoppages, and the effects and events of the present one. The effects of the former were to sink the price of labor and of property to the lowest point, to fill the States with stop laws, relief laws, property laws, and tender laws; to ruin nearly all debtors, and to make property change hands at fatal rates; to compel the federal government to witness the heavy depreciation of its treasury notes, to receive its revenues in depreciated paper; and, finally, to submit to the establishment of a national bank as the means of getting it out of its deplorable condition—that bank, the establishment of which was followed by the seven years of the greatest calamity which ever afflicted the country; and from which calamity we then had to seek relief from the tariff, and not from more banks. How different the events of the present time! The banks stopped in May, 1837; they resume in May, 1838. Their paper depreciated but little; property, except in a few places, was but slightly affected; the price of produce continued good; people paid their debts without sacrifices; treasury notes, in defiance of political and moneyed combinations to depress them, kept at or near par; in many places above it; the government was never brought to receive its revenues in depreciated paper; and finally all good banks are resuming in the brief space of a year; and no national bank has been created. Such is the contrast between the two periods; and now, sir, what is all this owing to? what is the cause of this great difference in two similar periods of bank stoppages? It is owing to our gold bill of 1834, by which we corrected the erroneous standard of gold, and which is now giving us an avalanche of that metal; it is owing to our silver bill of the same year, by which we repealed the disastrous act of 1819, against the circulation of foreign silver, and which is now spreading the Mexican dollars all over the country; it is owing to our movements against small notes under twenty dollars; to our branch mints, and the increased activity of the mother mint; to our determination to revive the currency of the constitution, and to our determination not to fall back upon the local paper currencies of the States for a national currency. It was owing to these measures that we have passed through this bank stoppage in a style so different from what has been done heretofore. It is owing to our "*experiments*" on the currency—to our "*humbug*" of a gold and silver currency—to our "*tampering*" with the monetary system—it is owing to these that we have had this signal success in this last stoppage, and are now victorious over all the prophets of woe, and over all the architects of mischief. These *experiments*, this *humbugging*, and this *tampering*, has increased our specie in six years from twenty millions to one hundred millions; and it is these

one hundred millions of gold and silver which have sustained the country and the government under the shock of the stoppage—has enabled the honest solvent banks to resume, and will leave the insolvent and political banks without excuse or justification for not resuming. Our experiments—I love the word, and am sorry that gentlemen of the opposition have ceased to repeat it—have brought an avalanche of gold and silver into the country; it is saturating us with the precious metals, it has relieved and sustained the country; and now when these experiments have been successful—have triumphed over all opposition—gentlemen cease their ridicule, and go to work with their paper-money resolutions to force the government to use paper, and thereby to drive off the gold and silver which our policy has brought into the country, destroy the specie basis of the banks, give us an exclusive paper currency again, and produce a new expansion and a new explosion.

Justice to the men of this day requires these things to be stated. They have avoided the errors of 1811. They have avoided the pit into which they saw their predecessors fall. Those who prevented the renewal of the bank charter in 1811, did nothing else but prevent its renewal; they provided no substitute for the notes of the bank; did nothing to restore the currency of the constitution; nothing to revive the gold currency; nothing to increase the specie of the country. They fell back upon the exclusive use of local bank notes, without even doing any thing to strengthen the local banks, by discarding their paper under twenty dollars. They fell back upon the local banks; and the consequence was, the total prostration, the utter helplessness, the deplorable inability of the government to take care of itself, or to relieve and restore the country, when the banks failed. Those who prevented the recharter of the second Bank of the United States had seen all this; and they determined to avoid such error and calamity. They set out to revive the national gold currency, to increase the silver currency, and to reform and strengthen the banking system. They set out to do these things; and they have done them. Against a powerful combined political and moneyed confederation, they have succeeded; and the one hundred millions of gold and silver now in the country attests the greatness of their victory, and insures the prosperity of the country against the machinations of the wicked and the factious.

22. Mr. Clay's Resolution In Favor Of Resuming Banks, And Mr. Benton's Remarks Upon It

After the New York banks had resolved to recommence specie payments, and before the day arrived for doing so, Mr. Clay submitted a resolution in the Senate to promote resumption by making the notes of the resuming banks receivable in payment of all dues to the federal government. It was clearly a movement in behalf of the delinquent banks, as those of New York, and others, had resolved to return to specie payments without requiring any such condition. Nevertheless he placed the banks of the State of New York in the front rank for the benefits to be received under his proposed measure. They had undertaken to recommence payments, he said, not from any ability to do so, but from compulsion under a law of the State. The receivability of their notes in payment of all federal dues would give them a credit and circulation which would prevent their too rapid return for redemption. So of others. It would be a help to all in getting through the critical process of resumption; and in helping them would benefit the business and prosperity of the country. He thought it wise to give that assistance; but reiterated his opinion that, nothing but the establishment of a national bank would effectually remedy the evils of a disordered currency, and permanently cure the wounds under which the country was now suffering. Mr. Benton replied to Mr. Clay, and said:

This resolution of the senator from Kentucky [Mr. Clay], is to aid the banks to resume—to aid, encourage, and enable them to resume. This is its object, as declared by its mover; and it is offered here after the leading banks have resumed, and when no power can even prevent the remaining solvent banks from resuming. Doubtless, immortal glory will be acquired by this resolution! It can be heralded to all corners of the country, and celebrated in all manner of speeches and editorials, as the miraculous cause of an event which had already occurred! Yes, sir—already occurred! for the solvent banks have resumed, are resuming, and will resume. Every solvent bank in the United States will have resumed in a few months, and no efforts of the insolvents and their political confederates can prevent it. In New York the resumption is general; in Massachusetts, Rhode Island, Maine, and New Jersey, it is partial; and every where the solvent banks are preparing to redeem the pledge which they gave when they stopped—*that of resuming whenever New York did*. The insolvent and political banks will not resume at all, or, except for a few weeks, to fail again, make a panic and a new run upon the resuming banks—stop them, if possible, then charge it upon the administration, and recommence their lugubrious cry for a National Bank.

The resumption will take place. The masses of gold and silver pouring into the country under the beneficent effects of General Jackson's hard-money policy, will enable every solvent bank to resume; a moral sense, and a fear of consequences, will compel them to do it. The importations of specie are now enormous, and equalling every demand, if it was not suppressed. There can be no doubt but that the quantity of specie in the country is equal to the amount of bank notes in circulation—that they are dollar for dollar—that the country is better off for money at this day than it ever was before, though shamefully deprived of the use of gold and silver by the political and insolvent part of the banks and their confederate politicians.

The solvent banks will resume, and Congress cannot prevent them if it tried. They have received the aid which they need in the $100,000,000 of gold and silver which now relieves the country, and distresses the politicians who predicted no relief, until a national bank was

created. Of the nine hundred banks in the country, there are many which never can resume, and which should not attempt it, except to wind up their affairs. Many of these are rotten to the core, and will fall to pieces the instant they are put to the specie test. Some of them even fail now for rags; several have so failed in Massachusetts and Ohio, to say nothing of those called wild cats—the progeny of a general banking law in Michigan. We want a resumption to discriminate between banks, and to save the community from impositions.

We wanted specie, and we have got it. Five years ago—at the veto session of 1832—there were but twenty millions in the country. So said the senator from Massachusetts who has just resumed his seat [Mr. Webster]. We have now, or will have in a few weeks, one hundred millions. This is the salvation of the country. It compels resumption, and has defeated all the attempts to scourge the country into a submission to a national bank. While that one hundred millions remains, the country can place at defiance the machinations of the Bank of the United States, and its confederate politicians, to perpetuate the suspension, and to continue the reign of rags and shin-plasters. Their first object is to get rid of these hundred millions, and all schemes yet tried have failed to counteract the Jacksonian policy. Ridicule was tried first; deportation of specie was tried next; a forced suspension has been continued for a year; the State governments and the people were vanquished, still the specie came in, because the federal government created a demand for it. This firm demand has frustrated all the schemes to drive off specie, and to deliver up the country to the dominion of the paper-money party. This demand has been the stumbling block of that party; and this resolution now comes to remove that stumbling block. It is the most revolting proposition ever made in this Congress! It is a flagrant violation of the constitution, by making paper money a tender both to and from the government. It is fraught with ruin and destruction to the public property, the public Treasury, and the public creditors. The notes of nine hundred banks are to be received into the Treasury, and disbursed from the Treasury. They are to be paid out as well as paid in. The ridiculous proviso of willingness to receive them on the part of the public creditor is an insult to him; for there is no choice—it is that or nothing. The disbursing officer does not offer hard money with one hand, and paper with the other, and tell the creditor to take his choice. No! he offers paper or nothing! To talk of willingness, when there is no choice, is insult, mockery and outrage. Great is the loss of popularity which this administration has sustained from paying out depreciated paper; great the deception which has been practised upon the government in representing this paper as being willingly received. Necessity, and not good will, ruled the creditor; indignation, resentment, and execrations on the administration, were the thanks with which he received it. This has disgraced and injured the administration more than all other causes put together; it has lost it tens of thousands of true friends. It is now getting into a condition to pay hard money; and this resolution comes to prevent such payment, and to continue and to perpetuate the ruinous paper-money payments. Defeat the resolution, and the government will quickly pay all demands upon it in gold and silver, and will recover its popularity; pass it, and paper money will continue to be paid out, and the administration will continue to lose ground.

The resolution proposes to make the notes of 900 banks the currency of the general government, and the mover of the resolution tells you, at the same time, that all these banks will fail! that they cannot continue specie payments if they begin! that nothing but a national bank can hold them up to specie payments, and that we have no such bank. This is the language of the mover; it is the language, also, of all his party; more than that—it is the language of Mr. Biddle's letter—that letter which is the true exposition of the principles and policy of the opposition party. Here, then, is a proposition to compel the administration, by law, to give up the public lands for the paper of banks which are to fail—to fill the Treasury with the paper of such banks—and to pay out such paper to the public creditors. This is the

proposition, and it is nothing but another form of accomplishing what was attempted in this chamber a few weeks ago, namely, a direct receipt of irredeemable paper money! That proposition was too naked and glaring; it was too rank and startling; it was rebuked and repulsed. A circuitous operation is now to accomplish what was then too rashly attempted by a direct movement. Receive the notes of 900 banks for the lands and duties; these 900 banks will all fail again;—so says the mover, because there is no king bank to regulate them. We have then lost our lands and revenues, and filled our Treasury with irredeemable paper. This is just the point aimed at by the original proposition to receive irredeemable paper in the first instance: it ends in the reception of such paper. If the resolution passes, there will be another explosion: for the receivability of these notes for the public dues, and especially for the public lands, will run out another vast expansion of the paper system—to be followed, of course, by another general explosion. The only way to save the banks is to hold them down to specie payments. To do otherwise, and especially to do what this resolution proposes, is to make the administration the instrument of its own disgrace and degradation—to make it join in the ruin of the finances and the currency—in the surrender of the national domain for broken bank paper—and in producing a new cry for a national bank, as the only remedy for the evils it has produced.

[The measure proposed by Mr. Clay was defeated, and the *experiment* of a specie currency for the government was continued.]

23. Resumption By The Pennsylvania United States Bank; And Others Which Followed Her Lead

The resumption by the New York banks had its effect. Their example was potent, either to suspend or resume. All the banks in the Union had followed their example in stopping specie payments: more than half of them followed them in recommencing payments. Those which did not recommence became obnoxious to public censure, and to the suspicion of either dishonesty or insolvency. At the head of this delinquent class stood the Bank of the United States, justly held accountable by the public voice for the delinquency of all the rest. Her position became untenable. She was compelled to descend from it; and, making a merit of necessity, she affected to put herself at the head of a general resumption; and in pursuance of that idea invited, in the month of July, through a meeting of the Philadelphia banks, a general meeting in that city on the 25th of that month, to consult and fix a time for resumption. A few banks sent delegates; others sent letters, agreeing to whatever might be done. In all there were one hundred and forty delegates, or letters, from banks in nine States; and these delegates and letters forming themselves into a general convention of banks, passed a resolution for a general resumption on the 13th of August ensuing. And thus ended this struggle to act upon the government through the distresses of the country, and coerce it into a repeal of the specie circular—into a recharter of the United States Bank—the restoration of the deposits—and the adoption of the notes of this bank for a national currency. The game had been overplayed. The public saw through it, and derived a lesson from it which put bank and state permanently apart, and led to the exclusive use of gold and silver by the federal government; and the exclusive keeping of its own moneys by its own treasurers. All right-minded people rejoiced at the issue of the struggle; but there were some that well knew that the resumption on the part of the Bank of the United States was hollow and deceptive—that she had no foundations, and would stop again, and for ever I said this to Mr. Van Buren at the time, and he gave the opinion I expressed a better acceptance than he had accorded to the previous one in February, 1837. Parting from him at the end of the session, 1838-’39, I said to him, this bank would stop before we meet again; that is to say, before I should return to Congress. It did so, and for ever. At meeting him the ensuing November, he was the first to remark upon the truth of these predictions.

24. Proposed Annexation Of Texas: Mr. Preston's Motion And Speech: Extracts

The republic of Texas had now applied for admission into the federal Union, as one of its States. Its minister at Washington, Memucan Hunt, Esq., had made the formal application to our executive government. That was one obstacle in the way of annexation removed. It was no longer an insult to her to propose to annex her; and she having consented, it referred the question to the decision of the United States. But there was still another objection, and which was insuperable: Texas was still at war with Mexico; and to annex her was to annex the war—a consequence which morality and policy equally rejected. Mr. Preston, of South Carolina, brought in a resolution on the subject—not for annexation, but for a legislative expression in favor of the measure, as a basis for a tripartite treaty between the United States, Mexico and Texas; so as to effect the annexation by the consent of all parties, to avoid all cause of offence; and unite our own legislative with the executive authority in accomplishing the measure. In support of this motion, he delivered a speech which, as showing the state of the question at the time, and presenting sound views, and as constituting a link in the history of the Texas annexation, is here introduced—some extracts to exhibit its leading ideas.

"The proposition which I now submit in regard to this prosperous and self-dependent State would be indecorous and presumptuous, had not the lead been given by Texas herself. It appears by the correspondence of the envoy extraordinary of that republic with our own government, that the question of annexation on certain terms and conditions has been submitted to the people of the republic, and decided in the affirmative by a very large majority; whereupon, and in pursuance of instructions from his government, he proposes to open a negotiation for the accomplishment of that object. The correspondence has been communicated upon a call from the House of Representatives, and thus the proposition becomes a fit subject for the deliberation of Congress. Nor is it proposed by my resolution, Mr. President, to do any thing which could be justly construed into cause of offence by Mexico. The terms of the resolution guard our relations with that republic; and the spirit in which it is conceived is entirely averse to any compromise of our national faith and honor, for any object, of whatever magnitude. More especially would I have our intercourse with Mexico characterized by fair dealing and moderation, on account of her unfortunate condition, resulting from a long-continued series of intestine dissensions, which all who have not been born to liberty must inevitably encounter in seeking for it. As long, therefore, as the pretensions of Mexico are attempted to be asserted by actual force, or as long as there is any reasonable prospect that she has the power and the will to resubjugate Texas, I do not propose to interfere. My own deliberate conviction, to be sure, is, that that period has already passed; and I beg leave to say that, in my judgment, there is more danger of an invasion and conquest of Mexico by Texas, than that this last will ever be reannexed to Mexico.

"I disavow, Mr. President, all hostile purposes, or even ill temper, towards Mexico; and I trust that I impugn neither the policy nor principles of the administration. I therefore feel myself at liberty to proceed to the discussion of the points made in the resolution, entirely disembarrassed of any preliminary obstacle, unless, indeed, the mode by which so important an act is to be effected may be considered as interposing a difficulty. If the object itself be within the competency of this government, as I shall hereafter endeavor to show, and both parties consent, every means mutually agreed upon would establish a joint obligation. The acquisition of new territory has heretofore been effected by treaty, and this mode of proceeding in regard to Texas has been proposed by her minister; but I believe it would

comport more with the importance of the measure, that both branches of the government should concur, the legislature expressing a previous opinion; and, this being done, all difficulties, of all kinds whatsoever, real or imaginary, might be avoided by a treaty tripartite between Mexico, Texas, and the United States, in which the assent and confirmation of Mexico (for a pecuniary consideration, if you choose) might be had, without infringing the acknowledged independence and free agency of Texas.

"The treaty, Mr. President, of 1819, was a great oversight on the part of the Southern States. We went into it blindly, I must say. The great importance of Florida, to which the public mind was strongly awakened at that time by peculiar circumstances, led us precipitately into a measure by which we threw a gem away that would have bought ten Floridas. Under any circumstances, Florida would have been ours in a short time; but our impatience induced us to purchase it by a territory ten times as large—a hundred times as fertile, and to give five millions of dollars into the bargain. Sir, I resign myself to what is done; I acquiesce in the inexorable past; I propose no wild and chimerical revolution in the established order of things, for the purpose of remedying what I conceive to have been wrong originally. But this I do propose: that we should seize the fair and just occasion now presented to remedy the mistake which was made in 1819; that we should repair as far as we can the evil effect of a breach of the constitution; that we should re-establish the integrity of our dismembered territory, and get back into our Union, by the just and honorable means providentially offered to us, that fair and fertile province which, in an evil hour, we severed from the confederacy.

"But the boundary line established by the treaty of 1819 not only deprives us of this extensive and fertile territory, but winds with "a deep indent" upon the valley of the Mississippi itself, running upon the Red River and the Arkansas. It places a foreign nation in the rear of our Mississippi settlements, and brings it within a stone's throw of that great outlet which discharges the commerce of half the Union. The mouth of the Sabine and the mouth of the Mississippi are of a dangerous vicinity. The great object of the purchase of Louisiana was to remove all possible interference of foreign States in the vast commerce of the outlet of so many States. By the cession of Texas, this policy was, to a certain extent, compromised.

"The committee, it appears to me, has been led to erroneous conclusions on this subject by a fundamental mistake as to the nature and character of our government; a mistake which has pervaded and perverted all its reasoning, and has for a long time been the abundant source of much practical mischief in the action of this government, and of very dangerous speculation. The mistake lies in considering this, as to its nature and powers, a consolidated government of one people, instead of a confederated government of many States. There is no one single act performed by the people of the United States, under the constitution, *as one people*. Even in the popular branch of Congress this distinction is maintained. A certain number of delegates is assigned to each State, and the people of each State elect for their own State. When the functionaries of the government assemble here, they have no source of power but the constitution, which prescribes, defines, and limits their action, and constitutes them, in their aggregate capacity, a trust or agency, for the performance of certain duties confided to them by various States or communities. This government is, therefore, a confederacy of sovereign States, associating themselves together for mutual advantages. They originally came together as sovereign States, having no authority and pretending to no power of reciprocal control. North Carolina and Rhode Island stood off for a time, refusing to join the confederacy, and at length came into it by the exercise of a sovereign discretion. So too of Missouri, who was a State fully organized and perfect, and self-governed, before she was a State of this Union; and, in the very nature of things, this has been the case with all the States heretofore admitted, and must always continue to be so. Where, then, is the difficulty of admitting another State into this confederacy? The power to admit new States is expressly

given. “New States may be admitted by the Congress into this Union.” By the very terms of the grant, they must be *States* before they are admitted; when admitted, they become States *of the Union*. The terms, restrictions, and principles upon which new States are to be received, are matters to be regulated by Congress, under the constitution.

“Heretofore, in the acquisition of Louisiana and Florida, France and Spain both stipulated that the inhabitants of the ceded territories should be incorporated in the Union of the United States as soon as may be consistent with the principles of the federal constitution, and admitted to all the privileges, rights, and immunities of the citizens of the United States. In compliance with this stipulation, Louisiana, Arkansas, and Missouri have been admitted into the Union, and at no distant day Florida will be. Now, if we contract with France and Spain for the admission of States, why shall we not with Texas? If France can sell to us her subjects and her territory, why cannot the people of Texas give themselves and their territory to us? Is it more consistent with our republican notions that men and territory can be transferred by the arbitrary will of a monarch, for a price, than that a free people may be associated with us by mutual consent?

“It is supposed that there is a sort of political impossibility, resulting from the nature of things, to effect the proposed union. The committee says that “the measure is in fact the union of *two* independent governments.” Certainly the *union* of twenty-seven “independent governments;” but the committee adds, that it should rather be termed the dissolution of both, and the formation of a new one, which, whether founded on the same or another written constitution, is, as to its identity, different from either. This can only be effected by the *summum jus*, &c.

“A full answer to this objection, even if many others were not at hand, as far as Texas is concerned, is contained in the fact that the *summum jus* has been exercised.

“Her citizens, by a unanimous vote, have decided in favor of annexation; and, according to the admission of the committee, this is sufficiently potent to dissolve their government, and to surrender themselves to be absorbed by ours. To receive this augmentation of our territory and population, manifestly does not dissolve this government, or even remodel it. Its identity is not disturbed. There is no appeal necessary to the *summum jus populi* for such a political arrangement on our part, even if the *summum jus populi* could be predicated of this government, which it cannot. Now, it is very obvious that two free States may associate for common purposes, and that these common purposes may be multiplied in number or increased in importance at the discretion of the parties. They may establish a common agency for the transaction of their business; and this may include a portion or all of their political functions. The new creation may be an agency if created by States, or a government if created by the people; for the people have a right to abolish and create governments. Does any one doubt whether Texas could rejoin the republic of Mexico? Why not, then, *re*join this republic?

“No one doubts that the States now composing this Union might have joined Great Britain after the declaration of independence. The learned committee would not contend that there was a political impossibility in the union of Scotland and England, or of Ireland and Britain; or that, in the nature of things, it would be impossible for Louisiana, if she were a sovereign State out of this Union, to join with the sovereign State of Texas in forming a new government.

“There is no point of view in which the proposition for annexation can be considered, that any serious obstacle in point of form presents itself. If this government be a confederation of States, then it is proposed to add another State to the confederacy. If this government be a

consolidation, then it is proposed to add to it additional territory and population. That we can annex, and afterwards admit, the cases of Florida and Louisiana prove. We can, therefore, deal with the people of Texas for the territory of Texas, and the people can be secured in the rights and privileges of the constitution, as were the subjects of Spain and France.

"The Massachusetts legislature experience much difficulty in ascertaining the mode of action by which the proposed annexation can be effected, and demand "in what form would be the practical exercise of the supposed power? In what department does it lie?" The progress of events already, in a great measure, answers this objection. Texas has taken the initiative. Her minister has introduced the subject to that department which is alone capable of receiving communications from foreign governments, and the executive has submitted the correspondence to Congress. The resolutions before you propose an expression of opinion by Congress, which, if made, the executive will doubtless address itself earnestly, in conjunction with the authorities of Texas, to the consummation of the joint wishes of the parties, which can be accomplished by treaty, emanating from one department of this government, to be carried into effect by the passage of all needful laws by the legislative department, and by the exercise of the express power of Congress to admit new States."

The proposition of Mr. Preston did not prevail; the period for the annexation of Texas had not yet arrived. War still existing between Mexico and Texas—the *status* of the two countries being that of war, although hostilities hardly existed—a majority of the Senate deemed it unadvisable even to take the preliminary steps towards annexation which his resolution proposed. A motion to lay the proposition on the table prevailed, by a vote of 24 to 14.

25. Debate Between Mr. Clay And Mr. Calhoun, Personal And Political, And Leading To Expositions And Vindications Of Public Conduct Which Belong To History

For seven years past Mr. Calhoun, while disclaiming connection with any party, had acted on leading measures with the opposition, headed by Messrs. Clay and Webster. Still disclaiming any such connection, he was found at the extra session co-operating with the administration. His co-operation with the opposition had given it the victory in many eventful contests in that long period; his co-operation with the Van Buren administration might turn the tide of victory. The loss or gain of a chief who in a nearly balanced state of parties, could carry victory to the side which he espoused, was an event not to be viewed without vexation by the party which he left. Resentment was as natural on one side as gratification was on the other. The democratic party had made no reproaches—(I speak of the debates in Congress)—when Mr. Calhoun left them; they debated questions with him as if there had been no cause for personal complaint. Not so with the opposition now when the course of his transit was reversed, and the same event occurred to themselves. They took deeply to heart this withdrawal of one of their leaders, and his appearance on the other side. It created a feeling of personal resentment against Mr. Calhoun which had manifested itself in several small side-blows at the extra session; and it broke out into systematic attack at the regular one. Some sharp passages took place between himself and Mr. Webster, but not of a kind to lead to any thing historical. He (Mr. Webster) was but slightly inclined towards that kind of speaking which mingles personality with argument, and lessens the weight of the adversary argument by reducing the weight of the speaker's character. Mr. Clay had a turn that way; and, certainly, a great ability for it. Invective, mingled with sarcasm, was one of the phases of his oratory. He was supreme at a *philippic* (taken in the sense of Demosthenes and Cicero), where the political attack on a public man's measure was to be enforced and heightened by a personal attack on his conduct. He owed much of his fascinating power over his hearers to the exercise of this talent—always so captivating in a popular assembly, and in the galleries of the Senate; not so much so in the Senate itself; and to him it naturally fell to become the organ of the feelings of his party towards Mr. Calhoun. And very cordially, and carefully, and amply, did he make preparation for it.

The storm had been gathering since September: it burst in February. It had been evidently waiting for an occasion: and found it in the first speech of Mr. Calhoun, of that session, in favor of Mr. Van Buren's recommendation for an independent treasury and a federal hard-money currency. This speech was delivered the 15th of February, and was strictly argumentative and parliamentary, and wholly confined to its subject. Four days thereafter Mr. Clay answered it; and although ready at an extemporaneous speech, he had the merit, when time permitted, of considering well both the matter and the words of what he intended to deliver. On this occasion he had had ample time; for the speech of Mr. Calhoun could not be essentially different from the one he delivered on the same subject at the extra session; and the personal act which excited his resentment was of the same date. There had been six months for preparation; and fully had preparation been made. The whole speech bore the impress of careful elaboration and especially the last part; for it consisted of two distinct parts—the first, argumentative, and addressed to the measure before the Senate: and was in fact, as well as in name, a reply. The second part was an attack, under the name of a reply,

and was addressed to the personal conduct of Mr. Calhoun, reproaching him with his desertion (as it was called), and taunting him with the company he had got into—taking care to remind him of his own former sad account of that company: and then, launching into a wider field, he threw up to him all the imputed political delinquencies of his life for near twenty years—skipping none from 1816 down to the extra session;—although he himself had been in close political friendship with this alleged delinquent during the greater part of that long time. Mr. Calhoun saw at once the advantage which this general and sweeping assault put into his hands. Had the attack been confined to the mere circumstance of quitting one side and joining the other, it might have been treated as a mere personality; and, either left unnoticed, or the account settled at once with some ready words of retort and justification. But in going beyond the act which gave the offence—beyond the cause of resentment, which was recent, and arraigning a member on the events of almost a quarter of a century of public life, he went beyond the limits of the occasion, and gave Mr. Calhoun the opportunity of explaining, or justifying, or excusing all that had ever been objected to him; and that with the sympathy in the audience with which attack for ever invests the rights of defence. He saw his advantage, and availed himself of it. Though prompt at a reply, he chose to make none in a hurry. A pause ensued Mr. Clay's conclusion, every one deferring to Mr. Calhoun's right of reply. He took the floor, but it was only to say that he would reply at his leisure to the senator from Kentucky.

He did reply, and at his own good time, which was at the end of twenty days; and in a way to show that he had "smelt the lamp," not of Demades, but of Demosthenes, during that time. It was profoundly meditated and elaborately composed: the matter solid and condensed; the style chaste, terse and vigorous; the narrative clear; the logic close; the sarcasm cutting: and every word bearing upon the object in view. It was a masterly oration, and like Mr. Clay's speech, divided into two parts; but the second part only seemed to occupy his feelings, and bring forth words from the heart as well as from the head. And well it might! He was speaking, not for life, but for character! and defending public character, in the conduct which makes it, and on high points of policy, which belonged to history—defending it before posterity and the present age, impersonated in the American Senate, before which he stood, and to whom he appealed as judges while invoking as witnesses. He had a high occasion, and he felt it; a high tribunal to plead before, and he rejoiced in it; a high accuser, and he defied him; a high stake to contend for, his own reputation: and manfully, earnestly, and powerfully did he defend it. He had a high example both in oratory, and in the analogies of the occasion, before him; and well had he looked into that example. I happened to know that in this time he refreshed his reading of the Oration on the Crown; and, as the delivery of his speech showed, not without profit. Besides its general cast, which was a good imitation, there were passages of a vigor and terseness—of a power and simplicity—which would recall the recollection of that masterpiece of the oratory of the world. There were points of analogy in the cases as well as in the speeches, each case being that of one eminent statesman accusing another, and before a national tribunal, and upon the events of a public life. More happy than the Athenian orator, the American statesman had no foul imputations to repel. Different from Æschines and Demosthenes, both himself and Mr. Clay stood above the imputation of corrupt action or motive. If they had faults, and what public man is without them? they were the faults of lofty natures—not of sordid souls; and they looked to the honors of their country—not its plunder—for their fair reward.

When Mr. Calhoun finished, Mr. Clay instantly arose, and rejoined—his rejoinder almost entirely directed to the personal part of the discussion, which from its beginning had been the absorbing part. Much stung by Mr. Calhoun's reply, who used the sword as well as the buckler, and with a keen edge upon it, he was more animated and sarcastic in the

rejoinder than in the first attack. Mr. Calhoun also rejoined instantly. A succession of brief and rapid rejoinders took place between them (chiefly omitted in this work), which seemed running to infinity, when Mr. Calhoun, satisfied with what he had done, pleasantly put an end to it by saying, he saw the senator from Kentucky was determined to have the last word; and he would yield it to him. Mr. Clay, in the same spirit, disclaimed that desire; and said no more. And thus the exciting debate terminated with more courtesy than that with which it had been conducted.

In all contests of this kind there is a feeling of violated decorum which makes each party solicitous to appear on the defensive, and for that purpose to throw the blame of commencing on the opposite side. Even the one that palpably throws the first stone is yet anxious to show that it was a defensive throw; or at least provoked by previous wrong. Mr. Clay had this feeling upon him, and knew that the *onus* of making out a defensive case fell upon him; and he lost no time in endeavoring to establish it. He placed his defence in the forepart of the attack. At the very outset of the personal part of his speech he attended to this essential preliminary, and found the justification, as he believed, in some expressions of Mr. Calhoun in his sub-treasury speech; and in a couple of passages in a letter he had written on a public occasion, after his return from the extra session—commonly called the Edgefield letter. In the speech he believed he found a reproach upon the patriotism of himself and friends in not following his (Mr. Calhoun's) "*lead*" in support of the administration financial and currency measures; and in the letter, an impeachment of the integrity and patriotism of himself and friends if they got into power; and also an avowal that his change of sides was for selfish considerations. The first reproach, that of lack of patriotism in not following Mr. Calhoun's lead, he found it hard to locate in any definite part of the speech; and had to rest it upon general expressions. The others, those founded upon passages in the letter, were definitely quoted; and were in these terms: "*I could not back and sustain those in such opposition in whose wisdom, firmness and patriotism I had no reason to confide."—"It was clear, with our joint forces (whigs and nullifiers) we could utterly overthrow and demolish them; but it was not less clear that the victory would enure, not to us, but exclusively to the benefit of our allies, and their cause.*" These passages were much commented upon, especially in the rejoinders; and the whole letter produced by Mr. Calhoun, and the meaning claimed for them fully stated by him.

In the speeches for and against the crown we see Demosthenes answering what has not been found in the speech of Eschines: the same anomaly took place in this earnest debate, as reported between Mr. Clay and Mr. Calhoun. The latter answers much which is not found in the published speech to which he is replying. It gave rise to some remark between the speakers during the rejoinders. Mr. Calhoun said he was replying to the speech as spoken. Mr. Clay said it was printed under his supervision—as much as to say he sanctioned the omissions. The fact is, that with a commendable feeling, he had softened some parts, and omitted others; for that which is severe enough in speaking, becomes more so in writing; and its omission or softening is a tacit retraction, and honorable to the cool reflection which condemns what passion, or heat, had prompted. But Mr. Calhoun did not accept the favor: and, neither party desiring quarter, the one answered what had been dropt, and the other re-produced it, with interest. In his rejoinders, Mr. Clay supplied all that had been omitted—and made additions to it.

This contest between two eminent men, on a theatre so elevated, in which the stake to each was so great, and in which each did his best, conscious that the eye of the age and of posterity was upon him, was an event in itself, and in their lives. It abounded with exemplifications of all the different sorts of oratory of which each was master: on one side—declamation, impassioned eloquence, vehement invective, taunting sarcasm: on the other—close reasoning,

chaste narrative, clear statement, keen retort. Two accessories of such contests (disruptions of friendships), were missing, and well—the pathetic and the virulent. There was no crying, or blackguarding in it—nothing like the weeping scene between Fox and Burke, when the heart overflowed with tenderness at the recollection of former love, now gone forever; nor like the virulent one when the gall, overflowing with bitterness, warned an ancient friend never to return as a spy to the camp which he had left as a deserter.

There were in the speeches of each some remarkable passages, such only as actors in the scenes could furnish, and which history will claim. Thus: Mr. Clay gave some inside views of the concoction of the famous compromise act of 1833; which, so far as they go, correspond with the secret history of the same concoction as given in one of the chapters on that subject in the first volume of this work. Mr. Clay's speech is also remarkable for the declaration that the protective system, which he so long advocated, was never intended to be permanent: that its only design was to give temporary encouragement to infant manufactures: and that it had fulfilled its mission. Mr. Calhoun's speech was also remarkable for admitting the power, and the expediency of incidental protection, as it was called; and on this ground he justified his support of the tariff of 1816—so much objected against him. He also gave his history of the compromise of 1833, attributing it to the efficacy of nullification and of the military attitude of South Carolina: which brought upon him the relentless sarcasm of Mr. Clay; and occasioned his explanation of his support of a national bank in 1816. He was chairman of the committee which reported the charter for that bank, and gave it the support which carried it through; with which he was reproached after he became opposed to the bank. He explained the circumstances under which he gave that support—such as I had often heard him state in conversation; and which always appeared to me to be sufficient to exempt him from reproach. At the same time (and what is but little known), he had the merit of opposing, and probably of defeating, a far more dangerous bank—one of fifty millions (equivalent to one hundred and twenty millions now), and founded almost wholly upon United States stocks—imposingly recommended to Congress by the then secretary of the Treasury, Mr. Alexander J. Dallas. The analytical mind of Mr. Calhoun, then one of the youngest members, immediately solved this monster proposition into its constituent elements; and his power of generalization and condensation, enabled him to express its character in two words—*lending our credit to the bank for nothing, and borrowing it back at six per cent. interest*. As an alternative, and not as a choice, he supported the national bank that was chartered, after twice defeating the monster bank of fifty millions founded on paper; for that monster was twice presented to Congress, and twice repulsed. The last time it came as a currency measure—as a bank to create a national currency; and as such was referred to a select committee on national currency, of which Mr. Calhoun was chairman. He opposed it, and fell into the support of the bank which was chartered. Strange that in this search for a national bank, the currency of the constitution seemed to enter no one's head. The revival of the gold currency was never suggested; and in that oblivion of gold, and still hunting a substitute in paper, the men who put down the first national bank did their work much less effectually that those who put down the second one.

The speech of each of these senators, so far as they constitute the personal part of the debate, will be given in a chapter of its own: the rejoinders being brief, prompt, and responsive each to the other, will be put together in another chapter. The speeches of each, having been carefully prepared and elaborated, may be considered as fair specimens of their speaking powers—the style of each different, but each a first class speaker in the branch of oratory to which he belonged. They may be read with profit by those who would wish to form an idea of the style and power of these eminent orators. Manner, and all that is comprehended under the head of delivery, is a different attribute; and there Mr. Clay had an advantage, which is

lost in transferring the speech to paper. Some of Mr. Calhoun's characteristics of manner may be seen in these speeches. He eschewed the studied exordiums and perorations, once so much in vogue, and which the rhetorician's rules teach how to make. A few simple words to announce the beginning, and the same to show the ending of his speech, was about as much as he did in that way; and in that departure from custom he conformed to what was becoming in a business speech, as his generally were; and also to what was suitable to his own intellectual style of speaking. He also eschewed the trite, familiar, and unparliamentary mode (which of late has got into vogue) of referring to a senator as, "my friend," or, "the distinguished," or, "the eloquent," or, "the honorable," &c. He followed the written rule of parliamentary law; which is also the clear rule of propriety, and referred to the member by his sitting-place in the Senate, and the State from which he came. Thus: "the senator from Kentucky who sits farthest from me;" which was a sufficient designation to those present, while for the absent, and for posterity the name (Mr. Clay) would be put in brackets. He also addressed the body by the simple collective phrase, "senators;" and this was, not accident, or fancy, but system, resulting from convictions of propriety; and he would allow no reporter to alter it.

Mr. Calhoun laid great stress upon his speech in this debate, as being the vindication of his public life; and declared, in one of his replies to Mr. Clay, that he rested his public character upon it, and desired it to be read by those who would do him justice. In justice to him, and as being a vindication of several measures of his mentioned in this work, not approvingly, a place is here given to it.

This discussion between two eminent men, growing out of support and opposition to the leading measures of Mr. Van Buren's administration, indissolubly connects itself with the passage of those measures; and gives additional emphasis and distinction to the era of the crowning policy which separated bank and state—made the government the keeper of its own money—repulsed paper money from the federal treasury—filled the treasury to bursting with solid gold; and did more for the prosperity of the country than any set of measures from the foundation of the government.

26. Debate Between Mr. Clay And Mr. Calhoun: Mr. Clay's Speech: Extracts

"Who, Mr. President, are the most conspicuous of those who perseveringly pressed this bill upon Congress and the American people? Its drawer is the distinguished gentleman in the white house not far off (Mr. Van Buren); its indorser is the distinguished senator from South Carolina, here present. What the drawer thinks of the indorser, his cautious reserve and stifled enmity prevent us from knowing. But the frankness of the indorser has not left us in the same ignorance with respect to his opinion of the drawer. He has often expressed it upon the floor of the Senate. On an occasion not very distant, denying him any of the noble qualities of the royal beast of the forest, he attributed to him those which belong to the most crafty, most skulking, and the meanest of the quadruped tribe. Mr. President, it is due to myself to say, that I do not altogether share with the senator from South Carolina in this opinion of the President of the United States. I have always found him, in his manners and deportment, civil, courteous, and gentlemanly; and he dispenses, in the noble mansion which he now occupies, one worthy the residence of the chief magistrate of a great people, a generous and liberal hospitality. An acquaintance with him of more than twenty years' duration has inspired me with a respect for the man, although, I regret to be compelled to say, I detest the magistrate.

"The eloquent senator from South Carolina has intimated that the course of my friends and myself, in opposing this bill, was unpatriotic, and that we ought to have followed in his lead; and, in a late letter of his, he has spoken of his alliance with us, and of his motives for quitting it. I cannot admit the justice of his reproach. We united, if, indeed, there were any alliance in the case, to restrain the enormous expansion of executive power; to arrest the progress of corruption; to rebuke usurpation; and to drive the Goths and Vandals from the capital; to expel Brennus and his horde from Rome, who, when he threw his sword into the scale, to augment the ransom demanded from the mistress of the world, showed his preference for gold; that he was a hard-money chieftain. It was by the much more valuable metal of iron that he was driven from her gates. And how often have we witnessed the senator from South Carolina, with woful countenance, and in doleful strains, pouring forth touching and mournful eloquence on the degeneracy of the times, and the downward tendency of the republic? Day after day, in the Senate, have we seen the displays of his lofty and impassioned eloquence. Although I shared largely with the senator in his apprehension for the purity of our institutions, and the permanency of our civil liberty, disposed always to look at the brighter side of human affairs, I was sometimes inclined to hope that the vivid imagination of the senator had depicted the dangers by which we were encompassed in somewhat stronger colors than they justified.

"The arduous contest in which we were so long engaged was about to terminate in a glorious victory. The very object for which the alliance was formed was about to be accomplished. At this critical moment the senator left us; he left us for the very purpose of preventing the success of the common cause. He took up his musket, knapsack, and shot-pouch, and joined the other party. He went, horse, foot, and dragoon; and he himself composed the whole corps. He went, as his present most distinguished ally commenced with his expunging resolution, *solitary and alone*. The earliest instance recorded in history, within my recollection, of an ally drawing off his forces from the combined army, was that of Achilles at the siege of Troy. He withdrew, with all his troops, and remained in the neighborhood, in sullen and dignified inactivity. But he did not join the Trojan forces; and when, during the

progress of the siege, his faithful friend fell in battle, he raised his avenging arm, drove the Trojans back into the gates of Troy, and satiated his vengeance by slaying Priam's noblest and dearest son, the finest hero in the immortal Iliad. But Achilles had been wronged, or imagined himself wronged, in the person of the fair and beautiful Briseis. We did no wrong to the distinguished senator from South Carolina. On the contrary, we respected him, confided in his great and acknowledged ability, his uncommon genius, his extensive experience, his supposed patriotism; above all, we confided in his stern and inflexible fidelity. Nevertheless, he left us, and joined our common opponents, distrusting and distrusted. He left us, as he tells us in the Edgefield letter, because the victory which our common arms were about to achieve, was not to enure to him and his party, but exclusively to the benefit of his allies and their cause. I thought that, actuated by patriotism (that noblest of human virtues), we had been contending together for our common country, for her violated rights, her threatened liberties, her prostrate constitution. Never did I suppose that personal or party considerations entered into our views. Whether, if victory shall ever again be about to perch upon the standard of the spoils party (the denomination which the senator from South Carolina has so often given to his present allies), he will not feel himself constrained, by the principles on which he has acted, to leave them, because it may not enure to the benefit of himself and his party, I leave to be adjusted between themselves.

"The speech of the senator from South Carolina was plausible, ingenious, abstract, metaphysical, and generalizing. It did not appear to me to be adapted to the bosoms and business of human life. It was aerial, and not very high up in the air, Mr. President, either—not quite as high as Mr. Clayton was in his last ascension in his balloon. The senator announced that there was a single alternative, and no escape from one or the other branch of it. He stated that we must take the bill under consideration, or the substitute proposed by the senator from Virginia. I do not concur in that statement of the case. There is another course embraced in neither branch of the senator's alternative; and that course is to do nothing,—always the wisest when you are not certain what you ought to do. Let us suppose that neither branch of the alternative is accepted, and that nothing is done. What, then, would be the consequence? There would be a restoration of the law of 1789, with all its cautious provisions and securities, provided by the wisdom of our ancestors, which has been so trampled upon by the late and present administrations. By that law, establishing the Treasury department, the treasure of the United States is to be received, kept, and disbursed by the treasurer, under a bond with ample security, under a large penalty fixed by law, and not left, as this bill leaves it, to the uncertain discretion of a Secretary of the Treasury. If, therefore, we were to do nothing, that law would be revived; the treasurer would have the custody, as he ought to have, of the public money, and doubtless he would make special deposits of it in all instances with safe and sound State banks; as in some cases the Secretary of the Treasury is now obliged to do. Thus, we should have in operation that very special deposit system, so much desired by some gentlemen, by which the public money would remain separate and unmixed with the money of banks.

"There is yet another course, unembraced by either branch of the alternative presented by the senator from South Carolina; and that is, to establish a bank of the United States, constituted according to the old and approved method of forming such an institution, tested and sanctioned by experience; a bank of the United States which should blend public and private interests, and be subject to public and private control; united together in such manner as to present safe and salutary checks against all abuses. The senator mistakes his own abandonment of that institution as ours. I know that the party in power has barricaded itself against the establishment of such a bank. It adopted, at the last extra session, the extraordinary and unprecedented resolution, that the people of the United States should not

have such a bank, although it might be manifest that there was a clear majority of them demanding it. But the day may come, and I trust is not distant, when the will of the people must prevail in the councils of her own government; and when it does arrive, a bank will be established.

"The senator from South Carolina reminds us that we denounced the pet bank system; and so we did, and so we do. But does it therefore follow that, bad as that system was, we must be driven into the acceptance of a system infinitely worse? He tells us that the bill under consideration takes the public funds out of the hands of the Executive, and places them in the hands of the law. It does no such thing. They are now without law, it is true, in the custody of the Executive; and the bill proposes by law to confirm them in that custody, and to convey new and enormous powers of control to the Executive over them. Every custodary of the public funds provided by the bill is a creature of the Executive, dependent upon his breath, and subject to the same breath for removal, whenever the Executive—from caprice, from tyranny, or from party motives—shall choose to order it. What safety is there for the public money, if there were a hundred subordinate executive officers charged with its care, whilst the doctrine of the absolute unity of the whole executive power, promulgated by the last administration, and persisted in by this, remains unrevoked and unrebuked?

"Whilst the senator from South Carolina professes to be the friend of State banks, he has attacked the whole banking system of the United States. He is their friend; he only thinks they are all unconstitutional! Why? Because the coining power is possessed by the general government; and that coining power, he argues, was intended to supply a currency of the precious metals; but the State banks absorb the precious metals, and withdraw them from circulation, and, therefore, are in conflict with the coining power. That power, according to my view of it, is nothing but a naked authority to stamp certain pieces of the precious metals, in fixed proportions of alloy and pure metal prescribed by law; so that their exact value be known. When that office is performed, the power is *functus officio*; the money passes out of the mint, and becomes the lawful property of those who legally acquire it. They may do with it as they please,—throw it into the ocean, bury it in the earth, or melt it in a crucible, without violating any law. When it has once left the vaults of the mint, the law maker has nothing to do with it, but to protect it against those who attempt to debase or counterfeit, and, subsequently, to pass it as lawful money. In the sense in which the senator supposes banks to conflict with the coining power, foreign commerce, and especially our commerce with China, conflicts with it much more extensively.

"The distinguished senator is no enemy to the banks; he merely thinks them injurious to the morals and industry of the country. He likes them very well, but he nevertheless believes that they levy a tax of twenty-five millions annually on the industry of the country! The senator from South Carolina would do the banks no harm; but they are deemed by him highly injurious to the planting interest! According to him, they inflate prices, and the poor planter sells his productions for hard money, and has to purchase his supplies at the swollen prices produced by a paper medium. The senator tells us that it has been only within a few days that he has discovered that it is illegal to receive bank notes in payment of public dues. Does he think that the usage of the government under all its administrations, and with every party in power, which has prevailed for nigh fifty years, ought to be set aside by a novel theory of his, just dreamed into existence, even if it possess the merit of ingenuity? The bill under consideration, which has been eulogized by the senator as perfect in its structure and details, contains a provision that bank notes shall be received in diminished proportions, during a term of six years. He himself introduced the identical principle. It is the only part of the bill that is emphatically his. How, then, can he contend that it is unconstitutional to receive bank notes in payment of public dues? I appeal from himself to himself."

“The doctrine of the senator in 1816 was, as he now states it, that bank notes being in fact received by the executive, although contrary to law, it was constitutional to create a Bank of the United States. And in 1834, finding that bank which was constitutional in its inception, but had become unconstitutional in its progress, yet in existence, it was quite constitutional to propose, as the senator did, to continue it twelve years longer.”

“The senator and I began our public career nearly together; we remained together throughout the war. We agreed as to a Bank of the United States—as to a protective tariff—as to internal improvements; and lately as to those arbitrary and violent measures which characterized the administration of General Jackson. No two men ever agreed better together in respect to important measures of public policy. We concur in nothing now.”

27. Debate Between Mr. Clay And Mr. Calhoun: Mr. Calhoun's Speech; Extracts

"I rise to fulfil a promise I made some time since, to notice at my leisure the reply of the senator from Kentucky farthest from me [Mr Clay], to my remarks, when I first addressed the Senate on the subject now under discussion.

"On comparing with care the reply with the remarks, I am at a loss to determine whether it is the most remarkable for its omissions or misstatements. Instead of leaving not a hair in the head of my arguments, as the senator threatened (to use his not very dignified expression), he has not even attempted to answer a large, and not the least weighty, portion; and of that which he has, there is not one fairly stated, or fairly answered. I speak literally, and without exaggeration; nor would it be difficult to establish to the letter what I assert, if I could reconcile it to myself to consume the time of the Senate in establishing a long series of negative propositions, in which they could take but little interest, however important they may be regarded by the senator and myself. To avoid so idle a consumption of the time, I propose to present a few instances of his misstatements, from which the rest may be inferred; and, that I may not be suspected of having selected them, I shall take them in the order in which they stand in his reply.

[The argumentative part omitted.]

"But the senator did not restrict himself to a reply to my arguments. He introduced personal remarks, which neither self-respect, nor a regard to the cause I support, will permit me to pass without notice, as adverse as I am to all personal controversies. Not only my education and disposition, but, above all, my conception of the duties belonging to the station I occupy, indisposes me to such controversies. We are sent here, not to wrangle, or indulge in personal abuse, but to deliberate and decide on the common interests of the States of this Union, as far as they have been subjected by the constitution to our jurisdiction. Thus thinking and feeling, and having perfect confidence in the cause I support, I addressed myself, when I was last up, directly and exclusively to the understanding, carefully avoiding every remark which had the least personal or party bearing. In proof of this, I appeal to you, senators, my witnesses and judges on this occasion. But it seems that no caution on my part could prevent what I was so anxious to avoid. The senator, having no pretext to give a personal direction to the discussion, made a premeditated and gratuitous attack on me. I say having no pretext; for there is not a shadow of foundation for the assertion that I called on him and his party to follow my lead, at which he seemed to take offence, as I have already shown. I made no such call, or any thing that could be construed into it. It would have been impertinent, in the relation between myself and his party, at any stage of this question; and absurd at that late period, when every senator had made up his mind. As there was, then, neither provocation nor pretext, what could be the motive of the senator in making the attack? It could not be to indulge in the pleasure of personal abuse—the lowest and basest of all our passions; and which is so far beneath the dignity of the senator's character and station. Nor could it be with the view to intimidation. The senator knows me too long, and too well, to make such an attempt. I am sent here by constituents as respectable as those he represents, in order to watch over their peculiar interests, and take care of the general concern; and if I were capable of being deterred by any one, or any consequence, in discharging my duty, from denouncing what I regarded as dangerous or corrupt, or giving a decided and zealous support to what I thought right and

expedient, I would, in shame and confusion, return my commission to the patriotic and gallant State I represent, to be placed in more resolute and trustworthy hands.

“If, then, neither the one nor the other of these be the motive, what, I repeat, can it be? In casting my eyes over the whole surface I can see but one, which is, that the senator, despairing of the sufficiency of his reply to overthrow my arguments, had resorted to personalities, in the hope, with their aid, to effect what he could not accomplish by main strength. He well knows that the force of an argument on moral or political subjects depends greatly on the character of him who advanced it; and that to cast suspicion on his sincerity or motive, or to shake confidence in his understanding, is often the most effectual mode to destroy its force. Thus viewed, his personalities may be fairly regarded as constituting a part of his reply to my argument; and we, accordingly, find the senator throwing them in front, like a skilful general, in order to weaken my arguments before he brought on his main attack. In repelling, then, his personal attacks, I also defend the cause which I advocate. It is against that his blows are aimed and he strikes at it through me, because he believes his blows will be the more effectual.

“Having given this direction to his reply, he has imposed on me a double duty to repel his attacks: duty to myself, and to the cause I support. I shall not decline its performance; and when it is discharged, I trust I shall have placed my character as far beyond the darts which he has hurled at it, as my arguments have proved to be above his abilities to reply to them. In doing this, I shall be compelled to speak of myself. No one can be more sensible than I am how odious it is to speak of one’s self. I shall endeavor to confine myself within the limits of the strictest propriety; but if any thing should escape me that may wound the most delicate ear, the odium ought in justice to fall not on me, but the senator, who, by his unprovoked and wanton attack, has imposed on me the painful necessity of speaking of myself.

“The leading charge of the senator—that on which all the others depend, and which, being overthrown, they fall to the ground—is that I have gone over; have left his side, and joined the other. By this vague and indefinite expression, I presume he meant to imply that I had either changed my opinion, or abandoned my principle, or deserted my party. If he did not mean one, or all; if I have changed neither opinions, principles, nor party, then the charge meant nothing deserving notice. But if he intended to imply, what I have presumed he did, I take issue on the fact—I meet and repel the charge. It happened, fortunately for me, fortunately for the cause of truth and justice, that it was not the first time that I had offered my sentiments on the question now under consideration. There is scarcely a single point in the present issue on which I did not explicitly express my opinion, four years ago, in my place here, when the removal of the deposits and the questions connected with it were under discussion—so explicitly as to repel effectually the charge of any change on my part; and to make it impossible for me to pursue any other course than I have without involving myself in gross inconsistency. I intend not to leave so important a point to rest on my bare assertion. What I assert stands on record, which I now hold in my possession, and intend, at the proper time, to introduce and read. But, before I do that, it will be proper I should state the questions now at issue, and my course in relation to them; so that, having a clear and distinct perception of them, you may, senators, readily and satisfactorily compare and determine whether my course on the present occasion coincides with the opinions I then expressed.

“There are three questions, as is agreed by all, involved in the present issue: Shall we separate the government from the banks, or shall we revive the league of State banks, or create a national bank? My opinion and course in reference to each are well known. I prefer the separation to either of the others; and, as between the other two, I regard a national bank as a more efficient, and a less corrupting fiscal agent than a league of State banks. It is also well

known that I have expressed myself on the present occasion hostile to the banking system, as it exists; and against the constitutional power of making a bank, unless on the assumption that we have the right to receive and treat bank-notes as cash in our fiscal operations, which I, for the first time, have denied on the present occasion. Now, I entertained and expressed all these opinions, on a different occasion, four years ago, except the right of receiving bank-notes, in regard to which I then reserved my opinion; and if all this should be fully and clearly established by the record, from speeches delivered and published at the time, the charge of the senator must, in the opinion of all, however prejudiced, sink to the ground. I am now prepared to introduce, and have the record read. I delivered two speeches in the session of 1833-'34, one on the removal of the deposits, and the other on the question of the renewal of the charter of the late bank. I ask the secretary to turn to the volume lying before him, and read the three paragraphs marked in my speech on the deposits. I will thank him to raise his voice, and read slowly, so that he may be distinctly heard; and I must ask you, senators, to give your attentive hearing; for on the coincidence between my opinions then and my course now, my vindication against this unprovoked and groundless charge rests.

"[The secretary of the Senate read as requested.]

"Such were my sentiments, delivered four years since, on the question of the removal of the deposits, and now standing on record; and I now call your attention senators, while they are fresh in your minds, and before other extracts are read, to the opinions I then entertained and expressed, in order that you may compare them with those that I have expressed, and the course I have pursued on the present occasion. In the first place, I then expressed myself explicitly and decidedly against the banking system, and intimated, in language too strong to be mistaken, that, if the question was then bank or no bank, as it now is, as far as government is concerned, I would not be found on the side of the bank. Now, I ask, I appeal to the candor of all, even the most prejudiced, is there any thing in all this contradictory to my present opinions or course? On the contrary, having entertained and expressed these opinions, could I, at this time, when the issue I then supposed is actually presented, have gone against the separation without gross inconsistency? Again, I then declared myself to be utterly opposed to a combination or league of State banks, as being the most efficient and corrupting fiscal agent the government could select, and more objectionable than a bank of the United States. I again appeal, is there a sentiment or a word in all this contradictory to what I have said, or done, on the present occasion? So far otherwise, is there not a perfect harmony and coincidence throughout, which, considering the distance of time and the difference of the occasion, is truly remarkable; and this extending to all the great and governing questions now at issue?

"To prove all this I again refer to the record. If it shall appear from it that my object was to disconnect the government gradually and cautiously from the banking system, and with that view, and that only, I proposed to use the Bank of the United States for a short time, and that I explicitly expressed the same opinions then as I now have on almost every point connected with the system; I shall not only have vindicated my character from the charge of the senator from Kentucky, but shall do more, much more to show that I did all an individual, standing alone, as I did, could do to avert the present calamities: and, of course, I am free from all responsibility for what has since happened. I have shortened the extracts, as far as was possible to do justice to myself, and have left out much that ought, of right, to be read in my defence, rather than to weary the Senate. I know how difficult it is to command attention to reading of documents; but I trust that this, where justice to a member of the body, whose character has been assailed, without the least provocation, will form an exception. The extracts are numbered, and I will thank the secretary to pause at the end of each, unless otherwise desired.

"[The secretary read as requested.]

"But the removal of the deposits was not the only question discussed at that remarkable and important session. The charter of the United States Bank was then about to expire. The senator from Massachusetts nearest to me [Mr. Webster], then at the head of the committee on finance, suggested, in his place, that he intended to introduce a bill to renew the charter. I clearly perceived that the movement, if made, would fail; and that there was no prospect of doing any thing to arrest the danger approaching, unless the subject was taken up on the broad question of the currency; and that if any connection of the government with the banks could be justified at all, it must be in that relation. I am not among those who believe that the currency was in a sound condition when the deposits were removed in 1834. I then believed, and experience has proved I was correct, that it was deeply and dangerously diseased; and that the most efficient measures were necessary to prevent the catastrophe which has since fallen on the circulation of the country. There was then not more than one dollar in specie, on an average, in the banks, including the United States Bank and all, for six of bank notes in circulation; and not more than one in eleven compared to liabilities of the banks; and this while the United States Bank was in full and active operation; which proves conclusively that its charter ought not to be renewed, if renewed at all, without great modifications. I saw also that the expansion of the circulation, great as it then was, must still farther increase; that the disease lay deep in the system; that the terms on which the charter of the Bank of England was renewed would give a western direction to specie, which, instead of correcting the disorder, by substituting specie for bank notes in our circulation, would become the basis of new banking operations that would greatly increase the swelling tide. Such were my conceptions then, and I honestly and earnestly endeavored to carry them into effect, in order to prevent the approaching catastrophe.

"The political and personal relations between myself and the senator from Massachusetts [Mr. Webster], were then not the kindest. We stood in opposition at the preceding session on the great question growing out of the conflict between the State I represented and the general government, which could not pass away without leaving unfriendly feelings on both sides; but where duty is involved, I am not in the habit of permitting my personal relations to interfere. In my solicitude to avoid coming dangers, I sought an interview, through a common friend, in order to compare opinions as to the proper course to be pursued. We met, and conversed freely and fully, but parted without agreeing. I expressed to him my deep regret at our disagreement, and informed him that, although I could not agree with him, I would throw no embarrassment in his way; but should feel it to be my duty, when he made his motion to introduce a bill to renew the charter of the bank, to express my opinion at large on the state of the currency and the proper course to be pursued; which I accordingly did. On that memorable occasion I stood almost alone. One party supported the league of State banks, and the other the United States Bank, the charter of which the senator from Massachusetts [Mr. Webster.] proposed to renew for six years. Nothing was left me but to place myself distinctly before the country on the ground I occupied, which I did fully and explicitly in the speech I delivered on the occasion. In justice to myself, I ought to have every word of it read on the present occasion. It would of itself be a full vindication of my course. I stated and enlarged on all the points to which I have already referred; objected to the recharter as proposed by the mover; and foretold that what has since happened would follow, unless something effectual was done to prevent it. As a remedy, I proposed to use the Bank of the United States as a temporary expedient, fortified with strong guards, in order to resist and turn back the swelling tide of circulation.

"After having so expressed myself, which clearly shows that my object was to use the bank for a time in such a manner as to break the connection with the system, without a shock to the

country or currency, I then proceed and examine the question, whether this could be best accomplished by the renewal of the charter of the United States Bank, or through a league of State banks. After concluding what I had to say on the subject, in my deep solicitude I addressed the three parties in the Senate separately, urging such motives as I thought best calculated to act on them; and pressing them to join me in the measure suggested, in order to avert approaching danger. I began with my friends of the State rights party, and with the administration. I have taken copious extracts from the address to the first, which will clearly prove how exactly my opinions then and now coincide on all questions connected with the banks. I now ask the secretary to read the extract numbered two.

"[The secretary read accordingly.]

"I regret to trespass on the patience of the Senate, but I wish, in justice to myself, to ask their attention to one more, which, though not immediately relating to the question under consideration, is not irrelevant to my vindication. I not only expressed my opinions freely in relation to the currency and the bank, in the speech from which such copious extracts have been read, but had the precaution to define my political position distinctly in reference to the political parties of the day, and the course I would pursue in relation to each. I then, as now, belonged to the party to which it is my glory ever to have been attached exclusively; and avowed, explicitly, that I belonged to neither of the two parties, opposition or administration, then contending for superiority; which of itself ought to go far to repel the charge of the senator from Kentucky, that I have gone over from one party to the other. The secretary will read the last extract.

"[The secretary read.]

"Such, senators, are my recorded sentiments in 1834. They are full and explicit on all the questions involved in the present issue, and prove, beyond the possibility of doubt, that I have changed no opinion, abandoned no principle, nor deserted any party. I stand now on the ground I stood then, and, of course, if my relations to the two opposing parties are changed—if I now act with those I then opposed, and oppose those with whom I then acted, the change is not in me. I, at least, have stood still. In saying this, I accuse none of changing. I leave others to explain their position, now and then, if they deem explanation necessary. But, if I may be permitted to state my opinion, I would say that the change is rather in the questions and the circumstances, than in the opinions or principles of either of the parties. The opposition were then, and are now, national bank men, and the administration, in like manner, were anti-national bank, and in favor of a league of State banks; while I preferred then, as now, the former to the latter, and a divorce from banks to either. When the experiment of the league failed, the administration were reduced to the option between a national bank and a divorce. They chose the latter, and such, I have no reason to doubt, would have been their choice, had the option been the same four years ago. Nor have I any doubt, had the option been then between a league of banks and divorce, the opposition then, as now, would have been in favor of the league. In all this there is more apparent than real change. As to myself, there has been neither. If I acted with the opposition and opposed the administration then, it was because I was openly opposed to the removal of the deposits and the league of banks, as I now am; and if I now act with the latter and oppose the former, it is because I am now, as then, in favor of a divorce, and opposed to either a league of State banks or a national bank, except, indeed, as the means of effecting a divorce gradually and safely. What, then, is my offence? What but refusing to abandon my first choice, the divorce from the banks, because the administration has selected it, and of going with the opposition for a national bank, to which I have been and am still opposed? That is all; and for this I am charged with going over—leaving one party and joining the other.

“Yet, in the face of all this, the senator has not only made the charge, but has said, in his place, that he heard, for the first time in his life, at the extra session, that I was opposed to a national bank! I could place the senator in a dilemma from which there is no possibility of escape. I might say to him, you have either forgot, or not, what I said in 1834. If you have not, how can you justify yourself in making the charge you have? But if you have—if you have forgot what is so recent, and what, from the magnitude of the question and the importance of the occasion, was so well calculated to impress itself on your memory, what possible value can be attached to your recollection or opinions, as to my course on more remote and less memorable occasions, on which you have undertaken to impeach my conduct? He may take his choice.

“Having now established by the record that I have changed no opinion, abandoned no principle, nor deserted any party, the charge of the senator, with all the aspersions with which he accompanied it, falls prostrate to the earth. Here I might leave the subject, and close my vindication. But I choose not. I shall follow the senator up, step by step, in his unprovoked, and I may now add, groundless attack, with blows not less decisive and victorious.

“The senator next proceeded to state, that in a certain document (if he named it, I did not hear him) I assigned as the reason why I could not join in the attack on the administration, that the benefit of the victory would not enure to myself, or my party; or, as he explained himself, because it would not place myself and them in power. I presume he referred to a letter, in answer to an invitation to a public dinner, offered me by my old and faithful friends and constituents of Edgefield, in approbation of my course at the extra session.

“[Mr. Clay. I do.]

“The pressure of domestic engagements would not permit me to accept their invitation; and, in declining it, I deemed it due to them and myself to explain my course, in its political and party bearing, more fully than I had done in debate. They had a right to know my reasons, and I expressed myself with the frankness due to the long and uninterrupted confidence that had ever existed between us.

“Having made these explanatory remarks, I now proceed to meet the assertion of the senator. I again take issue on the fact. I assigned no such reason as the senator attributes to me. I never dreamed nor thought of such a one; nor can any force of construction extort such from what I said. No; my object was not power or place, either for myself or party. I was far more humble and honest. It was to save ourselves and our principles from being absorbed and lost in a party, more numerous and powerful; but differing from us on almost every principle and question of policy.

“When the suspension of specie payments took place in May last (not unexpected to me), I immediately turned my attention to the event earnestly, considering it as an event pregnant with great and lasting consequences. Reviewing the whole ground, I saw nothing to change in the opinions and principles I had avowed in 1834; and I determined to carry them out, as far as circumstances and my ability would enable me. But I saw that my course must be influenced by the position which the two great contending parties might take in reference to the question. I did not doubt that the opposition would rally either on a national bank, or a combination of State banks, with Mr. Biddle’s at the head; but I was wholly uncertain what course the administration would adopt, and remained so until the message of the President was received and read by the secretary at his table. When I saw he went for a divorce, I never hesitated a moment. Not only my opinions and principles long entertained, and, as I have shown, fully expressed years ago, but the highest political motives, left me no alternative. I perceived at once that the object, to accomplish which we had acted in concert with the

opposition, had ceased: Executive usurpations had come to an end for the present: and that the struggle with the administration was no longer for power, but to save themselves. I also clearly saw, that if we should unite with the opposition in their attack on the administration, the victory over them, in the position they occupied, would be a victory over us and our principles. It required no sagacity to see that such would be the result. It was as plain as day. The administration had taken position, as I have shown, on the very ground I occupied in 1834; and which the whole State rights party had taken at the same time in the other House, as its journals will prove. The opposition, under the banner of the bank, were moving against them for the very reason that they had taken the ground they did.

"Now, I ask, what would have been the result if we had joined in the attack? No one can now doubt that the victory over those in power would have been certain and decisive, nor would the consequences have been the least doubtful. The first fruit would have been a national bank. The principles of the opposition, and the very object of the attack, would have necessarily led to that. We would have been not only too feeble to resist, but would have been committed by joining in the attack with its avowed object to go for one, while those who support the administration would have been scattered in the winds. We should then have had a bank—that is clear; nor is it less certain, that in its train there would have followed all the consequences which have and ever will follow, when tried—high duties, overflowing revenue, extravagant expenditures, large surpluses; in a word, all those disastrous consequences which have well near overthrown our institutions, and involved the country in its present difficulties. The influence of the institution, the known principles and policy of the opposition, and the utter prostration of the administration party, and the absorption of ours, would have led to these results as certainly as we exist.

"I now appeal, senators, to your candor and justice, and ask, could I, having all these consequences before me, with my known opinions and that of the party to which I belong, and to which only I owe fidelity, have acted differently from what I did? Would not any other course have justly exposed me to the charge of having abandoned my principles and party, with which I am now accused so unjustly? Nay, would it not have been worse than folly—been madness in me, to have taken any other? And yet, the grounds which I have assumed in this exposition are the very *reasons* assigned in my letter, and which the senator has perverted most unfairly and unjustly into the pitiful, personal, and selfish reason, which he has attributed to me. Confirmative of what I say, I again appeal to the record. The secretary will read the paragraph marked in my Edgefield letter, to which, I presume, the senator alluded.

"[The secretary of the Senate reads:]

"As soon as I saw this state of things, I clearly perceived that a very important question was presented for our determination, which we were compelled to decide forthwith—shall we continue our joint attack with the Nationals on those in power, in the new position which they have been compelled to occupy? It was clear, with our joint forces, we could utterly overthrow and demolish them; but it was not less clear that the victory would enure, not to us, but exclusively to the benefit of our allies and their cause. They were the most numerous and powerful, and the point of assault on the position which the party to be assaulted had taken in relation to the banks, would have greatly strengthened the settled principles and policy of the National party, and weakened, in the same degree, ours. They are, and ever have been, the decided advocates of a national bank; and are now in favor of one with a capital so ample as to be sufficient to control the State institutions, and to regulate the currency and exchanges of the country. To join them with their avowed object in the attack to overthrow those in power, on the ground they occupied against a bank, would, of course, not only have placed the government and country in their hands without opposition, but would have committed us,

beyond the possibility of extrication, for a bank; and absorbed our party in the ranks of the National Republicans. The first fruits of the victory would have been an overshadowing National Bank, with an immense capital, not less than from fifty to a hundred millions; which would have centralized the currency and exchanges, and with them the commerce and capital of the country, in whatever section the head of the institution might be placed. The next would be the indissoluble union of the political opponents, whose principles and policy are so opposite to ours, and so dangerous to our institutions, as well as oppressive to us.

"I now ask, is there any thing in this extract which will warrant the construction that the senator has attempted to force on it? Is it not manifest that the expression on which he fixes, that the victory would enure, not to us, but exclusively to the benefit of the opposition, alludes not to power or place, but to principle and policy? Can words be more plain? What then becomes of all the aspersions of the senator, his reflections about selfishness and the want of patriotism, and his allusions and illustrations to give them force and effect? They fall to the ground without deserving a notice, with his groundless accusation.

"But, in so premeditated and indiscriminate an attack, it could not be expected that my motives would entirely escape; and we accordingly find the senator very charitably leaving it to time to disclose my motive for going over. Leave it to time to disclose my motive for going over! I who have changed no opinion, abandoned no principle, and deserted no party: I, who have stood still, and maintained my ground against every difficulty, to be told that it is left to time to disclose my motive! The imputation sinks to the earth with the groundless charge on which it rests. I stamp it with scorn in the dust. I pick up the dart, which fell harmless at my feet. I hurl it back. What the senator charges on me unjustly, *he has actually done*. He went over on a memorable occasion, and did not leave it to time to disclose his motive.

"The senator next tells us that I bore a character for stern fidelity; which he accompanied with remarks implying that I had forfeited it by my course on the present occasion. If he means by stern fidelity a devoted attachment to duty and principle, which nothing can overcome, the character is, indeed, a high one; and I trust, not entirely unmerited. I have, at least, the authority of the senator himself for saying that it belonged to me before the present occasion, and it is, of course, incumbent on him to show that I have since forfeited it. He will find the task a Herculean one. It would be by far more easy to show the opposite; that, instead of forfeiting, I have strengthened my title to the character; instead of abandoning any principles, I have firmly adhered to them; and that too, under the most appalling difficulties. If I were to select an instance in the whole course of my life on which, above all others, to rest my claim to the character which the senator attributed to me, it would be this very one, which he has selected to prove that I have forfeited it.

"I acted with the full knowledge of the difficulties I had to encounter, and the responsibility I must incur. I saw a great and powerful party, probably the most powerful in the country, eagerly seizing on the catastrophe which had befallen the currency, and the consequent embarrassments that followed, to displace those in power, against whom they had been long contending. I saw that, to stand between them and their object, I must necessarily incur their deep and lasting displeasure. I also saw that, to maintain the administration in the position they had taken—to separate the government from the banks, I would draw down on me, with the exception of some of the southern banks, the whole weight of that extensive, concentrated, and powerful interest—the most powerful by far of any in the whole community; and thus I would unite against me a combination of political and moneyed influence almost irresistible. Nor was this all. I could not but see that, however pure and disinterested my motives, and however consistent my course with all I had ever said or done,

I would be exposed to the very charges and aspersions which I am now repelling. The ease with which they could be made, and the temptation to make them, I saw were too great to be resisted by the party morality of the day—as groundless as I have demonstrated them. But there was another consequence that I could not but foresee, far more painful to me than all others. I but too clearly saw that, in so sudden and complex a juncture, called on as I was to decide on my course instantly, as it were, on the field of battle, without consultation, or explaining my reasons, I would estrange for a time many of my political friends, who had passed through with me so many trials and difficulties, and for whom I feel a brother's love. But I saw before me the path of duty, and, though rugged, and hedged on all sides with these and many other difficulties, I did not hesitate a moment to take it. After I had made up my mind as to my course, in a conversation with a friend about the responsibility I would assume, he remarked that my own State might desert me. I replied that it was not impossible; but the result has proved that I under-estimated the intelligence and patriotism of my virtuous and noble State. I ask her pardon for the distrust implied in my answer; but I ask with assurance it will be granted, on the grounds I shall put it—that, in being prepared to sacrifice her confidence, as dear to me as light and life, rather than disobey on this great question, the dictates of my judgment and conscience, I proved myself worthy of being her representative.

"But if the senator, in attributing to me stern fidelity, meant, not devotion to principle, but to party, and especially the party of which he is so prominent a member, my answer is, that I never belonged to his party, nor owed it any fidelity; and, of course, could forfeit, in reference to it, no character for fidelity. It is true, we acted in concert against what we believed to be the usurpations of the Executive; and it is true that, during the time, I saw much to esteem in those with whom I acted, and contracted friendly relations with many; which I shall not be the first to forget. It is also true that a common party designation was applied to the opposition in the aggregate—not, however, with my approbation; but it is no less true that it was universally known that it consisted of two distinct parties, dissimilar in principle and policy, except in relation to the object for which they had united: the national republican party, and the portion of the State rights party which had separated from the administration, on the ground that it had departed from the true principles of the original party. That I belonged exclusively to that detached portion, and to neither the opposition nor administration party, I prove by my explicit declaration, contained in one of the extracts read from my speech on the currency in 1834. That the party generally, and the State which I represent in part, stood aloof from both of the parties, may be established from the fact that they refused to mingle in the party and political contests of the day. My State withheld her electoral vote in two successive presidential elections; and, rather than to bestow it on either the senator from Kentucky, or the distinguished citizen whom he opposed, in the first of those elections, she threw her vote on a patriotic citizen of Virginia, since deceased, of her own politics; but who was not a candidate; and, in the last, she refused to give it to the worthy senator from Tennessee near me (Judge White), though his principles and views of policy approach so much nearer to hers than that of the party to which the senator from Kentucky belongs.

"And here, Mr. President, I avail myself of the opportunity to declare my present political position, so that there may be no mistake hereafter. I belong to the old Republican State Rights party of '98. To that, and that alone, I owe fidelity, and by that I shall stand through every change, and in spite of every difficulty. Its creed is to be found in the Kentucky resolutions, and Virginia resolutions and report; and its policy is to confine the action of this government within the narrowest limits compatible with the peace and security of these States, and the objects for which the Union was expressly formed. I, as one of that party, shall support all who support its principles and policy, and oppose all who oppose them. I have

given, and shall continue to give, the administration a hearty and sincere support on the great question now under discussion, because I regard it as in strict conformity to our creed and policy; and shall do every thing in my power to sustain them under the great responsibility which they have assumed. But let me tell those who are more interested in sustaining them than myself, that the danger which threatens them lies not here, but in another quarter. This measure will tend to uphold them, if they stand fast, and adhere to it with fidelity. But, if they wish to know where the danger is, let them look to the fiscal department of the government. I said, years ago, that we were committing an error the reverse of the great and dangerous one that was committed in 1828, and to which we owe our present difficulties, and all we have since experienced. Then we raised the revenue greatly, when the expenditures were about to be reduced by the discharge of the public debt; and now we have doubled the disbursements, when the revenue is rapidly decreasing; an error, which, although probably not so fatal to the country, will prove, if immediate and vigorous measures be not adopted, far more so to those in power.

"But the senator did not confine his attack to my conduct and motives in reference to the present question. In his eagerness to weaken the cause I support, by destroying confidence in me, he made an indiscriminate attack on my intellectual faculties, which he characterized as metaphysical, eccentric, too much of genius, and too little common sense; and of course wanting a sound and practical judgment.

"Mr. President, according to my opinion, there is nothing of which those who are endowed with superior mental faculties ought to be more cautious, than to reproach those with their deficiency to whom Providence has been less liberal. The faculties of our mind are the immediate gift of our Creator, for which we are no farther responsible than for their proper cultivation, according to our opportunities, and their proper application to control and regulate our actions. Thus thinking, I trust I shall be the last to assume superiority on my part, or reproach any one with inferiority on his; but those who do not regard the rule, when applied to others, cannot expect it to be observed when applied to themselves. The critic must expect to be criticised; and he who points out the faults of others, to have his own pointed out.

"I cannot retort on the senator the charge of being metaphysical. I cannot accuse him of possessing the powers of analysis and generalization, those higher faculties of the mind (called metaphysical by those who do not possess them), which decompose and resolve into their elements the complex masses of ideas that exist in the world of mind—as chemistry does the bodies that surround us in the material world; and without which those deep and hidden causes which are in constant action, and producing such mighty changes in the condition of society, would operate unseen and undetected. The absence of these higher qualities of the mind is conspicuous throughout the whole course of the senator's public life. To this it may be traced that he prefers the specious to the solid, and the plausible to the true. To the same cause, combined with an ardent temperament, it is owing that we ever find him mounted on some popular and favorite measure, which he whips along, cheered by the shouts of the multitude, and never dismounts till he has rode it down. Thus, at one time, we find him mounted on the protective system, which he rode down; at another, on internal improvement; and now he is mounted on a bank, which will surely share the same fate, unless those who are immediately interested shall stop him in his headlong career. It is the fault of his mind to seize on a few prominent and striking advantages, and to pursue them eagerly without looking to consequences. Thus, in the case of the protective system, he was struck with the advantages of manufactures; and, believing that high duties was the proper mode of protecting them, he pushed forward the system, without seeing that he was enriching one portion of the country at the expense of the other; corrupting the one and alienating the other;

and, finally, dividing the community into two great hostile interests, which terminated in the overthrow of the system itself. So, now, he looks only to a uniform currency, and a bank as the means of securing it, without once reflecting how far the banking system has progressed, and the difficulties that impede its farther progress; that banking and politics are running together to their mutual destruction; and that the only possible mode of saving his favorite system is to separate it from the government.

"To the defects of understanding, which the senator attributes to me, I make no reply. It is for others, and not me, to determine the portion of understanding which it has pleased the Author of my being to bestow on me. It is, however, fortunate for me, that the standard by which I shall be judged is not the false, prejudiced, and, as I have shown, unfounded opinion which the senator has expressed; but my acts. They furnish materials, neither few nor scant, to form a just estimate of my mental faculties. I have now been more than twenty-six years continuously in the service of this government, in various stations, and have taken part in almost all the great questions which have agitated this country during this long and important period. Throughout the whole I have never followed events, but have taken my stand in advance, openly and freely avowing my opinions on all questions, and leaving it to time and experience to condemn or approve my course. Thus acting, I have often, and on great questions, separated from those with whom I usually acted, and if I am really so defective in sound and practical judgment as the senator represents, the proof, if to be found any where, must be found in such instances, or where I have acted on my sole responsibility. Now, I ask, in which of the many instances of the kind is such proof to be found? It is not my intention to call to the recollection of the Senate all such; but that you, senators, may judge for yourselves, it is due in justice to myself, that I should suggest a few of the most prominent, which at the time were regarded as the senator now considers the present; and then, as now, because where duty is involved, I would not submit to party trammels.

"I go back to the commencement of my public life, the war session, as it was usually called, of 1812, when I first took my seat in the other House, a young man, without experience to guide me, and I shall select, as the first instance, the Navy. At that time the administration and the party to which I was strongly attached were decidedly opposed to this important arm of service. It was considered anti-republican to support it; but acting with my then distinguished colleague, Mr. Cheves, who led the way, I did not hesitate to give it my hearty support, regardless of party ties. Does this instance sustain the charge of the senator?

"The next I shall select is the restrictive system of that day, the embargo, the non-importation and non-intercourse acts. This, too, was a party measure which had been long and warmly contested, and of course the lines of party well drawn. Young and inexperienced as I was, I saw its defects, and resolutely opposed it, almost alone of my party. The second or third speech I made, after I took my seat, was in open denunciation of the system; and I may refer to the grounds I then assumed, the truth of which have been confirmed by time and experience, with pride and confidence. This will scarcely be selected by the senator to make good his charge.

"I pass over other instances, and come to Mr. Dallas's bank of 1814-15. That, too, was a party measure. Banking was then comparatively but little understood, and it may seem astonishing, at this time, that such a project should ever have received any countenance or support. It proposed to create a bank of $50,000,000, to consist almost entirely of what was called then the war stocks; that is, the public debt created in carrying on the then war. It was provided that the bank should not pay specie during the war, and for three years after its termination, for carrying on which it was to lend the government the funds. In plain language, the government was to borrow back its own credit from the bank, and pay to the institution

six per cent. for its use. I had scarcely ever before seriously thought of banks or banking, but I clearly saw through the operation, and the danger to the government and country; and, regardless of party ties or denunciations, I opposed and defeated it in the manner I explained at the extra session. I then subjected myself to the very charge which the senator now makes; but time has done me justice, as it will in the present instance.

"Passing the intervening instances, I come down to my administration of the War Department, where I acted on my own judgment and responsibility. It is known to all, that the department, at that time, was perfectly disorganized, with not much less than $50,000,000 of outstanding and unsettled accounts; and the greatest confusion in every branch of service. Though without experience, I prepared, shortly after I went in, the bill for its organization, and on its passage I drew up the body of rules for carrying the act into execution; both of which remain substantially unchanged to this day. After reducing the outstanding accounts to a few millions, and introducing order and accountability in every branch of service, and bringing down the expenditure of the army from four to two and a half millions annually, without subtracting a single comfort from either officer or soldier, I left the department in a condition that might well be compared to the best in any country. If I am deficient in the qualities which the senator attributes to me, here in this mass of details and business it ought to be discovered. Will he look to this to make good his charge?

"From the war department I was transferred to the Chair which you now occupy. How I acquitted myself in the discharge of its duties, I leave it to the body to decide, without adding a word. The station, from its leisure, gave me a good opportunity to study the genius of the prominent measure of the day, called then the American system; of which I profited. I soon perceived where its errors lay, and how it would operate. I clearly saw its desolating effects in one section, and corrupting influence in the other; and when I saw that it could not be arrested here, I fell back on my own State, and a blow was given to a system destined to destroy our institutions, if not overthrown, which brought it to the ground. This brings me down to the present times, and where passions and prejudices are yet too strong to make an appeal, with any prospect of a fair and impartial verdict. I then transfer this, and all my subsequent acts, including the present, to the tribunal of posterity; with a perfect confidence that nothing will be found, in what I have said or done, to impeach my integrity or understanding.

"I have now, senators, repelled the attacks on me. I have settled the account and cancelled the debt between me and my accuser. I have not sought this controversy, nor have I shunned it when forced on me. I have acted on the defensive, and if it is to continue, which rests with the senator, I shall throughout continue so to act. I know too well the advantage of my position to surrender it. The senator commenced the controversy, and it is but right that he should be responsible for the direction it shall hereafter take. Be his determination what it may, I stand prepared to meet him."

28. Debate Between Mr. Clay And Mr. Calhoun Rejoinders By Each

Mr. Clay:—"As to the personal part of the speech of the senator from South Carolina, I must take the occasion to say that no man is more sincerely anxious to avoid all personal controversy than myself. And I may confidently appeal to the whole course of my life for the confirmation of that disposition. No man cherishes less than I do feelings of resentment; none forgets or forgives an injury sooner than I do. The duty which I had to perform in animadverting upon the public conduct and course of the senator from South Carolina was painful in the extreme; but it was, nevertheless, a public duty; and I shrink from the performance of no duty required at my hands by my country. It was painful, because I had long served in the public councils with the senator from South Carolina, admired his genius, and for a great while had been upon terms of intimacy with him. Throughout my whole acquaintance with him, I have constantly struggled to think well of him, and to ascribe to him public virtues. Even after his famous summerset at the extra session, on more than one occasion I defended his motives when he was assailed; and insisted that it was uncharitable to attribute to him others than those which he himself avowed. This I continued to do, until I read this most extraordinary and exceptionable letter: [Here Mr. Clay held up and exhibited to the Senate the Edgefield letter, dated at Fort Hill, November 3, 1837:] a letter of which I cannot speak in merited terms, without a departure from the respect which I owe to the Senate and to myself. When I read that letter, sir, its unblushing avowals, and its unjust reproaches cast upon my friends and myself, I was most reluctantly compelled to change my opinion of the honorable senator from South Carolina. One so distinguished as he is, cannot expect to be indulged with speaking as he pleases of others, without a reciprocal privilege. He cannot suppose that he may set to the right or the left, cut in and out, and *chasse*, among principles and parties as often as he pleases, without animadversion. I did, indeed, understand the senator to say, in his former speech, that we, the whigs, were unwise and *unpatriotic* in not uniting with him in supporting the bill under consideration. But in that Edgefield letter, among the motives which he assigns for leaving us, I understand him to declare that he could not 'back and sustain those in such opposition, in whose wisdom, firmness, and patriotism, I have no reason to confide.'

"After having written and published to the world such a letter as that, and after what has fallen from the senator, in the progress of this debate, towards my political friends, does he imagine that he can persuade himself and the country that he really occupies, on this occasion, a defensive attitude? In that letter he says:

"'I clearly saw that our bold and vigorous attacks had made a deep and successful impression. State interposition had overthrown the protective tariff, and with it the American system, and put a stop to the congressional usurpation; and the joint attacks of our party, and that of our old opponents, the national republicans, had effectually brought down the power of the Executive, and arrested its encroachments for the present. It was for that purpose we had united. True to our principle of opposition to the encroachment of power, from whatever quarter it might come, we did not hesitate, after overthrowing the protective system, and arresting legislative usurpation, to join the authors of that system, in order to arrest the encroachments of the Executive, although we differed as widely as the poles on almost every other question, and regarded the usurpation of the Executive but as a necessary consequence of the principles and policy of our new allies.'

“State interposition!—that is as I understand the senator from South Carolina; nullification, he asserts, overthrew the protective tariff and the American system. And can that senator, knowing what he knows, and what I know, deliberately make such an assertion here? I had heard similar boasts before, but did not regard them, until I saw them coupled in this letter with the imputation of a purpose on the part of my friends to disregard the compromise, and revive the high tariff. Nullification, Mr. President, overthrew the protective policy! No, sir. The compromise was not extorted by the terror of nullification. Among other more important motives that influenced its passage, it was a compassionate concession to the imprudence and impotency of nullification! The danger from nullification itself excited no more apprehension than would be felt by seeing a regiment of a thousand boys, of five or six years of age, decorated in brilliant uniforms, with their gaudy plumes and tiny muskets, marching up to assault a corps of 50,000 grenadiers, six feet high. At the commencement of the session of 1832, the senator from South Carolina was in any condition other than that of dictating terms. Those of us who were then here must recollect well his haggard looks and his anxious and depressed countenance. A highly estimable friend of mine, Mr. J. M. Clayton, of Delaware, alluding to the possibility of a rupture with South Carolina, and declarations of President Jackson with respect to certain distinguished individuals whom he had denounced and proscribed, said to me, on more than one occasion, referring to the senator from South Carolina and some of his colleagues, “They are clever fellows, and it will never do to let old Jackson hang them.” Sir, this disclosure is extorted from me by the senator.

“So far from nullification having overthrown the protective policy, in assenting to the compromise, it expressly sanctioned the constitutional power which it had so strongly controverted, and perpetuated it. There is protection from one end to the other in the compromise act; modified and limited it is true, but protection nevertheless. There is protection, adequate and abundant protection, until the year 1842; and protection indefinitely beyond it. Until that year, the biennial reduction of duties is slow and moderate, such as was perfectly satisfactory to the manufacturers. Now, if the system were altogether unconstitutional, as had been contended, how could the senator vote for a bill which continued it for nine years? Then, beyond that period, there is the provision for cash duties, home valuations, a long and liberal list of free articles, carefully made out by my friend from Rhode Island (Mr. Knight), expressly for the benefit of the manufacturers; and the power of discrimination, reserved also for their benefit; within the maximum rate of duty fixed in the act. In the consultations between the senator and myself in respect to the compromise act, on every point upon which I insisted he gave way. He was for a shorter term than nine years, and more rapid reduction. I insisted, and he yielded. He was for fifteen instead of twenty per cent. as the maximum duty; but yielded. He was against any discrimination within the limited range of duties for the benefit of the manufacturers; but consented. To the last he protested against home valuation, but finally gave way. Such is the compromise act; and the Senate will see with what propriety the senator can assert that nullification had overthrown the protective tariff and the American system. Nullification! which asserted the extraordinary principle that one of twenty-four members of a confederacy, by its separate action, could subvert and set aside the expressed will of the whole! Nullification! a strange, impracticable, incomprehensible doctrine, that partakes of the character of the metaphysical school of German philosophy, or would be worthy of the puzzling theological controversies of the middle ages.

“No one, Mr. President, in the commencement of the protective policy, ever supposed that it was to be perpetual. We hoped and believed that temporary protection extended to our infant manufactures, would bring them up, and enable them to withstand competition with those of Europe. We thought, as the wise French minister did, who, when urged by a British minister

to consent to the equal introduction into the two countries of their respective productions, replied that free trade might be very well for a country whose manufactures had reached perfection, but was not entirely adapted to a country which wished to build up its manufactures. If the protective policy were entirely to cease in 1842, it would have existed twenty-six years from 1816, or 18 from 1824; quite as long as, at either of those periods, its friends supposed might be necessary. But it does not cease then, and I sincerely hope that the provisions contained in the compromise act for its benefit beyond that period, will be found sufficient for the preservation of all our interesting manufactures. For one, I am willing to adhere to, and abide by the compromise in all its provisions, present and prospective, if its fair operation is undisturbed. The Senate well knows that I have been constantly in favor of a strict and faithful adherence to the compromise act. I have watched and defended it on all occasions. I desire to see it faithfully and inviolably maintained. The senator, too, from South Carolina, alleging that the South were the weaker party, has hitherto united with me in sustaining it. Nevertheless, he has left us, as he tells us in his Edgefield letter, because he apprehended that our principles would lead us to the revival of a high tariff.

"The senator from South Carolina proceeds, in his Edgefield letter, to say:

"'I clearly perceived that a very important question was presented for our determination, which we were compelled to decide forthwith: shall we continue our joint attack with the nationals on those in power, in the new position which they have been compelled to occupy? It was clear that, with our joint forces, we could utterly overthrow and demolish them. But it was not less clear that *the victory would enure not to us*, but exclusively to the benefit of our allies and their cause.'

"Thus it appears that in a common struggle for the benefit of our whole country, the senator was calculating upon the party advantages which would result from success. He quit us because he apprehended that he and his party would be absorbed by us. Well, what is to be their fate in his new alliance? Is there no absorption there? Is there no danger that the senator and his party will be absorbed by the administration party? Or does he hope to absorb that? Another motive avowed in the letter, for his desertion of us, is, that 'it would also give us the chance of effecting what is still more important to us, the union of the entire South.' What sort of an union of the South does the senator wish? Is not the South already united as a part of the common confederacy? Does he want any other union of it? I wish he would explicitly state. I should be glad, also, if he would define what he means by the South. He sometimes talks of the plantation or staple States. Maryland is partly a staple State. Virginia and North Carolina more so. And Kentucky and Tennessee have also staple productions. Are all these States parts of *his* South? I fear, Mr. President, that the political geography of the senator comprehends a much larger South than that South which is the object of his particular solicitude; and that, to find the latter, we should have to go to South Carolina; and, upon our arrival there, trace him to Fort Hill. This is the disinterested senator from South Carolina!

"But he has left no party, and joined no party! No! None. With the daily evidences before us of his frequent association, counselling and acting with the other party, he would tax our credulity too much to require us to believe that he has formed no connection with it. He may stand upon his reserved rights; but they must be mentally reserved, for they are not obvious to the senses. Abandoned no party? Why this letter proclaims his having quitted us, and assigns his reasons for doing it; one of which is, that we are in favor of that national bank which the senator himself has sustained about twenty-four years of the twenty-seven that he has been in public life. Whatever impression the senator may endeavor to make without the Senate upon the country at large, no man within the Senate, who has eyes to see, or ears to hear, can mistake his present position and party connection. If, in the speech which I addressed to the

Senate on a former day, there had been a single fact stated which was not perfectly true, or an inference drawn which was not fully warranted, or any description of his situation which was incorrect, no man would enjoy greater pleasure than I should do in rectifying the error. If, in the picture which I portrayed of the senator and his course, there be any thing which can justly give him dissatisfaction, he must look to the original and not to the painter. The conduct of an eminent public man is a fair subject for exposure and animadversion. When I addressed the Senate before, I had just perused this letter. I recollected all its reproaches and imputations against us, and those which were made or implied in the speech of the honorable senator were also fresh in my memory. Does he expect to be allowed to cast such imputations, and make such reproaches against others without retaliation? Holding myself amenable for my public conduct, I choose to animadvert upon his, and upon that of others, whenever circumstances, in my judgment, render it necessary; and I do it under all just responsibility which belongs to the exercise of such a privilege.

"The senator has thought proper to exercise a corresponding privilege towards myself; and, without being very specific, has taken upon himself to impute to me the charge of going over upon some occasion, and that in a manner which left my motive no matter of conjecture. If the senator mean to allude to the stale and refuted calumny of George Kremer, I assure him I can hear it without the slightest emotion; and if he can find any fragment of that rent banner to cover his own aberrations, he is perfectly at liberty to enjoy all the shelter which it affords. In my case there was no going over about it; I was a member of the House of Representatives, and had to give a vote for one of three candidates for the presidency. Mr. Crawford's unfortunate physical condition placed him out of the question. The choice was, therefore, limited to the venerable gentleman from Massachusetts, or to the distinguished inhabitant of the hermitage. I could give but one vote; and, accordingly, as I stated on a former occasion, I gave the vote which, before I left Kentucky, I communicated to my colleague [Mr. Crittenden], it was my intention to give in the contingency which happened. I have never for one moment regretted the vote I then gave. It is true, that the legislature of Kentucky had requested the representatives from that State to vote for General Jackson; but my own immediate constituents, I knew well, were opposed to his election, and it was their will, and not that of the legislature, according to every principle applicable to the doctrine of instructions, which I was to deposit in the ballot-box. It is their glory and my own never to have concurred in the elevation of General Jackson. They ratified and confirmed my vote, and every representative that they have sent to Congress since, including my friend, the present member, has concurred with me in opposition to the election and administration of General Jackson.

"If my information be not entirely incorrect, and there was any going over in the presidential election which terminated in February, 1825, the senator from South Carolina—and not I—went over. I have understood that the senator, when he ceased to be in favor of himself,—that is, after the memorable movement made in Philadelphia by the present minister to Russia (Mr. Dallas), withdrawing his name from the canvass, was the known supporter of the election of Mr. Adams. What motives induced him afterwards to unite in the election of General Jackson, I know not. It is not my habit to impute to others uncharitable motives, and I leave the senator to settle that account with his own conscience and his country. No, sir, I have no reproaches to make myself, and feel perfectly invulnerable to any attack from others, on account of any part which I took in the election of 1825. And I look back with entire and conscious satisfaction upon the whole course of the arduous administration which ensued.

"The senator from South Carolina thinks it to be my misfortune to be always riding some hobby, and that I stick to it till I ride it down. I think it is his never to stick to one long enough. He is like a courier who, riding from post to post, with relays of fresh horses, when

he changes his steed, seems to forget altogether the last which he had mounted. Now, it is a part of my pride and pleasure to say, that I never in my life changed my deliberate opinion upon any great question of national policy but once, and that was twenty-two years ago, on the question of the power to establish a bank of the United States. The change was wrought by the sad and disastrous experience of the want of such an institution, growing out of the calamities of war. It was a change which I made in common with Mr. Madison, two governors of Virginia, and the great body of the republican party, to which I have ever belonged.

"The distinguished senator sticks long to no hobby. He was once gayly mounted on that of internal improvements. We rode that double—the senator before, and I behind him. He quietly slipped off, leaving me to hold the bridle. He introduced and carried through Congress in 1816, the bill setting apart the large bonus of the Bank of the United States for internal improvements. His speech, delivered on that occasion, does not intimate the smallest question as to the constitutional power of the government, but proceeds upon the assumption of its being incontestable. When he was subsequently in the department of war, he made to Congress a brilliant report, sketching as splendid and magnificent a scheme of internal improvements for the entire nation, as ever was presented to the admiration and wonder of mankind.

"No, sir, the senator from South Carolina is free from all reproach of sticking to hobbies. He was for a bank of the United States in 1816. He proposed, supported, and with his accustomed ability, carried through the charter. He sustained it upon its admitted grounds of constitutionality, of which he never once breathed the expression of a doubt. During the twenty years of its continuance no scruple ever escaped from him as to the power to create it. And in 1834, when it was about to expire, he deliberately advocated the renewal of its term for twelve years more. How profound he may suppose the power of analysis to be, and whatever opinion he may entertain of his own metaphysical faculty,—can he imagine that any plain, practical, common sense man can ever comprehend how it is constitutional to prolong an unconstitutional bank for twelve years? He may have all the speeches he has ever delivered read to us in an audible voice by the secretary, and call upon the Senate attentively to hear them, beginning with his speech in favor of a bank of the United States in 1816, down to his speech *against* a bank of the United States, delivered the other day, and he will have made no progress in his task. I do not speak this in any unkind spirit, but I will tell the honorable senator when he will be consistent. He will be so, when he resolves henceforward, during the residue of his life, never to pronounce the word again. We began our public career nearly together; we remained together throughout the war and down to the peace. We agreed as to a bank of the United States—as to a protective tariff—as to internal improvements—and lately, as to those arbitrary and violent measures which characterized the administration of General Jackson. No two prominent public men ever agreed better together in respect to important measures of national policy. We concur now in nothing. We separate for ever."

Mr. Calhoun. "The senator from Kentucky says that the sentiments contained in my Edgefield letter then met his view for the first time, and that he read that document with equal pain and amazement. Now it happens that I expressed these self-same sentiments just as strongly in 1834, in a speech which was received with unbounded applause by that gentleman's own party; and of which a vast number of copies were published and circulated throughout the United States.

"But the senator tells us that he is among the most constant men in this world. I am not in the habit of charging others with inconsistency; but one thing I will say, that if the gentleman has

not changed *his principles*, he has most certainly changed *his company*; for, though he boasts of setting out in public life a republican of the school of '98, he is now surrounded by some of the most distinguished members of the old federal party. I do not desire to disparage that party. I always respected them as men, though I believed their political principles to be wrong. Now, either the gentleman's associates have changed, or he has; for they are now together, though belonging formerly to different and opposing parties—parties, as every one knows, directly opposed to each other in policy and principles.

"He says I was in favor of the tariff of 1816, and took the lead in its support. He is certainly mistaken again. It was in charge of my colleague and friend, Mr. Lowndes, chairman then of the committee of Ways and Means, as a revenue measure only. I took no other part whatever but to deliver an off-hand speech, at the request of a friend. The question of protection, as a constitutional question, was not touched at all. It was not made, if my memory serves me, for some years after. As to protection, I believe little of it, except what all admit was incidental to revenue, was contained in the act of 1816. As to my views in regard to protection at that early period, I refer to my remarks in 1813, when I opposed a renewal of the non-importation act, expressly on the ground of its giving too much protection to the manufacturers. But while I declared, in my place, that I was opposed to it on that ground, I at the same time stated that I would go as far as I could with propriety, when peace returned, to protect the capital which the war and the extreme policy of the government had turned into that channel. The senator refers to my report on internal improvement, when I was secretary of war; but, as usual with him, forgets to tell that I made it in obedience to a resolution of the House, to which I was bound to answer, and that I expressly stated I did not involve the constitutional question; of which the senator may now satisfy himself, if he will read the latter part of the report. As to the bonus bill, it grew out of the recommendation of Mr. Madison in his last message; and although I proposed that the bonus should be set apart for the purpose of internal improvement, leaving it to be determined thereafter, whether we had the power, or the constitution should be amended, in conformity to Mr. Madison's recommendation. I did not touch the question to what extent Congress might possess the power; and when requested to insert a direct recognition of the power by some of the leading members, I refused, expressly on the ground that, though I believed it existed, I had not made up my mind how far it extended. As to the bill, it was perfectly constitutional in my opinion then, and which still remains unchanged, to set aside the fund proposed, and with the object intended, but which could not be used without specific appropriations thereafter.

"In my opening remarks to-day, I said the senator's speech was remarkable, both for its omissions and mistakes; and the senator infers, with his usual inaccuracy, that I alluded to a difference between his spoken and printed speech, and that I was answering the latter. In this he was mistaken; I hardly ever read a speech, but reply to what is said here in debate. I know no other but the speech delivered here.

"As to the arguments of each of us, I am willing to leave them to the judgment of the country: his speech and arguments, and mine, will be read with the closer attention and deeper interest in consequence of this day's occurrence. It is all I ask."

Mr. Clay. "It is very true that the senator had on other occasions, besides his Edgefield letter, claimed that the influence arising from the interference of his own State had effected the tariff compromise. Mr. C. had so stated the fact when up before. But in the Edgefield letter the senator took new ground, he denounced those with whom he had been acting, as persons in whom he could have no confidence, and imputed to them the design of renewing a high tariff and patronizing extravagant expenditures, as the natural consequences of the establishment of a bank of the United States, and had presented this as a reason for his recent

course. When, said Mr. C., I saw a charge like this, together with an imputation of unworthy motives, and all this deliberately written and published, I could not but feel very differently from what I should have done under a mere casual remark.

”But the senator says, that if I have not changed principles, I have at least got into strange company. Why really, Mr. President, the gentleman has so recently changed his relations that he seems to have forgotten into what company he has fallen himself. He says that some of my friends once belonged to the federal party. Sir, I am ready to go into an examination with the honorable senator at any time, and then we shall see if there are not more members of that same old federal party amongst those whom the senator has so recently joined, than on our side of the house. The plain truth is, that it is the old federal party with whom he is now acting. For all the former grounds of difference which distinguished that party, and were the great subjects of contention between them and the republicans, have ceased from lapse of time and change of circumstances, with the exception of one, and that is the maintenance and increase of executive power. This was a leading policy of the federal party. A strong, powerful, and energetic executive was its favorite tenet. The leading members of that party had come out of the national convention with an impression that under the new constitution the executive arm was too weak. The danger they apprehended was, that the executive would be absorbed by the legislative department of the government; and accordingly the old federal doctrine was that the Executive must be upheld, that its influence must be extended and strengthened; and as a means to this, that its patronage must be multiplied. And what, I pray, is at this hour the leading object of that party, which the senator has joined, but this very thing? It was maintained in the convention by Mr. Madison, that to remove a public officer without valid cause, would rightfully subject a president of the United States to impeachment. But now not only is no reason required, but the principle is maintained that no reason can be asked. A is removed and B is put in his place, because such is the pleasure of the president.

“The senator is fond of the record. I should not myself have gone to it but for the infinite gravity and self-complacency with which he appeals to it in vindication of his own consistency. Let me then read a little from one of the very speeches in 1834, from which he has so liberally quoted, and called upon the secretary to read so loud, and the Senate to listen so attentively:

“‘But there is in my opinion a strong, if not an insuperable objection against resorting to this measure, resulting from the *fact* that an exclusive receipt of specie in the treasury would, to give it efficacy, and to prevent extensive speculation and fraud, require an entire disconnection on the part of the government, with the banking system, in all its forms, and a resort to the strong box, as the means of preserving and guarding its funds—a means, if practicable at all in the present state of things, liable to the objection of being *far less safe, economical, and efficient, than the present*.’”

“Here is a strong denunciation of that very system he is now eulogising to the skies. Here he deprecates a disconnection with all banks as a most disastrous measure; and, as the strongest argument against it, says that it will necessarily lead to the antiquated policy of the strong box. Yet, now the senator thinks the strong box system the wisest thing on earth. As to the acquiescence of the honorable senator in measures deemed by him unconstitutional, I only regret that he suddenly stopped short in his acquiescence. He was, in 1816, at the head of the finance committee, in the other House, having been put there by myself, *acquiescing* all the while in the doctrines of a bank, as perfectly sound, and reporting to that effect. He acquiesced for nearly twenty years, not a doubt escaping from him during the whole time. The year 1834 comes: the deposits are seized, the currency turned up side down, and the senator comes forward and proposes as a remedy a continuation of the Bank of the United

States for twelve years—here acquiescing once more; and as he tells us, in order to save the country. But if the salvation of the country would justify his acquiescence in 1816 and in 1834, I can only regret that he did not find it in his heart to acquiesce once more in what would have remedied all our evils.

"In regard to the tariff of 1816, has the senator forgotten the dispute at that time about the protection of the cotton manufacture? The very point of that dispute was, whether we had a right to give protection or not. He admits the truth of what I said, that the constitutional question as to the power of the government to protect our own industry was never raised before 1820 or 1822. It was but first hinted, then controverted, and soon after expanded into nullification, although the senator had supported the tariff of 1816 on the very ground that we had power. I do not now recollect distinctly his whole course in the legislature, but he certainly introduced the bonus bill in 1816, and sustained it by a speech on the subject of internal improvements, which neither expresses nor implies a doubt of the constitutional power. But why set apart a bonus, if the government had no power to make internal improvements? If he wished internal improvements, but conscientiously believed them unconstitutional, why did he not introduce a resolution proposing to amend the constitution? Yet he offered no such thing. When he produced his splendid report from the war department, what did he mean? Why did he tantalize us with that bright and gorgeous picture of canals and roads, and piers and harbors, if it was unconstitutional for us to touch the plan with one of our fingers? The senator says in reply, that this report did not broach the constitutional question. True. But why? Is there any other conclusion than that he did not entertain himself any doubt about it? What a most extraordinary thing would it be, should the head of a department, in his official capacity, present a report to both houses of Congress, proposing a most elaborate plan for the internal improvement of the whole union, accompanied by estimates and statistical tables, when he believed there was no power in either house to adopt any part of it. The senator dwells upon his consistency: I can tell him when he will be consistent—and that is when he shall never pronounce that word again."

Mr. Calhoun. "As to the tariff of 1816, I never denied that Congress have the power to impose a protective tariff for the purpose of revenue; and beyond that the tariff of 1816 did not go one inch. The question of the constitutionality of the protective tariff was never raised till some time afterwards.

"As to what the senator says of executive power, I, as much as he, am opposed to its augmentation, and I will go as far in preventing it as any man in this House. I maintain that the executive and judicial authorities should have no discretionary power, and as soon as they begin to exercise such power, the matter should be taken up by Congress. These opinions are well grounded in my mind, and I will go as far as any in bringing the Executive to this point. But, I believe, the Executive is now outstripped by the congressional power. He is for restricting the one. I war upon both.

"The senator says I assigned as a reason of my course at the extra session that I suspected that he and the gentleman with whom he acted would revive the tariff. I spoke not of the tariff, but a national bank. I believe that banks naturally and assuredly ally themselves to taxes on the community. The higher the taxes the greater their profits; and so it is with regard to a surplus and the government disbursements. If the banking power is on the side of a national bank, I see in that what may lead to all the consequences which I have described; and I oppose institutions that are likely to lead to such results. When the bank should receive the money of the government, it would ally itself to taxation, and it ought to be resisted on that ground. I am very glad that the question is now fairly met. The fate of the country depends on the point of separation; if there be a separation between the government and banks, the banks will be

on the republican side in opposition to taxes; if they unite, they will be in favor of the exercise of the taxing power.

“The senator says I acquiesced in the use of the banks because the banks existed. I did so because the connection existed. The banks were already used as depositories of the government, and it was impossible at once to reverse that state of things. I went on the ground that the banks were a necessary evil. The State banks exist; and would not he be a madman that would annihilate them because their respective bills are uncurrent in distant parts of the country? The work of creating them is done, and cannot be reversed; when once done, it is done for ever.

“I was formerly decided in favor of separating the banks and the government, but it was impossible then to make it, and it would have been followed by nothing but disaster. The senator says the separation already exists; but it is only contingent; whenever the banks resume, the connection will be legally restored. In 1834 I objected to the sub-treasury project, and I thought it not as safe as the system now before us. But it turns out that it was more safe, as appears from the argument of the senator from Delaware, (Mr. Bayard.) I was then under the impression that the banks were more safe but it proves otherwise.”

Mr. Clay. “If the senator would review his speech again, he would see there a plain and explicit denunciation of a sub-treasury system.

“The distinguished senator from South Carolina (I had almost said my friend from South Carolina, so lately and so abruptly has he bursted all amicable relations between us, independent of his habit of change, I think, when he finds into what federal doctrines and federal company he has gotten, he will be disposed soon to feel regret and to return to us,) has not, I am persuaded, weighed sufficiently the import of the unkind imputations contained in his Edgefield letter towards his former allies—imputations that their principles are dangerous to our institutions, and of their want of firmness and patriotism. I have read that singular letter again and again, with inexpressible surprise and regret; more, however, if he will allow me to say so, on his own than on our account.

“Mr. President, I am done; and I sincerely hope that the adjustment of the account between the senator and myself, just made, may be as satisfactory to him as I assure him and the Senate it is perfectly so to me.”

Mr. Calhoun. “I have more to say, but will forbear, as the senator appears desirous of having the last word.”

Mr. Clay. “Not at all.”

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The personal debate between Mr. Calhoun and Mr. Clay terminated for the day, and with apparent good feeling; but only to break out speedily on a new point, and to lead to further political revelations important to history. Mr. Calhoun, after a long alienation, personal as well as political, from Mr. Van Buren, and bitter warfare upon him, had become reconciled to him in both capacities, and had made a complimentary call upon him, and had expressed to him an approbation of his leading measures. All this was natural and proper after he had become a public supporter of these measures; but a manifestation of respect and confidence so decided, after a seven years’ perseverance in a warfare so bitter, could not be expected to pass without the imputation of sinister motives; and, accordingly, a design upon the presidency as successor to Mr. Van Buren was attributed to him. The opposition newspapers abounded with this imputation; and an early occasion was taken in the Senate to make it the subject of a public debate. Mr. Calhoun had brought into the Senate a bill to cede to the

several States the public lands within their limits, after a sale of the saleable parts at graduated prices, for the benefit of both parties—the new States and the United States. It was the same bill which he had brought in two years before; but Mr. Clay, taking it up as a new measure, inquired if it was an administration measure? whether he had brought it in with the concurrence of the President? If nothing more had been said Mr. Calhoun could have answered, that it was the same bill which he had brought in two years before, when he was in opposition to the administration; and that his reasons for bringing it in were the same now as then; but Mr. Clay went on to taunt him with his new relations with the chief magistrate, and to connect the bill with the visit to Mr. Van Buren and approval of his measures. Mr. Calhoun saw that the inquiry was only a vehicle for the taunt, and took it up accordingly in that sense: and this led to an exposition of the reasons which induced him to join Mr. Van Buren, and to explanations on other points, which belong to history. Mr. Clay began the debate thus:

"Whilst up, Mr. Clay would be glad to learn whether the administration is in favor of or against this measure, or stands neutral and uncommitted. This inquiry he should not make, if the recent relations between the senator who introduced this bill and the head of that administration, continued to exist; but rumors, of which the city, the circles, and the press are full, assert that those relations are entirely changed, and have, within a few days, been substituted by others of an intimate, friendly, and confidential nature. And shortly after the time when this new state of things is alleged to have taken place, the senator gave notice of his intention to move to introduce this bill. Whether this motion has or has not any connection with that adjustment of former differences, the public would, he had no doubt, be glad to know. At all events, it is important to know in what relation of support, opposition, or neutrality, the administration actually stands to this momentous measure; and he [Mr. C.] supposed that the senator from South Carolina, or some other senator, could communicate the desired information."

Mr. Calhoun, besides vindicating himself, rebuked the indecorum of making his personal conduct a subject of public remark in the Senate; and threw back the taunt by reminding Mr. Clay of his own change in favor of Mr. Adams.

"He said the senator from Kentucky had introduced other, and extraneous personal matter; and asked whether the bill had the sanction of the Executive; assigning as a reason for his inquiry, that, if rumor was to be credited, a change of personal relation had taken place between the President and myself within the last few days. He [Mr. C.] would appeal to the Senate whether it was decorous or proper that his personal relations should be drawn in question here. Whether he should establish or suspend personal relations with the President, or any other person, is a private and personal concern, which belongs to himself individually to determine on the propriety, without consulting any one, much less the senator. It was none of his concern, and he has no right to question me in relation to it.

"But the senator assumes that a change in my personal relations involves a change of political position; and it is on that he founds his right to make the inquiry. He judges, doubtless, by his own experience; but I would have him to understand, said Mr. C., that what may be true in his own case on a memorable occasion, is not true in mine. His political course may be governed by personal considerations; but mine, I trust, is governed strictly by my principles, and is not at all under the control of my attachments or enmities. Whether the President is personally my friend or enemy, has no influence over me in the discharge of my duties, as, I trust, my course has abundantly proved. Mr. C. concluded by saying, that he felt that these were improper topics to introduce here, and that he had passed over them as briefly as possible."

This retort gave new scope and animation to the debate, and led to further expositions of the famous compromise of 1833, which was a matter of concord between them at the time, and of discord ever since; and which, being much condemned in the first volume of this work, the authors of it are entitled to their own vindications when they choose to make them: and this they found frequent occasion to do. The debate proceeded:

"Mr. Clay contended that his question, as to whether this was an administration measure or not, was a proper one, as it was important for the public information. He again referred to the rumors of Mr. Calhoun's new relations with the President, and supposed from the declarations of the senator, that these rumors were true; and that his support, if not pledged, was at least promised conditionally to the administration. Was it of no importance to the public to learn that these pledges and compromises had been entered into?—that the distinguished senator had made his bow in court, kissed the hand of the monarch, was taken into favor, and agreed henceforth to support his edicts?"

This allusion to rumored pledges and conditions on which Mr. Calhoun had joined Mr. Van Buren, provoked a retaliatory notice of what the same rumor had bruited at the time that Mr. Clay became the supporter of Mr. Adams; and Mr. Calhoun said:

"The senator from Kentucky had spoken much of pledges, understandings, and political compromises, and sudden change of personal relations. He [said Mr. C.] is much more experienced in such things than I am. If my memory serves me, and if rumors are to be trusted, the senator had a great deal to do with such things, in connection with a distinguished citizen; now of the other House; and it is not at all surprising, from his experience then, in his own case, that he should not be indisposed to believe similar rumors of another now. But whether his sudden change of personal relations then, from bitter enmity to the most confidential friendship with that citizen, was preceded by pledges, understandings, and political compromises on the part of one or both, it is not for me to say. The country has long since passed on that."

All this taunt on both sides was mere irritation, having no foundation in fact. It so happened that the writer of this View, on each of these occasions (of sudden conjunctions with former adversaries), stood in a relation to know what took place. In one case he was confidential with Mr. Clay; in the other with Mr. Van Buren. In a former chapter he has given his testimony in favor of Mr. Clay, and against the imputed bargain with Mr. Adams: he can here give it in favor of Mr. Calhoun. He is entirely certain—as much so as it is possible to be in supporting a negative—that no promise, pledge, or condition of any kind, took place between Mr. Calhoun and Mr. Van Buren, in coming together as they did at this juncture. How far Mr. Calhoun might have looked to his own chance of succeeding Mr. Van Buren, is another question, and a fair one. The succession was certainly open in the democratic line. Those who stood nearest the head of the party had no desire for the presidency, but the contrary; and only wished a suitable chief magistrate at the head of the government—giving him a cordial support in all patriotic measures; and preserving their independence by refusing his favors. This allusion refers especially to Mr. Silas Wright; and if it had not been for a calamitous conflagration, there might be proof that it would apply to another. Both Mr. Wright and Mr. Benton refused cabinet appointments from Mr. Van Buren; and repressed every movement in their favor towards the presidency. Under such circumstances, Mr. Calhoun might have indulged in a vision of the democratic succession, after the second term of Mr. Van Buren, without the slippery and ignominious contrivance of attempting to contract for it beforehand. There was certainly a talk about it, and a sounding of public men. Two different friends of Mr. Calhoun, at two different times and places,—one in Missouri (Thomas Hudson, Esq.), and the other in Washington (Gov. William Smith, of Virginia),—inquired of this writer

whether he had said that he could not support Mr. Calhoun for the presidency, if nominated by a democratic convention? and were answered that he had, and because Mr. Calhoun was the author of nullification, and of measures tending to the dissolution of the Union. The answer went into the newspapers, without the agency of him who gave it, and without the reasons which he gave: and his opposition was set down to causes equally gratuitous and unfounded—one, personal ill-will to Mr. Calhoun; the other, a hankering after the place himself. But to return to Messrs. Clay and Calhoun. These reciprocal taunts having been indulged in, the debate took a more elevated turn, and entered the region of history. Mr. Calhoun continued:

"I will assure the senator, if there were pledges in his case, there were none in mine. I have terminated my long-suspended personal intercourse with the President, without the slightest pledge, understanding, or compromise, on either side. I would be the last to receive or exact such. The transition from their former to their present personal relation was easy and natural, requiring nothing of the kind. It gives me pleasure to say, thus openly, that I have approved of all the leading measures of the President, since he took the Executive chair, simply because they accord with the principles and policy on which I have long acted, and often openly avowed. The change, then, in our personal relations, had simply followed that of our political. Nor was it made suddenly, as the senator charges. So far from it, more than two years have elapsed since I gave a decided support to the leading measure of the Executive, and on which almost all others since have turned. This long interval was permitted to pass, in order that his acts might give assurance whether there was a coincidence between our political views as to the principles on which the government should be administered, before our personal relations should be changed. I deemed it due to both thus long to delay the change, among other reasons to discountenance such idle rumors as the senator alludes to. That his political course might be judged (said Mr. Calhoun) by the object he had in view, and not the suspicion and jealousy of his political opponents, he would repeat what he had said, at the last session, was his object. It is, said he, to obliterate all those measures which had originated in the national consolidation school of politics, and especially the senator's famous American system, which he believed to be hostile to the constitution and the genius of our political system, and the real source of all the disorders and dangers to which the country was, or had been, subject. This done, he was for giving the government a fresh departure, in the direction in which Jefferson and his associates would give, were they now alive and at the helm. He stood where he had always stood, on the old State rights ground. His change of personal relation, which gave so much concern to the senator, so far from involving any change in his principles or doctrines, grew out of them."

The latter part of this reply of Mr. Calhoun is worthy of universal acceptance, and perpetual remembrance. The real source of all the disorders to which the country was, or had been subject, was in the system of legislation which encouraged the industry of one part of the Union at the expense of the other—which gave rise to extravagant expenditures, to be expended unequally in the two sections of the Union—and which left the Southern section to pay the expenses of a system which exhausted her. This remarkable declaration of Mr. Calhoun was made in 1839—being four years after the slavery agitation had superseded the tariff agitation,—and which went back to that system of measures, of which protective tariff was the main-spring, to find, and truly find, the real source of all the dangers and disorders of the country—past and present. Mr. Clay replied:

"He had understood the senator as felicitating himself on the opportunity which had been now afforded him by Mr. C. of defining once more his political position; and Mr. C. must say that he had now defined it very clearly, and had apparently given it a new definition. The senator now declared that all the leading measures of the present administration had met his

approbation, and should receive his support. It turned out, then, that the rumor to which Mr. C. had alluded was true, and that the senator from South Carolina might be hereafter regarded as a supporter of this administration, since he had declared that all its leading measures were approved by him, and should have his support. As to the allusion which the senator from South Carolina had made in regard to Mr. C.'s support of the head of another administration [Mr. Adams], it occasioned Mr. C. no pain whatever. It was an old story, which had long been sunk in oblivion, except when the senator and a few others thought proper to bring it up. But what were the facts of that case? Mr. C. was then a member of the House of Representatives, to whom three persons had been returned, from whom it was the duty of the House to make a selection for the presidency. As to one of those three candidates, he was known to be in an unfortunate condition, in which no one sympathized with him more than did Mr. C. Certainly the senator from South Carolina did not. That gentleman was therefore out of the question as a candidate for the chief magistracy; and Mr. C. had consequently the only alternative of the illustrious individual at the Hermitage, or of the man who was now distinguished in the House of Representatives, and who had held so many public places with honor to himself, and benefit to the country. And if there was any truth in history, the choice which Mr. C. then made was precisely the choice which the senator from South Carolina had urged upon his friends. The senator himself had declared his preference of Adams to Jackson. Mr. C. made the same choice; and his constituents had approved it from that day to this, and would to eternity. History would ratify and approve it. Let the senator from South Carolina make any thing out of that part of Mr. C.'s public career if he could. Mr. C. defied him. The senator had alluded to Mr. C. as the advocate of compromise. Certainly he was. This government itself, to a great extent, was founded and rested on compromise; and to the particular compromise to which allusion had been made, Mr. C. thought no man ought to be more grateful for it than the senator from South Carolina. But for that compromise, Mr. C. was not at all confident that he would have now had the honor to meet that senator face to face in this national capitol."

The allusion in the latter part of this reply was to the President's declared determination to execute the laws upon Mr. Calhoun if an *overt* act of treason should be committed under the nullification ordinance of South Carolina; and the preparations for which (overt act) were too far advanced to admit of another step, either backwards or forwards; and from which most critical condition the compromise relieved those who were too deeply committed, to retreat without ruin, or to advance without personal peril. Mr. Calhoun's reply was chiefly directed to this pregnant allusion.

"The senator from Kentucky has said, Mr. President, that I, of all men, ought to be grateful to him for the compromise act."

[Mr. Clay. "I did not say 'to me.'"]

"The senator claims to be the author of that measure, and, of course, if there be any gratitude due, it must be to him. I, said Mr. Calhoun, made no allusion to that act; but as the senator has thought proper to refer to it, and claim my gratitude, I, in turn, now tell him I feel not the least gratitude towards him for it. The measure was necessary to save the senator politically: and as he has alluded to the subject, both on this and on a former occasion, I feel bound to explain what might otherwise have been left in oblivion. The senator was then compelled to compromise to save himself. Events had placed him flat on his back, and he had no way to recover himself but by the compromise. This is no after thought. I wrote more than half a dozen of letters home at the time to that effect. I shall now explain. The proclamation and message of General Jackson necessarily rallied around him all the steadfast friends of the senator's system. They withdrew their allegiance at once from him, and transferred it to

General Jackson. The senator was thus left in the most hopeless condition, with no more weight with his former partisans than this sheet of paper (raising a sheet from his desk). This is not all. The position which General Jackson had assumed, necessarily attracted towards him a distinguished senator from Massachusetts, not now here [Mr. Webster], who, it is clear, would have reaped all the political honors and advantages of the system, had the contest come to blows. These causes made the political condition of the senator truly forlorn at the time. On him rested all the responsibility, as the author of the system; while all the power and influence it gave, had passed into the hands of others. Compromise was the only means of extrication. He was thus forced by the action of the State, which I in part represent, against his system, by my counsel to compromise, in order to save himself. I had the mastery over him on the occasion."

This is historical, and is an inside view of history. Mr. Webster, in that great contest of nullification, was on the side of President Jackson, and the supreme defender of his great measure—the Proclamation of 1833; and the first and most powerful opponent of the measure out of which it grew. It was a splendid era in his life—both for his intellect, and his patriotism. No longer the advocate of classes, or interests, he appeared the great defender of the Union—of the constitution—of the country—and of the administration, to which he was opposed. Released from the bonds of party, and from the narrow confines of class and corporation advocacy, his colossal intellect expanded to its full proportions in the field of patriotism, luminous with the fires of genius; and commanding the homage, not of party, but of country. His magnificent harangues touched Jackson in his deepest-seated and ruling feeling—love of country! and brought forth the response which always came from him when the country was in peril, and a defender presented himself. He threw out the right hand of fellowship—treated Mr. Webster with marked distinction—commended him with public praise—and placed him on the roll of patriots. And the public mind took the belief, that they were to act together in future; and that a cabinet appointment, or a high mission, would be the reward of his patriotic service. (It was the report of such expected preferment that excited Mr. Randolph (then in no condition to bear excitement) against General Jackson.) It was a crisis in the political life of Mr. Webster. He stood in public opposition to Mr. Clay and Mr. Calhoun. With Mr. Clay he had a public outbreak in the Senate. He was cordial with Jackson. The mass of his party stood by him on the proclamation. He was at a point from which a new departure might be taken:—one at which he could not stand still: from which there must be advance, or recoil. It was a case in which *will*, more than *intellect*, was to rule. He was above Mr. Clay and Mr. Calhoun in intellect—below them in will. And he was soon seen co-operating with them (Mr. Clay in the lead), in the great measure condemning President Jackson. And so passed away the fruits of the golden era of 1833. It was to the perils of this conjunction (of Jackson and Webster) that Mr. Calhoun referred, as the forlorn condition from which the compromise relieved Mr. Clay: and, allowing to each the benefit of his assertion, history avails herself of the declarations of each in giving an inside view of personal motives for a momentous public act. And, without deciding a question of mastery in the disputed victory, History performs her task in recording the fact that, in a brief space, both Mr. Calhoun and Mr. Webster were seen following the lead of Mr. Clay in his great attack upon President Jackson in the session of 1834-'35.

"Mr. Clay, rejoining, said he had made no allusion to the compromise bill till it was done by the senator from South Carolina himself; he made no reference to the events of 1825 until the senator had himself set him the example; and he had not in the slightest and the most distant manner alluded to nullification until after the senator himself had called it up. The senator ought not to have introduced that subject, especially when he had gone over to the authors of the force bill and the proclamation. The senator from South Carolina said that he [Mr. C.]

was flat on his back, and that he was my master. Sir, I would not own him as my slave. He my master! and I compelled by him! And, as if it were impossible to go far enough in one paragraph, he refers to certain letters of his own to prove that I was flat on my back! and, that I was not only on my back, but another senator and the President had robbed me! I was flat on my back, and unable to do any thing but what the senator from South Carolina permitted me to do!

"Why, sir, [said Mr. C.] I gloried in my strength, and was compelled to introduce the compromise bill; and compelled, too, by the senator, not in consequence of the weakness, but of the strength, of my position. If it was possible for the senator from South Carolina to introduce one paragraph without showing the egotism of his character, he would not now acknowledge that he wrote letters home to show that he (Mr. C.) was flat on his back, while he was indebted to him for that measure which relieved him from the difficulties in which he was involved. Now, what was the history of the case? Flat as he was on his back, Mr. C. said he was able to produce that compromise, and to carry it through the Senate, in opposition to the most strenuous exertions of the gentleman who, the senator from South Carolina said, had supplanted him, and in spite of his determined and unceasing opposition. There was (said Mr. C.) a sort of necessity operating on me to compel me to introduce that measure. No necessity of a personal character influenced him; but considerations involving the interests, the peace and harmony of the whole country, as well as of the State of South Carolina, directed him in the course he pursued. He saw the condition of the senator from South Carolina and that of his friends; he saw the condition to which he had reduced the gallant little State of South Carolina by his unwise and dangerous measures; he saw, too, that we were on the eve of a civil war; and he wished to save the effusion of blood—the blood of our own fellow-citizens. That was one reason why he introduced the compromise bill. There was another reason that powerfully operated on him. The very interest that the tariff laws were enacted to protect—so great was the power of the then chief magistrate, and so rapidly was that power increasing—was in danger of being sacrificed. He saw that the protective system was in danger of being swept away entirely, and probably at the next session of Congress, by the tremendous power of the individual who then filled the Executive chair; and he felt that the greatest service that he could render it, would be to obtain for it 'a lease for a term of years,' to use an expression that had been heretofore applied to the compromise bill. He saw the necessity that existed to save the protective system from the danger which threatened it. He saw the necessity to advance the great interests of the nation, to avert civil war, and to restore peace and harmony to a distracted and divided country; and it was therefore that he had brought forward this measure. The senator from South Carolina, to betray still further and more strikingly the characteristics which belonged to him, said, that in consequence of his (Mr. C.'s) remarks this very day, all obligations towards him on the part of himself (Mr. Calhoun), of the State of South Carolina, and the whole South, were cancelled. And what right had the senator to get up and assume to speak of the whole South, or even of South Carolina herself? If he was not mistaken in his judgment of the political signs of the times, and if the information which came to him was to be relied on, a day would come, and that not very distant neither, when the senator would not dare to rise in his place and presume to speak as he had this day done, as the organ of the gallant people of the State he represented."

The concluding remark of Mr. Clay was founded on the belief, countenanced by many signs, that the State of South Carolina would not go with Mr. Calhoun in support of Mr. Van Buren; but he was mistaken. The State stood by her distinguished senator, and even gave her presidential vote for Mr. Van Buren at the ensuing election—being the first time she had voted in a presidential election since 1829. Mr. Grundy, and some other senators, put an end to this episodical and personal debate by turning the Senate to a vote on the bill before it.

29. Independent Treasury, Or, Divorce Of Bank And State: Passed In The Senate: Lost In The House Of Representatives

This great measure consisted of two distinct parts: 1. The *keeping* of the public moneys: 2. The hard money currency in which they were to be paid. The two measures together completed the system of financial reform recommended by the President. The adoption of either of them singly would be a step—and a step going half the distance—towards establishing the whole system: and as it was well supposed that some of the democratic party would balk at the hard money payments, it was determined to propose the measures singly. With this view the committee reported a bill for the Independent Treasury—that is to say, for the keeping of the government moneys by its own officers—without designating the currency to be paid to them. But there was to be a loss either way; for unless the hard money payments were made a part of the act in the first instance, Mr. Calhoun and some of his friends could not vote for it. He therefore moved an amendment to that effect; and the hard money friends of the administration supporting his motion, although preferring that it had not been made, and some others voting for it as making the bill obnoxious to some other friends of the administration, it was carried; and became a part of the bill. At the last moment, and when the bill had been perfected as far as possible by its friends, and the final vote on its passage was ready to be taken, a motion was made to strike out that section—and carried—by the helping vote of some of the friends of the administration—as was well remarked by Mr. Calhoun. The vote was, for striking out—*Messrs.* Bayard, Buchanan, Clay of Kentucky, Clayton (Jno. M.), Crittenden, Cuthbert, Davis of Mississippi, Fulton, Grundy, Knight, McKean, Merrick, Morris, Nicholas, Prentiss, Preston, Rives, Robbins, Robinson, Ruggles, Sevier, Smith of Indiana, Southard, Spence, Swift, Talmadge, Tipton, Wall, White, Webster, Williams—31. On the other hand only twenty-one senators voted for retaining the clause. They were—*Messrs.* Allen, of Ohio, Benton, Brown of North Carolina, Calhoun, Clay of Alabama, Hubbard of New Hampshire, King of Alabama, Linn of Missouri, Lumpkin of Georgia, Lyon of Michigan, Mouton of Louisiana, Niles, Norvell, Franklin Pierce, Roane of Virginia, Smith of Connecticut, Strange of North Carolina, Trotter of Mississippi, Robert J. Walker, Silas Wright, Young of Illinois—21.

This section being struck from the bill, Mr. Calhoun could no longer vote for it; and gave his reasons, which justice to him requires to be preserved in his own words:

“On the motion of the senator from Georgia (Mr. Cuthbert), the 23d section, which provides for the collection of the dues of the government in specie, was struck out, with the aid of a few on this side, and the entire opposition to the divorce on the other. That section provided for the repeal of the joint resolution of 1816, which authorizes the receipt of bank notes as cash in the dues of the public. The effects of this will be, should the bill pass in its present shape, that the government will collect its revenue and make its disbursements exclusively in bank notes; as it did before the suspension took place in May last. Things will stand precisely as they did then, with but a single exception, that the public deposits will be made with the officers of the government instead of the banks, under the provision of the deposit act of 1836. Thus far is certain. All agree that such is the fact; and such the effect of the passage of this bill as it stands. Now, he intended to show conclusively, that the difference between depositing the public money with the public officers, or with the banks themselves, was merely nominal, as far as the operation and profits of the banks were concerned; that they

would not make one cent less profit, or issue a single dollar less, if the deposits be kept by the officers of the government instead of themselves; and, of course, that the system would be equally subject to expansions and contractions, and equally exposed to catastrophes like the present, in the one, as the other, mode of keeping.

"But he had other and insuperable objections. In giving the bill originally his support, he was governed by a deep conviction that the total separation of the government and the banks was indispensable. He firmly believed that we had reached a point where the separation was absolutely necessary to save both government and banks. He was under a strong impression that the banking system had reached a point of decrepitude—that great and important changes were necessary to save it and prevent convulsions; and that the first step was a perpetual separation between them and the government. But there could be, in his opinion, no separation—no divorce—without collecting the public dues in the legal and constitutional currency of the country. Without that, all would prove a perfect delusion; as this bill would prove should it pass. We had no constitutional right to treat the notes of mere private corporations as cash; and if we did, nothing would be done.

"These views, and many others similar, he had openly expressed, in which the great body of the gentlemen around him had concurred. We stand openly pledged to them before the country and the world. We had fought the battle manfully and successfully. The cause was good, and having stood the first shock, nothing was necessary, but firmness; standing fast on our position to ensure victory—a great and glorious victory in a noble cause, which was calculated to effect a more important reformation in the condition of society than any in our time—he, for one, could not agree to terminate all those mighty efforts, at this and the extra session, by returning to a complete and perfect reunion with the banks in the worst and most dangerous form. He would not belie all that he had said and done, by voting for the bill as it now stood amended; and to terminate that which was so gloriously begun, in so miserable a farce. He could not but feel deeply disappointed in what he had reason to apprehend would be the result—to have all our efforts and labor thrown away, and the hopes of the country disappointed. All would be lost! No; he expressed himself too strongly. Be the vote what it may, the discussion would stand. Light had gone abroad. The public mind had been aroused, for the first time, and directed to this great subject. The intelligence of the country is every where busy in exploring its depths and intricacies, and would not cease to investigate till all its labyrinths were traced. The seed that has been sown will sprout and grow to maturity; the revolution that has been begun will go through, be our course what it may."

The vote was then taken on the passage of the bill, and it was carried—by the lean majority of two votes, which was only the difference of one voter. The affirmative vote was: Messrs. Allen, Benton, Brown, Clay of Alabama, Cuthbert, Fulton, Hubbard, King, Linn, Lumpkin, Lyon, Morris, Mouton, Niles, Norvell, Pierce, Roane, Robinson, Sevier, Smith of Connecticut, Strange, Trotter, Walker, Wall, Williams, Wright, Young—27. The negatives were: Messrs. Bayard, Buchanan, Calhoun, Clay of Kentucky, Clayton, Crittenden, Davies, Grundy, Knight, McKean, Merrick, Nicholas, Prentiss, Preston, Rives, Robbins, Ruggles, Smith of Indiana, Southard, Spence, Swift, Talmadge, Tipton, Webster, Hugh L. White—25.

The act having passed the Senate by this slender majority was sent to the House of Representatives; where it was lost by a majority of 14. This was a close vote in a house of 236 present; and the bill was only lost by several friends of the administration voting with the entire opposition. But a great point was gained. Full discussion had been had upon the subject, and the public mind was waked up to it.

30. Public Lands: Graduation Of Price: Pre-Emption System: Taxation When Sold

For all the new States composed territory belonging, or chiefly so to the federal government, the Congress of the United States became the local legislature, that is to say, in the place of a local legislature in all the legislation that relates to the primary disposition of the soil. In the old States this legislation belonged to the State legislatures, and might have belonged to the new States in virtue of their State sovereignty except by the "*compacts*" with the federal government at the time of their admission into the Union, in which they bound themselves, in consideration of land and money grants deemed equivalent to the value of the surrendered rights, not to interfere with the primary disposition of the public lands, nor to tax them while remaining unsold, nor for five years thereafter. These grants, though accepted as equivalents in the infancy of the States, were soon found to be very far from it, even in a mere moneyed point of view, independent of the evils resulting from the administration of domestic local questions by a distant national legislature. The taxes alone for a few years on the public lands would have been equivalent to all the benefits derived from the grants in the compacts. Composed of citizens from the old States where a local legislature administered the public lands according to the local interests—selling lands of different qualities for different prices, according to its quality—granting pre-emptions and donations to first settlers—and subjecting all to taxation as soon as it became public property; it was a national feeling to desire the same advantages; and for this purpose, incessant, and usually vain efforts were made to obtain them from Congress. At this session (1837-'38) a better progress was made, and bills passed for all the purposes through the Senate.

1. The graduation bill. This measure had been proposed for twelve years, and the full system embraced a plan for the speedy and final extinction of the federal title to all the lands within the new States. Periodical reductions of price at the rate of 25 cents per acre until reduced to 25 cents: a preference in the purchase to actual settlers, constituting a pre-emption right: donations to destitute settlers: and the cession of the refuse to States in which they lay:—these were the provisions which constituted the system and which were all contained in the first bills. But finding it impossible to carry all the provisions of the system in any one bill, it became necessary to secure what could be obtained. The graduation-bill was reduced to one feature—reduction of price; and that limited to two reductions, bringing down the price at the first reduction to one dollar per acre: at the next 75 cents per acre. In support of this bill Mr. Benton made a brief speech, from which the following are some passages:

"The bill comes to us now under more favorable auspices than it has ever done before. The President recommends it, and the Treasury needs the money which it will produce. A gentleman of the opposition [Mr. Clay], reproaches the President for inconsistency in making this recommendation; he says that he voted against it as senator heretofore, and recommends it as President now. But the gentleman forgets so tell us that Mr. Van Buren, when a member of the Senate, spoke in favor of the general object of the bill from the first day it was presented, and that he voted in favor of one degree of reduction—a reduction of the price of the public lands to one dollar per acre—the last session that he served here. Far from being inconsistent, the President, in this recommendation, has only carried out to their legitimate conclusions the principles which he formerly expressed, and the vote which he formerly gave.

“The bill, as modified on the motions of the senators from Tennessee and New Hampshire [Messrs. Grundy and Hubbard] stands shorn of half its original provisions. Originally it embraced four degrees of reduction, it now contains but two of those degrees. The two last—the fifty cent, and the twenty-five cent reductions, have been cut off. I made no objection to the motions of those gentlemen. I knew them to be made in a friendly spirit; I knew also that the success of their motions was necessary to the success of any part of the bill. Certainly I would have preferred the whole—would have preferred the four degrees of reduction. But this is a case in which the homely maxim applies, that half a loaf is better than no bread. By giving up half the bill, we may gain the other half; and sure I am that our constituents will vastly prefer half to nothing. The lands may now be reduced to one dollar for those which have been five years in market, and to seventy-five cents for those which have been ten years in market. The rest of the bill is relinquished for the present, not abandoned for ever. The remaining degrees of reduction will be brought forward hereafter, and with a better prospect of success, after the lands have been picked and culled over under the prices of the present bill. Even if the clauses had remained which have been struck out, on the motions of the gentlemen from Tennessee and New Hampshire, it would have been two years from December next, before any purchases could have been made under them. They were not to take effect until December, 1840. Before that time Congress will twice sit again; and if the present bill passes, and is found to work well, the enactment of the present rejected clauses will be a matter of course.

“This is a measure emphatically for the benefit of the agricultural interest—that great interest, which he declared to be the foundation of all national prosperity, and the backbone, and substratum of every other interest—which was, in the body politic, front rank for service, and rear rank for reward—which bore nearly all the burthens of government while carrying the government on its back—which was the fountain of good production, while it was the pack-horse of burthens, and the broad shoulders which received nearly all losses—especially from broken banks. This bill was for them; and, in voting for it, he had but one regret, and that was, that it did not go far enough—that it was not equal to their merits.”

The bill passed by a good majority—27 to 16; but failed to be acted upon in the House of Representatives, though favorably reported upon by its committee on the public lands.

2. The pre-emptive system. The provisions of the bill were simple, being merely to secure the privilege of first purchase to the settler on any lands to which the Indian title had been extinguished; to be paid for at the minimum price of the public lands at the time. A senator from Maryland, Mr. Merrick, moved to amend the bill by confining its benefits to citizens of the United States—excluding unnaturalized foreigners. Mr. Benton opposed this motion, in a brief speech.

“He was entirely opposed to the amendment of the senator from Maryland (Mr. Merrick). It proposed something new in our legislation. It proposed to make a distinction between aliens and citizens in the acquisition of property. Pre-emption rights had been granted since the formation of the government; and no distinction, until now, had been proposed, between the persons, or classes of persons, to whom they were granted. No law had yet excluded aliens from the acquisition of a pre-emption right, and he was entirely opposed to commencing a system of legislation which was to affect the property rights of the aliens who came to our country to make it their home. Political rights rested on a different basis. They involved the management of the government, and it was right that foreigners should undergo the process of naturalization before they acquired the right of sharing in the government. But the acquisition of property was another affair. It was a private and personal affair. It involved no question but that of the subsistence, the support, and the comfortable living of the alien and

his family. Mr. B. would be against the principle of the proposed amendment in any case, but he was particularly opposed to this case. Who were the aliens whom it proposed to affect? Not those who are described as paupers and criminals, infesting the purlieus of the cities, but those who had gone to the remote new States, and to the remote parts of those States, and into the depths of the wilderness, and there commenced the cultivation of the earth. These were the description of aliens to be affected; and if the amendment was adopted, they would be excluded from a pre-emption right in the soil they were cultivating, and made to wait until they were naturalized. The senator from Maryland (Mr. Merrick), treats this as a case of bounty. He treats the pre-emption right as a bounty from the government, and says that aliens have no right to this bounty. But, is this correct? Is the pre-emption a bounty? Far from it. In point of money, the pre-emptioner pays about as much as any other purchaser. He pays the government price, one dollar and twenty-five cents; and the table of land sales proves that nobody pays any more, or so little more that it is nothing in a national point of view. One dollar twenty-seven and a half cents per acre is the average of all the sales for fifteen years. The twenty millions of acres sold to speculators in the year 1836, all went at one dollar and twenty-five cents per acre. The pre-emption then is not a bounty, but a sale, and a sale for full price, and, what is more, for solid money; for pre-emptioners pay with gold and silver, and not with bank credits. Numerous were the emigrants from Germany, France, Ireland, and other countries, now in the West, and especially in Missouri, and he (Mr. B.) had no idea of imposing any legal disability upon them in the acquisition of property. He wished them all well. If any of them had settled upon the public lands, so much the better. It was an evidence of their intention to become citizens, and their labor upon the soil would add to its product and to the national wealth."

The motion of Mr. Merrick was rejected by a majority of 13. The yeas were: Messrs. Bayard, Clay of Kentucky, Clayton, Crittenden, Davis, Knight, Merrick, Prentiss, Preston, Rives, Robbins, Smith, of Indiana, Southard, Spence, Tallmadge, Tipton, 15. The nays were: Messrs. Allen, Benton, Brown, Buchanan, Calhoun, Clay, of Alabama, Cuthbert, Fulton, Grundy, Hubbard, King, Linn, Lumpkin, Lyon, Mouton, Nicholas, Niles, Nowell, Pierce, Roane, Robinson, Sevier, Walker, Webster, White, Williams, Wright, Young, of Illinois, (28.) The bill being then put to the vote, was passed by a majority of 14.

3. Taxation of public lands when sold. When the United States first instituted their land system, the sales were upon credit, at a minimum price of two dollars, payable in four equal annual payments, with a liability to revert if there should be any failure in the payments. During that time it was considered as public land, nor was the title passed until the patent issued—which might be a year longer. Five years, therefore, was the period fixed, during which the land so sold should be exempt from taxation by the State in which it lay. This continued to be the mode of sale, until the year 1821, when the credit was changed for the cash system, and the minimum price reduced to one dollar twenty-five cents per acre. The reason for the five years exemption from state taxation had then ceased, but the compacts remaining unaltered, the exemption continued. Repeated applications were made to Congress to consent to the modification of the compacts in that article; but always in vain. At this session the application was renewed on the part of the new States; and with success in the Senate, where the bill for that purpose passed nearly unanimously, the negatives being but four, to wit: Messrs. Brown, Clay of Kentucky, Clayton, Southard. Being sent to the H. R. it remained there without action till the end of the session.

31. Specie Basis For Banks: One Third Of The Amount Of Liabilities The Lowest Safe Proportion: Speech Of Mr. Benton On The Recharter Of The District Banks

This is a point of great moment—one on which the public mind has not been sufficiently awakened in this country, though well understood and duly valued in England. The charters of banks in the United States are usually drawn on this principle, that a certain proportion of the capital, and sometimes the whole of it, shall be paid up in gold or silver before the charter shall take effect. This is the usual provision, without any obligation on the bank to retain any part of this specie after it gets into operation; and this provision has too often proved to be illusory and deceptive. In many cases, the banks have borrowed the requisite amount for a day, and then returned it; in many other cases, the proportion of specie, though paid up in good faith, is immediately lent out, or parted with. The result to the public is about the same in both cases; the bank has little or no specie, and its place is supplied by the notes of other banks. The great vice of the banking system in the United States is in banking upon paper—upon the paper of each other—and treating this paper as cash. This may be safe among the banks themselves; it may enable them to settle with one another, and to liquidate reciprocal balances; but to the public it is nothing. In the event of a run upon a bank, or a general run upon all banks, it is specie, and not paper, that is wanted. It is specie, and not paper, which the public want, and must have.

The motion of the senator from Pennsylvania [Mr. Buchanan] is intended to remedy this vice in these District banks; it is intended to impose an obligation on these banks to keep in their vaults a quantum of specie bearing a certain proportion to the amount of their immediate liabilities in circulation and deposits. The gentleman's motion is well intended, but it is defective in two particulars: first, in requiring the proportion to be the one-fourth, instead of the one-third, and next, in making it apply to the private deposits only. The true proportion is one-third, and this to apply to all the circulation and deposits, except those which are special. This proportion has been fixed for a hundred years at the Bank of England; and just so often as that bank has fallen below this proportion, mischief has occurred. This is the sworn opinion of the present Governor of the Bank of England, and of the directors of that institution. Before Lord Althorpe's committee in 1832, Mr. Horsley Palmer, the Governor of the Bank, testified in these words:

"'The average proportion, as already observed, of coin and bullion which the bank thinks it prudent to keep on hand, is at the rate of a third of the total amount of all her liabilities, including deposits as well as issues.' Mr. George Ward Norman, a director of the bank, states the same thing in a different form of words. He says: 'For a full state of the circulation and the deposits, say twenty-one millions of notes and six millions of deposits, making in the whole twenty-seven millions of liabilities, the proper sum in coin and bullion for the bank to retain is nine millions.' Thus, the average proportion of one-third between the specie on hand and the circulation and deposits, must be considered as an established principle at that bank, which is quite the largest, and amongst the oldest—probably, the very oldest bank of circulation in the world."

The Bank of England is not merely required to keep on hand, in bullion, the one-third of its immediate liabilities; it is bound also to let the country see that it has, or has not, that

proportion on hand. By an act of the third year of William IV., it is required to make quarterly publications of the average of the weekly liabilities of the bank, that the public may see whenever it descends below the point of safety. Here is the last of these publications, which is a full exemplification of the rule and the policy which now governs that bank:

Quarterly average of the weekly liabilities and assets of the Bank of England, from the 12th December, 1837, to the 6th of March, 1838, both inclusive, published pursuant to the act 3 and William IV., cap. 98:

Liabilities.

Assets.

Circulation,

£18,600,000

Securities,

£22,792,900

Deposits,

11,535,000

Bullion,

10,015,000

£30,135,000

£30,807,000

London, March 12.

According to this statement, the Bank of England is now safe; and, accordingly, we see that she is acting upon the principle of having bullion enough, for she is shipping gold to the United States.

The proportion in England is one-third. The bank relies upon its debts and other resources for the other two-thirds, in the event of a run upon it. This is the rule in that bank which has more resources than any other bank in the world; which is situated in the moneyed metropolis of the world—the richest merchants its debtors, friends and customers—and the Government of England its debtor and backer, and always ready to sustain it with exchequer bills, and with every exertion of its credit and means. Such a bank, so situated and so aided, still deems it necessary to its safety to keep in hand always the one-third in bullion of the amount of its immediate liabilities. Now, if the proportion of one-third is necessary to the safety of such a bank, with such resources, how is it possible for our banks, with their meagre resources and small array of friends, to be safe with a less proportion?

This is the rule at the Bank of England, and just as often as it has been departed from, the danger of that departure has been proved. It was departed from in 1797, when the proportion sunk to the one-seventh; and what was the result? The stoppage of the banks, and of all the banks in England, and a suspension of specie payments for six-and-twenty years! It was departed from again about a year ago, when the proportion sunk to one-eighth nearly; and what was the result? A death struggle between the paper systems of England and the United States, in which our system was sacrificed to save hers. Her system was saved from explosion! but at what cost?—at what cost to us, and to herself?—to us a general stoppage of all the banks for twelve months; to the English, a general stagnation of business, decline of manufactures, and of commerce, much individual distress, and a loss of two millions sterling

of revenue to the Crown. The proportion of one-third may then be assumed as the point of safety in the Bank of England; less than that proportion cannot be safe in the United States. Yet the senator from Pennsylvania proposes less—he proposes the one-fourth; and proposes it, not because he feels it to be the right proportion, but from some feeling of indulgence or forbearance to this poor District. Now, I think that this is a case in which kind feelings can have no place, and that the point in question is one upon which there can be no compromise. A bank is a bank, whether made in a district or a State; and a bank ought to be safe, whether the stockholders be rich or poor. Safety is the point aimed at, and nothing unsafe should be tolerated. There should be no giving and taking below the point of safety. Experienced men fix upon the one-third as the safe proportion; we should not, therefore, take a less proportion. Would the gentleman ask to let the water in the boiler of a steamboat sink one inch lower, when the experienced captain informed him that it had already sunk as low as it was safe to go? Certainly not. So of these banks. One-third is the point of safety; let us not tamper with danger by descending to the one-fourth.

When a bank stops payment, the first thing we see is an exposition of its means, and a declaration of ultimate ability to pay all its debts. This is nothing to the holders of its notes. Immediate ability is the only ability that is of any avail to them. The fright of some, and the necessity of others, compel them to part with their notes. Cool, sagacious capitalists can look to ultimate ability, and buy up the notes from the necessitous and the alarmed. To them ultimate ability is sufficient; to the community it is nothing. It is, therefore, for the benefit of the community that the banks should be required to keep always on hand the one-third of their circulation and deposits; they are then trusted for two-thirds, and this is carrying credit far enough. If pressed by a run, it is as much as a bank can do to make up the other two-thirds out of the debts due to her. Three to one is credit enough, and it is profit enough. If a bank draws interest upon three dollars when it has but one, this is eighteen per cent., and ought to content her. A citizen cannot lend his money for more than six per cent., and cannot the banks be contented with eighteen? Must they insist upon issuing four dollars, or even five, upon one, so as to draw twenty-four or thirty per cent.; and thus, after paying their officers vast salaries, and accommodating friends with loans on easy terms, still make enough out of the business community to cover all expenses and all losses: and then to divide larger profits than can be made at any other business?

The issuing of currency is the prerogative of sovereignty. The real sovereign in this country—the government—can only issue a currency of the actual dollar: can only issue gold and silver—and each piece worth its face. The banks which have the privilege of issuing currency issue paper; and not content with two more dollars out for one that is, they go to five, ten, twenty—failing of course on the first run; and the loss falling upon the holders of its notes—and especially the holders of the small notes.

We now touch a point, said Mr. B., vital to the safety of banking, and I hope it will neither be passed over without decision, nor decided in an erroneous manner. We had up the same question two years ago, in the discussion of the bill to regulate the keeping of the public moneys by the local deposit banks. A senator from Massachusetts (Mr. Webster) moved the question; he (Mr. B.) cordially concurred in it; and the proportion of *one-fourth* was then inserted. He (Mr. B.) had not seen at that time the testimony of the governor and directors of the Bank of England, fixing on the *one-third* as the proper proportion, and he presumed that the senator from Massachusetts (Mr. W.) had not then seen it, as on another occasion he quoted it with approbation, and stated it to be the proportion observed at the Bank of the United States. The proportion of one-fourth was then inserted in the deposit bill; it was an erroneous proportion, but even that proportion was not allowed to stand. After having been inserted in the bill, it was struck out; and it was left to the discretion of the Secretary of the

Treasury to fix the proportion. To this I then objected, and gave my reasons for it. I was for fixing the proportion, because I held it vital to the safety of the deposit banks; I was against leaving it to the secretary, because it was a case in which the inflexible rule of law, and not the variable dictate of individual discretion should be exercised; and because I was certain that no secretary could be relied upon to compel the banks to *toe the mark*, when Congress itself had flinched from the task of making them do it. My objections were unavailing. The proportion was struck out of the bill; the discretion of the secretary to fix it was substituted; and that discretion it was impossible to exercise with any effect over the banks. They were, that is to say, many of them were, far beyond the mark then; and at the time of the issuing of the Treasury order in July, 1836, there were deposit banks, whose proportion of specie in hand to their immediate liabilities was as one to twenty, one to thirty, one to forty, and even one to fifty! The explosion of all such banks was inevitable. The issuing of the Treasury order improved them a little: they began to increase their specie, and to diminish their liabilities; but the gap was too wide—the chasm was too vast to be filled: and at the touch of pressure, all these banks fell like nine-pins! They tumbled down in a heap, and lay there, without the power of motion, or scarcely of breathing. Such was the consequence of our error in omitting to fix the proper proportion of specie in hand to the liabilities of our deposit banks: let us avoid that error in the bill now before us.

32. The North And The South: Comparative Prosperity: Southern Discontent: Its True Cause

To show the working of the federal government is the design of this View—show how things are done under it and their effects; that the good may be approved and pursued, the evil condemned and avoided, and the machine of government be made to work equally for the benefit of the whole Union, according to the wise and beneficent intent of its founders. It thus becomes necessary to show its working in the two great Atlantic sections, originally sole parties to the Union—the North and the South—complained of for many years on one part as unequal and oppressive, and made so by a course of federal legislation at variance with the objects of the confederation and contrary to the intent or the words of the constitution.

The writer of this View sympathized with that complaint; believed it to be, to much extent, well founded; saw with concern the corroding effect it had on the feelings of patriotic men of the South; and often had to lament that a sense of duty to his own constituents required him to give votes which his judgment disapproved and his feelings condemned. This complaint existed when he came into the Senate; it had, in fact, commenced in the first years of the federal government, at the time of the assumption of the State debts, the incorporation of the first national bank, and the adoption of the funding system; all of which drew capital from the South to the North. It continued to increase; and, at the period to which this chapter relates, it had reached the stage of an organized sectional expression in a voluntary convention of the Southern States. It had often been expressed in Congress, and in the State legislatures, and habitually in the discussions of the people; but now it took the more serious form of joint action, and exhibited the spectacle of a part of the States assembling sectionally to complain formally of the unequal, and to them, injurious operation of the common government, established by common consent for the common good, and now frustrating its object by departing from the purposes of its creation. The convention was called commercial, and properly, as the grievance complained of was in its root commercial, and a commercial remedy was proposed.

It met at Augusta, Georgia, and afterwards at Charleston, South Carolina; and the evil complained of and the remedy proposed were strongly set forth in the proceedings of the body, and in addresses to the people of the Southern and Southwestern States. The changed relative condition of the two sections of the country, before and since the Union, was shown in their general relative depression or prosperity since that event, and especially in the reversed condition of their respective foreign import trade. In the colonial condition the comparison was wholly in favor of the South; under the Union wholly against it. Thus, in the year 1760—only sixteen years before the Declaration of Independence—the foreign imports into Virginia were £850,000 sterling, and into South Carolina £555,000; while into New York they were only £189,000, into Pennsylvania £490,000; and into all the New England Colonies collectively only £561,000.

These figures exhibit an immense superiority of commercial prosperity on the side of the South in its colonial state, sadly contrasting with another set of figures exhibited by the convention to show its relative condition within a few years after the Union. Thus, in the year 1821, the imports into New York had risen to $23,000,000—being about seventy times its colonial import at about an equal period before the adoption of the constitution; and those of South Carolina stood at $3,000,000—which, for all practical purposes, may be considered the same that they were in 1760.

Such was the difference—the reversed conditions—of the two sections, worked between them in the brief space of two generations—within the actual lifetime of some who had seen their colonial conditions. The proceedings of the convention did not stop there, but brought down the comparison (under this commercial aspect) to near the period of its own sitting—to the actual period of the highest manifestation of Southern discontent, in 1832—when it produced the enactment of the South Carolina nullifying ordinance. At that time all the disproportions between the foreign commerce of the two sections had inordinately increased. The New York imports (since 1821) had more than doubled; the Virginia had fallen off one-half; South Carolina two-thirds. The actual figures stood: New York fifty-seven millions of dollars, Virginia half a million, South Carolina one million and a quarter.

This was a disheartening view, and rendered more grievous by the certainty of its continuation, the prospect of its aggravation, and the conviction that the South (in its great staples) furnished the basis for these imports; of which it received so small a share. To this loss of its import trade, and its transfer to the North, the convention attributed, as a primary cause, the reversed conditions of the two sections—the great advance of one in wealth and improvements—the slow progress and even comparative decline of the other; and, with some allowance for the operation of natural or inherent causes, referred the effect to a course of federal legislation unwarranted by the grants of the constitution and the objects of the Union, which subtracted capital from one section and accumulated it in the other:—protective tariff, internal improvements, pensions, national debt, two national banks, the funding system and the paper system; the multiplication of offices, profuse and extravagant expenditure, the conversion of a limited into an almost unlimited government; and the substitution of power and splendor for what was intended to be a simple and economical administration of that part of their affairs which required a general head.

These were the points of complaint—abuses—which had led to the collection of an enormous revenue, chiefly levied on the products of one section of the Union and mainly disbursed in another. So far as northern advantages were the result of fair legislation for the accomplishment of the objects of the Union, all discontent or complaint was disclaimed. All knew that the superior advantages of the North for navigation would give it the advantage in foreign commerce; but it was not expected that these facilities would operate a monopoly on one side and an extinction on the other; nor was that consequence allowed to be the effect of these advantages alone, but was charged to a course of legislation not warranted by the objects of the Union, or the terms of the constitution, which created it. To this course of legislation was attributed the accumulation of capital in the North, which had enabled that section to monopolize the foreign commerce which was founded upon southern exports; to cover one part with wealth while the other was impoverished; and to make the South tributary to the North, and suppliant to it for a small part of the fruits of their own labor.

Unhappily there was some foundation for this view of the case; and in this lies the root of the discontent of the South and its dissatisfaction with the Union, although it may break out upon another point. It is in this belief of an incompatibility of interest, from the perverted working of the federal government, that lies the root of southern discontent, and which constitutes the danger to the Union, and which statesmen should confront and grapple with; and not in any danger to slave property, which has continued to aggrandize in value during the whole period of the cry of danger, and is now of greater price than ever was known before; and such as our ancestors would have deemed fabulous. The sagacious Mr. Madison knew this—knew where the danger to the Union lay, when, in the 86th year of his age, and the last of his life, and under the anguish of painful misgivings, he wrote (what is more fully set out in the previous volume of this work) these portentous words:

"*The visible susceptibility to the contagion of nullification in the Southern States, the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interest between the North and the South, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South, on some critical occasion, in some course of action of which nullification may be the first step, secession the second, and a farewell separation the last.*"

So viewed the evil, and in his last days, the great surviving founder of the Union—seeing, as he did, in this inculcated impression of a permanent incompatibility of interest between the two sections, the fulcrum or point of support, on which disunion could rest its lever, and parricidal hands build its schemes. What has been published in the South and adverted to in this View goes to show that an incompatibility of interest between the two sections, though not inherent, has been produced by the working of the government—not its fair and legitimate, but its perverted and unequal working.

This is the evil which statesmen should see and provide against. Separation is no remedy; exclusion of Northern vessels from Southern ports is no remedy; but is disunion itself—and upon the very point which caused the Union to be formed. Regulation of commerce between the States, and with foreign nations, was the cause of the formation of the Union. Break that regulation, and the Union is broken; and the broken parts converted into antagonist nations, with causes enough of dissension to engender perpetual wars, and inflame incessant animosities. The remedy lies in the right working of the constitution; in the cessation of unequal legislation in the reduction of the inordinate expenses of the government; in its return to the simple, limited, and economical machine it was intended to be; and in the revival of fraternal feelings, and respect for each other's rights and just complaints; which would return of themselves when the real cause of discontent was removed.

The conventions of Augusta and Charleston proposed their remedy for the Southern depression, and the comparative decay of which they complained. It was a fair and patriotic remedy—that of becoming their own exporters, and opening a direct trade in their own staples between Southern and foreign ports. It was recommended—attempted—failed. Superior advantages for navigation in the North—greater aptitude of its people for commerce—established course of business—accumulated capital—continued unequal legislation in Congress; and increasing expenditures of the government, chiefly disbursed in the North, and defect of seamen in the South (for mariners cannot be made of slaves), all combined to retain the foreign trade in the channel which had absorbed it; and to increase it there with the increasing wealth and population of the country, and the still faster increasing extravagance and profusion of the government. And now, at this period (1855), the foreign imports at New York are $195,000,000; at Boston $58,000,000; in Virginia $1,250,000; in South Carolina $1,750,000.

This is what the dry and naked figures show. To the memory and imagination it is worse; for it is a tradition of the Colonies that the South had been the seat of wealth and happiness, of power and opulence; that a rich population covered the land, dispensing a baronial hospitality, and diffusing the felicity which themselves enjoyed; that all was life, and joy, and affluence then. And this tradition was not without similitude to the reality, as this writer can testify; for he was old enough to have seen (after the Revolution) the still surviving state of Southern colonial manners, when no traveller was allowed to go to a tavern, but was handed over from family to family through entire States; when holidays were days of festivity and expectation, long prepared for, and celebrated by master and slave with music and feasting, and great concourse of friends and relatives; when gold was kept in desks or chests (after the downfall of continental paper) and weighed in scales, and lent to neighbors for short terms

without note, interest, witness, or security; and on bond and land security for long years and lawful usance: and when petty litigation was at so low an ebb that it required a fine of forty pounds of tobacco to make a man serve as constable.

The reverse of all this was now seen and felt,—not to the whole extent which fancy or policy painted—but to extent enough to constitute a reverse, and to make a contrast, and to excite the regrets which the memory of past joys never fails to awaken. A real change had come, and this change, the effect of many causes, was wholly attributed to one—the unequal working of the Federal Government—which gave all the benefits of the Union to the North, and all its burdens to the South. And that was the point on which Southern discontent broke out—on which it openly rested until 1835; when it was shifted to the danger of slave property.

Separation is no remedy for these evils, but the parent of far greater than either just discontent or restless ambition would fly from. To the South the Union is a political blessing; to the North it is both a political and a pecuniary blessing; to both it should be a social blessing. Both sections should cherish it, and the North most. The story of the boy that killed the goose that laid the golden egg every day, that he might get all the eggs at once, was a fable; but the Northern man who could promote separation by any course of wrong to the South would convert that fable into history—his own history—and commit a folly, in a mere profit and loss point of view, of which there is no precedent except in fable.

33. Progress Of The Slavery Agitation: Mr. Calhoun's Approval Of The Missouri Compromise

This portentous agitation, destined to act so seriously on the harmony, and possibly on the stability of the Union, requires to be noted in its different stages, that responsibility may follow culpability, and the judgment of history fall where it is due, if a deplorable calamity is made to come out of it. In this point of view the movements for and against slavery in the session of 1837-'38 deserve to be noted, as of disturbing effect at the time; and as having acquired new importance from subsequent events. Early in the session a memorial was presented in the Senate from the General Assembly of Vermont, remonstrating against the annexation of Texas to the United States, and praying for the abolition of slavery in the District of Columbia—followed by many petitions from citizens and societies in the Northern States to the same effect; and, further, for the abolition of slavery in the Territories—for the abolition of the slave trade between the States—and for the exclusion of future slave States from the Union.

There was but little in the state of the country at that time to excite an anti-slavery feeling, or to excuse these disturbing applications to Congress. There was no slave territory at that time but that of Florida; and to ask to abolish slavery there, where it had existed from the discovery of the continent, or to make its continuance a cause for the rejection of the State when ready for admission into the Union, and thus form a free State in the rear of all the great slave States, was equivalent to praying for a dissolution of the Union. Texas, if annexed, would be south of 36° 30', and its character, in relation to slavery, would be fixed by the Missouri compromise line of 1820. The slave trade between the States was an affair of the States, with which Congress had nothing to do; and the continuance of slavery in the District of Columbia, so long as it existed in the adjacent States of Virginia and Maryland, was a point of policy in which every Congress, and every administration, had concurred from the formation of the Union; and in which there was never a more decided concurrence than at present.

The petitioners did not live in any Territory, State, or district subject to slavery. They felt none of the evils of which they complained—were answerable for none of the supposed sin which they denounced—were living under a general government which acknowledged property in slaves—and had no right to disturb the rights of the owner: and they committed a cruelty upon the slave by the additional rigors which their pernicious interference brought upon him.

The subject of the petitions was disagreeable in itself; the language in which they were couched was offensive; and the wantonness of their presentation aggravated a proceeding sufficiently provoking in the civilest form in which it could be conducted. Many petitions were in the same words, bearing internal evidence of concert among their signers; many were signed by women, whose proper sphere was far from the field of legislation; all united in a common purpose, which bespoke community of origin, and the superintendence of a general direction. Every presentation gave rise to a question and debate, in which sentiments and feelings were expressed and consequences predicted, which it was painful to hear. While almost every senator condemned these petitions, and the spirit in which they originated, and the language in which they were couched, and considered them as tending to no practical object, and only calculated to make dissension and irritation, there were others who took

them in a graver sense, and considered them as leading to the inevitable separation of the States. In this sense Mr. Calhoun said:

"He had foreseen what this subject would come to. He knew its origin, and that it lay deeper than was supposed. It grew out of a spirit of fanaticism which was daily increasing, and, if not met *in limine*, would by and by dissolve this Union. It was particularly our duty to keep the matter out of the Senate—out of the halls of the National Legislature. These fanatics were interfering with what they had no right. Grant the reception of these petitions, and you will next be asked to act on them. He was for no conciliatory course, no temporizing; instead of yielding one inch, he would rise in opposition; and he hoped every man from the South would stand by him to put down this growing evil. There was but one question that would ever destroy this Union, and that was involved in this principle. Yes; this was potent enough for it, and must be early arrested if the Union was to be preserved. A man must see little into what is going on if he did not perceive that this spirit was growing, and that the rising generation was becoming more strongly imbued with it. It was not to be stopped by reports on paper, but by action, and very decided action."

The question which occupied the Senate was as to the most judicious mode of treating these memorials, with a view to prevent their evil effects: and that was entirely a question of policy, on which senators disagreed who concurred in the main object. Some deemed it most advisable to receive and consider the petitions—to refer them to a committee—and subject them to the adverse report which they would be sure to receive; as had been done with the Quakers' petitions at the beginning of the government. Others deemed it preferable to refuse to receive them. The objection urged to this latter course was, that it would mix up a new question with the slavery agitation which would enlist the sympathies of many who did not co-operate with the Abolitionists—the question of the right of petition; and that this new question, mixing with the other, might swell the number of petitioners, keep up the applications to Congress, and perpetuate an agitation which would otherwise soon die out. Mr. Clay, and many others were of this opinion; Mr. Calhoun and his friends thought otherwise; and the result was, so far as it concerned the petitions of individuals and societies, what it had previously been—a half-way measure between reception and rejection—a motion to lay the question of reception on the table. This motion, precluding all discussion, got rid of the petitions quietly, and kept debate out of the Senate. In the case of the memorial from the State of Vermont, the proceeding was slightly different in form, but the same in substance. As the act of a State, the memorial was received; but after reception was laid on the table. Thus all the memorials and petitions were disposed of by the Senate in a way to accomplish the two-fold object, first, of avoiding discussion; and, next, condemning the object of the petitioners. It was accomplishing all that the South asked; and if the subject had rested at that point, there would have been nothing in the history of this session, on the slavery agitation, to distinguish it from other sessions about that period: but the subject was revived; and in a way to force discussion, and to constitute a point for the retrospect of history.

Every memorial and petition had been disposed of according to the wishes of the senators from the slaveholding States; but Mr. Calhoun deemed it due to those States to go further, and to obtain from the Senate declarations which should cover all the questions of federal power over the institution of slavery: although he had just said that paper reports would do no good. For that purpose, he submitted a series of resolves—six in number—which derive their importance from their comparison, or rather contrast, with others on the same subject presented by him in the Senate ten years later; and which have given birth to doctrines and proceedings which have greatly disturbed the harmony of the Union, and palpably endangered its stability. The six resolutions of this period ('37-'38) undertook to define the whole extent of the power delegated by the States to the federal government on the subject of

slavery; to specify the acts which would exceed that power; and to show the consequences of doing any thing not authorized to be done—always ending in a dissolution of the Union. The first four of these related to the States; about which, there being no dispute, there was no debate. The sixth, without naming Texas, was prospective, and looked forward to a case which might include her annexation; and was laid upon the table to make way for an express resolution from Mr. Preston on the same subject. The fifth related to the territories, and to the District of Columbia, and was the only one which excited attention, or has left a surviving interest. It was in these words:

"*Resolved*, That the intermeddling of any State, or States, or their citizens, to abolish slavery in this District, or any of the territories, on the ground or under the pretext that it is immoral or sinful, or the passage of any act or measure of Congress with that view, would be a direct and dangerous attack on the institutions of all the slaveholding States."

The dogma of "no power in Congress to legislate upon the existence of slavery in territories" had not been invented at that time; and, of course, was not asserted in this resolve, intended by its author to define the extent of the federal legislative power on the subject. The resolve went upon the existence of the power, and deprecated its abuse. It put the District of Columbia and the territories into the same category, both for the exercise of the power and the consequences to result from the intermeddling of States or citizens, or the passage of any act of Congress to abolish slavery in either; and this was admitting the power in the territory, as in the District; where it is an express grant in the grant of all legislative power. The intermeddling and the legislation were deprecated in both solely on the ground of inexpediency. Mr. Clay believed this inexpediency to rest upon different grounds in the District and in the territory of Florida—the only territory in which slavery then existed, and to which Mr. Calhoun's resolution could apply. He was as much opposed as any one to the abolition of slavery in either of these places, but believed that a different reason should be given for each, founded in their respective circumstances; and, therefore, submitted an amendment, consisting of two resolutions—one applicable to the District, the other to the territory. In stating the reasons why slavery should not be abolished in Florida, he quoted the Missouri compromise line of 1820. This was objected to by other senators, on the ground that that line did not apply to Florida, and that her case was complete without it. Of that opinion was the Senate, and the clause was struck out. This gave Mr. Calhoun occasion to speak of that compromise, and of his own course in relation to it; in the course of which he declared himself to have been favorable to that memorable measure at the time it was adopted, but opposed to it now, from having experienced its ill effect in encouraging the spirit of abolitionism:

"He was glad that the portion of the amendment which referred to the Missouri compromise had been struck out. He was not a member of Congress when that compromise was made, but it is due to candor to state that his impressions were in its favor; but it is equally due to it to say that, with his present experience and knowledge of the spirit which then, for the first time, began to disclose itself, he had entirely changed his opinion. He now believed that it was a dangerous measure, and that it has done much to rouse into action the present spirit. Had it then been met with uncompromising opposition, such as a then distinguished and sagacious member from Virginia [Mr. Randolph], now no more, opposed to it, abolition might have been crushed for ever in its birth. He then thought of Mr. Randolph as, he doubts not, many think of him now who have not fully looked into this subject, that he was too unyielding—too uncompromising—too impracticable; but he had been taught his error, and took pleasure in acknowledging it."

This declaration is explicit. It is made in a spirit of candor, and as due to justice. It is a declaration spontaneously made, not an admission obtained on interrogatories. It shows that Mr. Calhoun was in favor of the compromise at the time it was adopted, and had since changed his opinions—"entirely changed" them, to use his own words—not on constitutional, but expedient grounds. He had changed upon experience, and upon seeing the dangerous effects of the measure. He had been taught his error, and took pleasure in acknowledging it. He blamed Mr. Randolph then for having been too uncompromising; but now thought him sagacious; and believed that if the measure had met with uncompromising opposition at the time, it would have crushed for ever the spirit of abolitionism. All these are reasons of expediency, derived from after-experience, and excludes the idea of any constitutional objection. The establishment of the Missouri compromise line was the highest possible exercise of legislative authority over the subject of slavery in a territory. It abolished it where it legally existed. It for ever forbid it where it had legally existed for one hundred years. Mr. Randolph was the great opponent of the compromise. He gave its friends all their trouble. It was then he applied the phrase, so annoying and destructive to its northern supporters—"dough face,"—a phrase which did them more harm than the best-reasoned speech. All the friends of the compromise blamed his impracticable opposition; and Mr. Calhoun, in joining in that blame, placed himself in the ranks of the cordial friends of the measure. This abolition and prohibition extended over an area large enough to make a dozen States; and of all this Mr. Calhoun had been in favor; and now had nothing but reasons of expediency, and they *ex post facto*, against it. His expressed belief now was, that the measure was dangerous—he does not say unconstitutional, but dangerous—and this corresponds with the terms of his resolution then submitted; which makes the intermeddling to abolish slavery in the District or territories, or any act or measure of Congress to that effect, a "dangerous" attack on the institutions of the slaveholding States. Certainly the idea of the unconstitutionality of such legislation had not then entered his head. The substitute resolve of Mr. Clay differed from that of Mr. Calhoun, in changing the word "intermeddling" to that of "interference;" and confining that word to the conduct of citizens, and making the abolition or attempted abolition of slavery in the District an injury to its own inhabitants as well as to the States; and placing its protection under the faith implied in accepting its cession from Maryland and Virginia. It was in these words:

"That the interference by the citizens of any of the States, with the view to the abolition of slavery in this District, is endangering the rights and security of the people of the District; and that any act or measure of Congress, designed to abolish slavery in this District, would be a violation of the faith implied in the cessions by the States of Virginia and Maryland—a just cause of alarm to the people of the slaveholding States—and have a direct and inevitable tendency to disturb and endanger the Union."

The vote on the final adoption of the resolution was:

"Yeas—Messrs. Allen, Bayard, Benton, Black, Brown, Buchanan, Calhoun, Clay, of Alabama, Clay, of Kentucky, Thomas Clayton, Crittenden, Cuthbert, Fulton, Grundy, Hubbard, King, Lumpkin, Lyon, Nicholas, Niles, Norvell, Franklin Pierce, Preston, Rives, Roane, Robinson, Sevier, Smith, of Connecticut, Strange, Tallmadge, Tipton, Walker, White, Williams, Wright, Young.

"Nays—Messrs. Davis, Knight, McKean, Morris, Prentiss, Smith, of Indiana, Swift, Webster."

The second resolution of Mr. Clay applied to slavery in a territory where it existed, and deprecated any attempt to abolish it in such territory, as alarming to the slave States, and as violation of faith towards its inhabitants, unless they asked it; and in derogation of its right to

decide the question of slavery for itself when erected into a State. This resolution was intended to cover the case of Florida, and ran thus:

"*Resolved*, That any attempt of Congress to abolish slavery in any territory of the United States in which it exists would create serious alarm and just apprehension in the States sustaining that domestic institution, and would be a violation of good faith towards the inhabitants of any such territory who have been permitted to settle with, and hold, slaves therein; because the people of any such territory have not asked for the abolition of slavery therein; and because, when any such territory shall be admitted into the Union as a State, the people thereof shall be entitled to decide that question exclusively for themselves."

And the vote upon it was—

"Yeas—Messrs. Allen, Bayard, Benton, Black, Brown, Buchanan, Calhoun, Clay, of Alabama, Clay, of Kentucky, Crittenden, Cuthbert, Fulton, Grundy, Hubbard, King, Lumpkin, Lyon, Merrick, Nicholas, Niles, Norvell, Franklin Pierce, Preston, Rives, Roane, Robinson, Sevier, Smith, of Connecticut, Strange, Tipton, Walker, White, Williams, Wright, and Young.

"Nays—Messrs. Thomas Clayton, Davis, Knight, McKean, Prentiss, Robbins, Smith, of Indiana, Swift, and Webster."

The few senators who voted against both resolutions chiefly did so for reasons wholly unconnected with their merits; some because opposed to any declarations on the subject, as abstract and inoperative; others because they dissented from the reasons expressed, and preferred others: and the senators from Delaware (a slave State) because they had a nullification odor about them, as first introduced. Mr. Calhoun voted for both, not in preference to his own, but as agreeing to them after they had been preferred by the Senate; and so gave his recorded assent to the doctrines they contained. Both admit the constitutional power of Congress over the existence of slavery both in the district and the territories, but deprecate its abolition where it existed for reasons of high expediency: and in this view it is believed nearly the entire Senate concurred; and quite the entire Senate on the constitutional point—there being no reference to that point in any part of the debates. Mr. Webster probably spoke the sentiments of most of those voting with him, as well as his own, when he said:

"If the resolutions set forth that all domestic institutions, except so far as the constitution might interfere, and any intermeddling therewith by a State or individual, was contrary to the spirit of the confederacy, and was thereby illegal and unjust, he would give them his hearty and cheerful support; and would do so still if the senator from South Carolina would consent to such an amendment; but in their present form he must give his vote against them."

The general feeling of the Senate was that of entire repugnance to the whole movement—that of the petitions and memorials on the one hand, and Mr. Calhoun's resolutions on the other. The former were quietly got rid of, and in a way to rebuke, as well as to condemn their presentation; that is to say, by motions (sustained by the body) to lay them on the table. The resolutions could not so easily be disposed of, especially as their mover earnestly demanded discussion, spoke at large, and often, himself; "and desired to make the question, on their rejection or adoption, a *test* question." They were abstract, leading to no result, made discussion where silence was desirable, frustrated the design of the Senate in refusing to discuss the abolition petitions, gave them an importance to which they were not entitled, promoted agitation, embarrassed friendly senators from the North, placed some in false positions; and brought animadversions from many. Thus, Mr. Buchanan:

"I cannot believe that the senator from South Carolina has taken the best course to attain these results (quieting agitation). This is the great centre of agitation; from this capital it

spreads over the whole Union. I therefore deprecate a protracted discussion of the question here. It can do no good, but may do much harm, both in the North and in the South. The senators from Delaware, although representing a slaveholding State, have voted against these resolutions because, in their opinion, they can detect in them the poison of nullification. Now, I can see no such thing in them, and am ready to avow in the main they contain nothing but correct political principles, to which I am devoted. But what then? These senators are placed in a false position, and are compelled to vote against resolutions the object of which they heartily approve. Again, my friend, the senator from New Jersey (Mr. Wall), votes against them because they are political abstractions of which he thinks the Senate ought not to take cognizance, although he is as much opposed to abolition, and as willing to maintain the constitutional rights of the South as any senator upon this floor. Other senators believe the right of petition has been endangered; and until that has been established they will not vote for any resolutions on the subject. Thus we stand: and those of us in the North who must sustain the brunt of the battle are forced into false positions. Abolition thus acquires force by bringing to its aid the right of petition, and the hostility which exists at the North against the doctrines of nullification. It is in vain to say that these principles are not really involved in the question. This may be, and in my opinion is, true; but why, by our conduct here, should we afford the abolitionists such plausible pretexts? The fact is, and it cannot be disguised, that those of us in the Northern States who have determined to sustain the rights of the slave States at every hazard are placed in a most embarrassing situation. We are almost literally between two fires. Whilst in front we are assailed by the abolitionists, our own friends in the South are constantly driving us into positions where their enemies and our enemies may gain important advantages."

And thus Mr. Crittenden:

"If the object of these resolutions was to produce peace, and allay excitement, it appeared to him that they were not very likely to accomplish such a purpose. More vague and general abstractions could hardly have been brought forward, and they were more calculated to produce agitation and stir up discontent and bad blood than to do any good whatever. Such he knew was the general opinion of Southern men, few of whom, however they assented to the abstractions, approved of this method of agitating the subject. The mover of these resolutions relies mainly on two points to carry the Senate with him: first, he reiterates the cry of danger to the Union; and, next, that if he is not followed in this movement he urges the inevitable consequence of the destruction of the Union. It is possible the gentleman may be mistaken. It possibly might not be exactly true that, to save the Union, it was necessary to follow him. On the contrary, some were of opinion, and he for one was much inclined to be of the same view, that to follow the distinguished mover of these resolutions—to pursue the course of irritation, agitation, and intimidation which he chalked out—would be the very best and surest method that could be chalked out to destroy this great and happy Union."

And thus Mr. Clay:

"The series of resolutions under consideration has been introduced by the senator from South Carolina, after he and other senators from the South had deprecated discussion on the delicate subject to which they relate. They have occasioned much discussion, in which hitherto I have not participated. I hope that the tendency of the resolutions may be to allay the excitement which unhappily prevails in respect to the abolition of slavery; but I confess that, taken altogether, and in connection with other circumstances, and especially considering the manner in which their author has pressed them on the Senate, I fear that they will have the opposite effect; and particularly at the North, that they may increase and exasperate instead of diminishing and assuaging the existing agitation."

And thus Mr. Preston, of South Carolina:

“His objections to the introduction of the resolutions were that they allowed ground for discussion; and that the subject ought never to be allowed to enter the halls of the legislative assembly, was always to be taken for granted by the South; and what would abstract propositions of this nature effect?”

And thus Mr. Strange, of North Carolina:

“What did they set forth but abstract principles, to which the South had again and again certified? What bulwark of defence was needed stronger than the constitution itself? Every movement on the part of the South only gave additional strength to her opponents. The wisest, nay, the only safe, course was to remain quiet, though prepared at the same time to resist all aggression. Questions like this only tended to excite angry feelings. The senator from South Carolina (Mr. Calhoun) charged him with ‘*preaching*’ to one side. Perhaps he had sermonized too long for the patience of the Senate; but then he had *preached* to all sides. It was the agitation of the question in any form, or shape, that rendered it dangerous. Agitating this question in any shape was ruinous to the South.”

And thus Mr. Richard H. Bayard, of Delaware:

“Though he denounced the spirit of abolition as dangerous and wicked in the extreme, yet he did not feel himself authorized to vote for the resolutions. If the doctrines contained in them were correct, then nullification was correct; and if passed might hereafter be appealed to as a precedent in favor of that doctrine; though he acquitted the senator [Mr. Calhoun] of having the most remote intention of smuggling in any thing in relation to that doctrine under cover of these resolutions.”

Mr. Calhoun, annoyed by so much condemnation of his course, and especially from those as determined as himself to protect the slave institution where it legally existed, spoke often and warmly; and justified his course from the greatness of the danger, and the fatal consequences to the Union if it was not arrested.

“I fear (said Mr. C.) that the Senate has not elevated its view sufficiently to comprehend the extent and magnitude of the existing danger. It was perhaps his misfortune to look too much to the future, and to move against dangers at too great a distance, which had involved him in many difficulties and exposed him often to the imputation of unworthy motives. Thus he had long foreseen the immense surplus revenue which a false system of legislation must pour into the Treasury, and the fatal consequences to the morals and institutions of the country which must follow. When nothing else could arrest it he threw himself, with his State, into the breach, to arrest dangers which could not otherwise be arrested; whether wisely or not he left posterity to judge. He now saw with equal clearness—as clear as the noonday sun—the fatal consequences which must follow if the present disease be not timely arrested. He would repeat again what he had so often said on this floor. This was the only question of sufficient magnitude and potency to divide this Union; and divide it it would, or drench the country in blood, if not arrested. He knew how much the sentiment he had uttered would be misconstrued and misrepresented. There were those who saw no danger to the Union in the violation of all its fundamental principles, but who were full of apprehension when danger was foretold or resisted, and who held not the authors of the danger, but those who forewarned or opposed it, responsible for consequences.”

“But the cry of disunion by the weak or designing had no terror for him. If his attachment to the Union was less, he might tamper with the deep disease which now afflicts the body politic, and keep silent till the patient was ready to sink under its mortal blows. It is a cheap, and he must say but too certain a mode of acquiring the character of devoted attachment to

the Union. But, seeing the danger as he did, he would be a traitor to the Union and those he represented to keep silence. The assaults daily made on the institutions of nearly one half of the States of this Union by the other—institutions interwoven from the beginning with their political and social existence, and which cannot be other than that without their inevitable destruction—will and must, if continued, *make two people of one* by destroying every sympathy between the two great sections—obliterating from their hearts the recollection of their common danger and glory—and implanting in their place a mutual hatred, more deadly than ever existed between two neighboring people since the commencement of the human race. He feared not the circulation of the thousands of incendiary and slanderous publications which were daily issued from an organized and powerful press among those intended to be vilified. They cannot penetrate our section; that was not the danger; it lay in a different direction. Their circulation in the non-slaveholding States was what was to be dreaded. It was infusing a deadly poison into the minds of the rising generation, implanting in them feelings of hatred, the most deadly hatred, instead of affection and love, for one half of this Union, to be returned, on their part, with equal detestation. The fatal, the immutable consequences, if not arrested, and that without delay, were such as he had presented. The first and desirable object is to arrest it in the non-slaveholding States; to meet the disease where it originated and where it exists; and the first step to this is to find some common constitutional ground on which a rally, with that object, can be made. These resolutions present the ground, and the only one, on which it can be made. The only remedy is in the State rights doctrines; and if those who profess them in slaveholding States do not rally on them as their political creed, and organize as a party against the fanatics in order to put them down, the South and West will be compelled to take the remedy into their own hands. They will then stand justified in the sight of God and man; and what in that event will follow no mortal can anticipate. Mr. President (said Mr. C.), we are reposing on a volcano. The Senate seems entirely ignorant of the state of feeling in the South. The mail has just brought us intelligence of a most important step taken by one of the Southern States in connection with this subject, which will give some conception of the tone of feeling which begins to prevail in that quarter."

It was such speaking as this that induced some votes against the resolutions. All the senators were dissatisfied at the constant exhibition of the same remedy (disunion), for all the diseases of the body politic; but the greater part deemed it right, if they voted at all, to vote their real sentiments. Many were disposed to lay the resolutions on the table, as the disturbing petitions had been; but it was concluded that policy made it preferable to vote upon them.

Mr. Benton did not speak in this debate. He believed, as others did, that discussion was injurious; that it was the way to keep up and extend agitation, and the thing above all others which the abolitionists desired. Discussion upon the floor of the American Senate was to them the concession of an immense advantage—the concession of an elevated and commanding theatre for the display and dissemination of their doctrines. It gave them the point to stand upon from which they could reach every part of the Union; and it gave them the *Register of the Debates*, instead of their local papers, for their organ of communication. Mr. Calhoun was a fortunate customer for them.

The Senate, in laying all their petitions and the memorial of Vermont on the table without debate, signified its desire to yield them no such advantage. The introduction of Mr. Calhoun's resolution frustrated that desire, and induced many to do what they condemned. Mr. Benton took his own sense of the proper course, in abstaining from debate, and confining the expression of his opinions to the delivery of votes: and in that he conformed to the *sense* of the Senate, and the *action* of the House of Representatives. Many hundreds of these petitions were presented in the House, and quietly laid upon the table (after a stormy scene, and the adoption of a new rule), under motions to that effect; and this would have been

the case in the Senate, had it not been for the resolutions, the introduction of which was so generally deprecated.

The part of this debate which excited no attention at the time, but has since acquired a momentous importance, is that part in which Mr. Calhoun declared his favorable disposition to the Missouri compromise, and his condemnation of Mr. Randolph (its chief opponent), for opposing it; and his change of opinion since, not for unconstitutionality, but because he believed it to have become dangerous in encouraging the spirit of abolitionism. This compromise was the highest, the most solemn, the most momentous, the most emphatic assertion of Congressional power over slavery in a territory which had ever been made, or could be conceived. It not only abolished slavery where it legally existed; but for ever prohibited it where it had long existed, and that over an extent of territory larger than the area of all the Atlantic slave States put together: and thus yielding to the free States the absolute predominance in the Union.

Mr. Calhoun was for that resolution in 1820,—blamed those who opposed it; and could see no objection to it in 1838 but the encouragement it gave to the spirit of abolitionism. Nine years afterwards (session of 1846-'47) he submitted other resolutions (five in number) on the same power of Congress over slavery legislation in the territories; in which he denied the power, and asserted that any such legislation to the prejudice of the slaveholding emigrants from the States, in preventing them from removing, with their slave property, to such territory, "would be a violation of the constitution and the rights of the States from which such citizens emigrated, and a derogation of that perfect equality which belongs to them as members of this Union; *and would tend directly to subvert the Union itself*."

These resolutions, so new and startling in their doctrines—so contrary to their antecessors, and to the whole course of the government—were denounced by the writer of this View the instant they were read in the Senate, and, being much discountenanced by other senators, they were never pressed to a vote in that body; but were afterwards adopted by some of the slave State legislatures. One year afterwards, in a debate on the Oregon territorial bill, and on the section which proposed to declare the anti-slavery clause of the ordinance of 1787 to be in force in that territory, Mr. Calhoun denied the power of Congress to make any such declaration, or in any way to legislate upon slavery in a territory. He delivered a most elaborate and thoroughly considered speech on the subject, in the course of which he laid down three propositions:

1. That Congress had no power to legislate upon slavery in a territory, so as to prevent the citizens of slaveholding States from removing into it with their slave property. 2. That Congress had no power to delegate such authority to a territory. 3. That the territory had no such power in itself (thus leaving the subject of slavery in a territory without any legislative power over it at all). He deduced these dogmas from a new insight into the constitution, which, according to this fresh introspection, recognized slavery as a national institution, and carried that part of itself (by its own vigor) into all the territories; and protected slavery there: *ergo*, neither Congress, nor its deputed territorial legislature, nor the people of the territory during their territorial condition, could any way touch the subject—either to affirm, or disaffirm the institution. He endeavored to obtain from Congress a crutch to aid these lame doctrines in limping into the territories by getting the constitution voted into them, as part of their organic law; and, failing in that attempt (repeatedly made), he took position on the ground that the constitution went into these possessions of itself, so far as slavery was concerned, it being a national institution.

These three propositions being in flagrant conflict with the power exercised by Congress in the establishment of the Missouri compromise line (which had become a tradition as a

Southern measure, supported by Southern members of Congress, and sanctioned by the cabinet of Mr. Monroe, of which Mr. Calhoun was a member), the fact of that compromise and his concurrence in it was immediately used against him by Senator Dix, of New York, to invalidate his present opinions.

Unfortunately he had forgotten this cabinet consultation, and his own concurrence in its decision—believing fully that no such thing had occurred, and adhering firmly to the new dogma of total denial of all constitutional power in Congress to legislate upon slavery in a territory. This brought up recollections to sustain the tradition which told of the consultation—to show that it took place—that its voice was unanimous in favor of the compromise; and, consequently, that Mr. Calhoun himself was in favor of it. Old writings were produced:

First, a *fac simile* copy of an original paper in Mr. Monroe's handwriting, found among his manuscripts, dated March 4, 1820 (two days before the approval of the Missouri compromise act), and indorsed: "Interrogatories—Missouri—to the Heads of Departments and the Attorney-General;" and containing within two questions: "1. Has Congress a right, under the powers vested in it by the constitution, to make a regulation prohibiting slavery in a territory? 2. Is the 8th section of the act which passed both Houses of Congress on the 3d instant for the admission of Missouri into the Union, consistent with the constitution?" *Secondly*, the draft of an original letter in Mr. Monroe's handwriting, but without signature, date, or address, but believed to have been addressed to General Jackson, in which he says: "The question which lately agitated Congress and the public has been settled, as you have seen, by the passage of an act for the admission of Missouri as a State, unrestricted, and Arkansas, also, when it reaches maturity; and the establishment of the parallel of 36 degrees 30 minutes as a line north of which slavery is prohibited, and permitted south of it. I took the opinion, in writing, of the administration as to the constitutionality of restraining territories, which was explicit in favor of it, and, as it was, that the 8th section of the act was applicable to territories only, and not to States when they should be admitted into the Union." *Thirdly*, an extract from the diary of Mr. John Quincy Adams, under date of the 3d of March, 1820, stating that the President on that day assembled his cabinet to ask their opinions on the two questions mentioned—which the whole cabinet immediately answered unanimously, and affirmatively; that on the 5th he sent the questions in writing to the members of his cabinet, to receive their written answers, to be filed in the department of State; and that on the 6th he took his own answer to the President, to be filed with the rest—all agreeing in the affirmative, and only differing some in assigning, others not assigning reasons for his opinion. The diary states that the President signed his approval of the Missouri act on the 6th (which the act shows he did), and requested Mr. Adams to have all the opinions filed in the department of State.

Upon this evidence it would have rested without question that Mr. Monroe's cabinet had been consulted on the constitutionality of the Missouri compromise line, and that all concurred in it, had it not been for the denial of Mr. Calhoun in the debate on the Oregon territorial bill. His denial brought out this evidence; and, notwithstanding its production and conclusiveness, he adhered tenaciously to his disbelief of the whole occurrence and especially the whole of his own imputed share in it. Two circumstances, specious in themselves, favored this denial: *first*, that no such papers as those described by Mr. Adams were to be found in the department of State; *secondly*, that in the original draft of Mr. Monroe's letter it had first been written that the affirmative answers of his cabinet to his two interrogatories were "*unanimous*" which word had been crossed out and "*explicit*" substituted.

With some these two circumstances weighed nothing against the testimony of two witnesses, and the current corroborating incidents of tradition. In the lapse of twenty-seven years, and in

the changes to which our cabinet officers and the clerks of departments are subjected, it was easy to believe that the papers had been mislaid or lost—far easier than to believe that Mr. Adams could have been mistaken in the entry made in his diary at the time. And as to the substitution of "explicit" for "unanimous," that was known to be necessary in order to avoid the violation of the rule which forbid the disclosure of individual opinions in the cabinet consultations. With others, and especially with the political friends of Mr. Calhoun, they were received as full confirmation of his denial, and left them at liberty to accept his present opinions as those of his whole life, uninvalidated by previous personal discrepancy, and uncounteracted by the weight of a cabinet decision under Mr. Monroe: and accordingly the new-born dogma of *no power in Congress to legislate upon the existence of slavery in the territories* became an article of political faith, incorporated in the creed, and that for action, of a large political party. What is now brought to light of the proceedings in the Senate in '37-'38 shows this to have been a mistake—that Mr. Calhoun admitted the power in 1820, when he favored the compromise and blamed Mr. Randolph for opposing it; that he admitted it again in 1838, when he submitted his own resolutions, and voted for those of Mr. Clay. It so happened that no one recollected these proceedings of '37-'38 at the time of the Oregon debate of '47-'48. The writer of this View, though possessing a memory credited as tenacious, did not recollect them, nor remember them at all, until found among the materials collected for this history—a circumstance which he attributes to his repugnance to the whole debate, and taking no part in the proceedings except to vote.

The cabinet consultation of 1820 was not mentioned by Mr. Calhoun in his avowal of 1838, nor is it necessary to the object of this View to pursue his connection with that private executive counselling. The only material inquiry is as to his approval of the Missouri compromise at the time it was adopted; and that is fully established by himself.

It would be a labor unworthy of history to look up the conduct of any public man, and trace him through shifting scenes, with a mere view to personal effect—with a mere view to personal disparagement, by showing him contradictory and inconsistent at some period of his course. Such a labor would be idle, unprofitable, and derogatory; but, when a change takes place in a public man's opinions which leads to a change of conduct, and into a new line of action disastrous to the country, it becomes the duty of history to note the fact, and to expose the contradiction—not for personal disparagement—but to counteract the force of the new and dangerous opinion.

In this sense it becomes an obligatory task to show the change, or rather changes, in Mr. Calhoun's opinions on the constitutional power of Congress over the existence of slavery in the national territories; and these changes have been great—too great to admit of followers if they had been known. *First*, fully admitting the power, and justifying its exercise in the largest and highest possible case. *Next*, admitting the power, but deprecating its exercise in certain limited, specified, qualified cases. *Then*, denying it in a limited and specified case. *Finally*, denying the power any where, and every where, either in Congress, or in the territorial legislature as its delegate, or in the people as sovereign. The last of these mutations, or rather the one before the last (for there are but few who can go the whole length of the three propositions in the Oregon speech), has been adopted by a large political party and acted upon; and with deplorable effect to the country. Holding the Missouri compromise to have been unconstitutional, they have abrogated it as a nullity; and in so doing have done more to disturb the harmony of this Union, to unsettle its foundations, to shake its stability, and to prepare the two halves of the Union for parting, than any act, or all acts put together, since the commencement of the federal government. This lamentable act could not have been done,—could not have found a party to do it,—if Mr. Calhoun had not changed his opinion on the constitutionality of the Missouri compromise line; or if he could have recollected in

1848 that he approved that line in 1820; and further remembered, that he saw nothing unconstitutional in it as late as 1838. The change being now shown, and the imperfection of his memory made manifest by his own testimony, it becomes certain that the new doctrine was an after-thought, disowned by its antecedents—a figment of the brain lately hatched—and which its author would have been estopped from promulgating if these antecedents had been recollected. History now pleads them as an estoppel against his followers.

Mr. Monroe, in his letter to General Jackson, immediately after the establishment of the Missouri compromise, said that that compromise settled the slavery agitation which threatened to break up the Union. Thirty-four years of quiet and harmony under that settlement bear witness to the truth of these words, spoken in the fulness of patriotic gratitude at seeing his country escape from a great danger. The year 1854 has seen the abrogation of that compromise; and with its abrogation the revival of the agitation, and with a force and fury never known before: and now may be seen in fact what was hypothetically foreseen by Mr. Calhoun in 1838, when, as the fruit of this agitation, he saw the destruction of all sympathy between the two sections of the Union—obliteration from the memory of all proud recollections of former common danger and glory—hatred in the hearts of the North and the South, more deadly than ever existed between two neighboring nations. May we not have to witness the remainder of his prophetic vision—"Two people made of one!"

P.S.—After this chapter had been written, the author received authentic information that, during the time that John M. Clayton, Esq. of Delaware, was Secretary of State under President Taylor (1849-50), evidence had been found in the Department of State, of the fact, that the opinion of Mr. Calhoun and of the rest of Mr. Monroe's cabinet, had been filed there. In consequence a note of inquiry was addressed to Mr. Clayton, who answered (under date of July 19th, 1855) as follows:

"In reply to your inquiry I have to state that I have no recollection of having ever met with Mr. Calhoun's answer to Mr. Monroe's cabinet queries, as to the constitutionality of the Missouri compromise. It had not been found while I was in the department of state, as I was then informed: but the archives of the department disclose the fact, that Mr. Calhoun, and other members of the cabinet, did answer Mr. Monroe's questions. It appears by an index that these answers were filed among the archives of that department. I was told they had been abstracted from the records, and could not be found; but I did not make a search for them myself. I have never doubted that Mr. Calhoun at least acquiesced in the decision of the cabinet of that day. Since I left the Department of State I have heard it rumored that Mr. Calhoun's answer to Mr. Monroe's queries had been found; but I know not upon what authority the statement was made."

34. Death Of Commodore Rodgers, And Notice Of His Life And Character

My idea of the perfect naval commander had been formed from history, and from the study of such characters as the Von Tromps and De Ruyters of Holland, the Blakes of England, and the De Tourvilles of France—men modest and virtuous, frank and sincere, brave and patriotic, gentle in peace, terrible in war; formed for high command by nature; and raising themselves to their proper sphere by their own exertions from low beginnings. When I first saw Commodore Rodgers, which was after I had reached senatorial age and station, he recalled to me the idea of those model admirals; and subsequent acquaintance confirmed the impression then made. He was to me the complete impersonation of my idea of the perfect naval commander—person, mind, and manners; with the qualities for command grafted on the groundwork of a good citizen and good father of a family; and all lodged in a frame to bespeak the seaman and the officer.

His very figure and face were those of the naval hero—such as we conceive from naval songs and ballads; and, from the course of life which the sea officer leads—exposed to the double peril of waves and war, and contending with the storms of the elements as well as with the storm of battle. We associate the idea of bodily power with such a life; and when we find them united—the heroic qualities in a frame of powerful muscular development—we experience a gratified feeling of completeness, which fulfils a natural expectation, and leaves nothing to be desired. And when the same great qualities are found, as they often are, in the man of slight and slender frame, it requires some effort of reason to conquer a feeling of surprise at a combination which is a contrast, and which presents so much power in a frame so little promising it; and hence all poets and orators, all painters and sculptors, all the dealers in imaginary perfections, give a corresponding figure of strength and force to the heroes they create.

Commodore Rodgers needed no help from the creative imagination to endow him with the form which naval heroism might require. His person was of the middle height, stout, square, solid, compact; well-proportioned; and combining in the perfect degree the idea of strength and endurance with the reality of manly comeliness—the statue of Mars, in the rough state, before the conscious chisel had lent the last polish. His face, stern in the outline, was relieved by a gentle and benign expression—grave with the overshadowing of an ample and capacious forehead and eyebrows. Courage need not be named among the qualities of Americans; the question would be to find one without it. His skill, enterprise, promptitude and talent for command, were shown in the war of 1812 with Great Britain; in the *quasi* war of 1799 with the French Republic—*quasi* only as it concerned political relations, real as it concerned desperate and brilliant combats at sea; and in the Mediterranean wars with the Barbary States, when those States were formidable in that sea and held Europe under tribute; and which tribute from the United States was relinquished by Tripoli and Tunis at the end of the war with these States—Commodore Rodgers commanding at the time as successor to Barron and Preble. It was at the end of this war, 1804, so valiantly conducted and so triumphantly concluded, that the reigning Pope, Pius the Seventh, publicly declared that America had done more for Christendom against the Barbary States, than all the powers of Europe combined.

He was first lieutenant on the Constellation when that frigate, under Truxton, vanquished and captured the French frigate Insurgent; and great as his merit was in the action, where he showed himself to be the proper second to an able commander, it was greater in what took

place after it; and in which steadiness, firmness, humanity, vigilance, endurance, and seamanship, were carried to their highest pitch; and in all which his honors were shared by the then stripling midshipman, afterwards the brilliant Commodore Porter.

The Insurgent having struck, and part of her crew been transferred to the Constellation, Lieut. Rodgers and Midshipman Porter were on board the prize, superintending the transfer, when a tempest arose—the ships parted—and dark night came on. There were still one hundred and seventy-three French prisoners on board. The two young officers had but eleven men—thirteen in all—to guard thirteen times their number; and work a crippled frigate at the same time, and get her into port. And nobly did they do it. For three days and nights did these thirteen (though fresh from a bloody conflict which strained every faculty and brought demands for rest), without sleep or repose, armed to the teeth, watching with eye and ear, stand to the arduous duty—sailing their ship, restraining their prisoners, solacing the wounded—ready to kill, and hurting no one. They did not sail at random, or for the nearest port; but, faithful to the orders of their commander, given under different circumstances, steered for St. Kitts, in the West Indies—arrived there safely—and were received with triumph and admiration.

Such an exploit equalled any fame that could be gained in battle; for it brought into requisition all the qualities for command which high command requires; and foreshadowed the future eminence of these two young officers. What firmness, steadiness, vigilance, endurance, and courage—far above that which the battle-field requires! and one of these young officers, a slight and slender lad, as frail to the look as the other was powerful; and yet each acting his part with the same heroic steadiness and perseverance, coolness and humanity! They had no irons to secure a single man. The one hundred and seventy-three French were loose in the lower hold, a sentinel only at each gangway; and vigilance, and readiness to use their arms, the only resource of the little crew. If history has a parallel to this deed I have not seen it; and to value it in all its extent, it must be remembered that these prisoners were Frenchmen—their inherent courage exalted by the frenzy of the revolution—themselves fresh from a murderous conflict—the decks of the ship still red and slippery with the blood of their comrades; and they with a right, both legal and moral, to recover their liberty if they could. These three days and nights, still more than the victory which preceded them, earned for Rodgers the captaincy, and for Porter the lieutenancy, with which they were soon respectively honored.

American cruisers had gained credit in the war of the Revolution, and in the *quasi* war with the French Republic; and American squadrons had bearded the Barbary Powers in their dens, after chasing their piratical vessels from the seas: but a war with Great Britain, with her one thousand and sixty vessels of war on her naval list, and above seven hundred of these for service, her fleets swelled with the ships of all nations, exalted with the idea of invincibility, and one hundred and twenty guns on the decks of her first-class men-of-war—any naval contest with such a power, with seventeen vessels for the sea, ranging from twelve to forty-four guns (which was the totality which the American naval register could then show), seemed an insanity. And insanity it would have been with even twenty times as many vessels, and double their number of guns, if naval battles with rival fleets had been intended. Fortunately we had naval officers at that time who understood the virtue of cruising, and believed they could do what Paul Jones and others had done during the war of the Revolution.

Political men believed nothing could be done at sea but to lose the few vessels which we had; that even cruising was out of the question. Of our seventeen vessels, the whole were in port but one; and it was determined to keep them there, and the one at sea with them, if it had the

luck to get in. I am under no obligation to make the admission, but I am free to acknowledge, that I was one of those who supposed that there was no salvation for our seventeen men-of-war but to run them as far up the creek as possible, place them under the guns of batteries, and collect camps of militia about them, to keep off the British. This was the policy at the day of the declaration of the war; and I have the less concern to admit myself to have been participator in the delusion, because I claim the merit of having profited from experience—happy if I could transmit the lesson to posterity. Two officers came to Washington—Bainbridge and Stewart. They spoke with Mr. Madison, and urged the feasibility of cruising. One-half of the whole number of the British men-of-war were under the class of frigates, consequently no more than matches for some of our seventeen; the whole of her merchant marine (many thousands) were subject to capture. Here was a rich field for cruising; and the two officers, for themselves and brothers, boldly proposed to enter it.

Mr. Madison had seen the efficiency of cruising and privateering, even against Great Britain, and in our then infantile condition, during the war of the Revolution; and besides was a man of sense, and amenable to judgment and reason. He listened to the two experienced and valiant officers; and, without consulting Congress, which perhaps would have been a fatal consultation (for multitude of counsellors is not the council for *bold* decision), reversed the policy which had been resolved upon; and, in his supreme character of constitutional commander of the army and navy, ordered every ship that could cruise to get to sea as soon as possible. This I had from Mr. Monroe, and it is due to Mr. Madison to tell it, who, without pretending to a military character, had the merit of sanctioning this most vital war measure.

Commodore Rodgers was then in New York, in command of the President (44), intended for a part of the harbor defence of that city. Within one hour after he had received his cruising orders, he was under way. This was the 21st of June. That night he got information of the Jamaica fleet (merchantmen), homeward bound; and crowded all sail in the direction they had gone, following the Gulf Stream towards the east of Newfoundland. While on this track, on the 23d, a British frigate was perceived far to the northeast, and getting further off. It was a nobler object than a fleet of merchantmen, and chase was immediately given her, and she gained upon; but not fast enough to get alongside before night.

It was four o'clock in the evening, and the enemy in range of the bow-chasers. Commodore Rodgers determined to cripple her, and diminish her speed; and so come up with her. He pointed the first gun himself, and pointed it well. The shot struck the frigate in her rudder coat, drove through her stern frame, and passed into the gun-room. It was the first gun fired during the war; and was no waste of ammunition. Second Lieutenant Gamble, commander of the battery, pointed and discharged the second—hitting and damaging one of the enemy's stern chasers. Commodore Rodgers fired the third—hitting the stern again, and killing and wounding six men. Mr. Gamble fired again. The gun bursted! killing and wounding sixteen of her own men, blowing up the Commodore—who fell with a broken leg upon the deck. The pause in working the guns on that side, occasioned by this accident, enabled the enemy to bring some stern guns to bear, and to lighten his vessel to increase her speed. He cut away his anchors, stove and threw overboard his boats, and started fourteen tons of water. Thus lightened, he escaped. It was the Belvidera, 36 guns, Captain Byron. The President would have taken her with all ease if she had got alongside; and of that the English captain showed himself duly, and excusably sensible.

The frigate having escaped, the Commodore, regardless of his broken leg, hauled up to its course in pursuit of the Jamaica fleet, and soon got information that it consisted of eighty-five sail, and was under convoy of four men-of-war; one of them a two-decker, another a frigate; and that he was on its track. Passing Newfoundland and finding the sea well sprinkled with

the signs of West India fruit—orange peels, cocoanut shells, pine-apple rinds, &c.—the Commodore knew himself to be in the wake of the fleet, and made every exertion to come up with it before it could reach the chops of the channel: but in vain. When almost in sight of the English coast, and no glimpse obtained of the fleet, he was compelled to tack, run south: and, after an extended cruise, return to the United States.

The Commodore had missed the two great objects of his ambition—the fleet and the frigate; but the cruise was not barren either in material or moral results. Seven British merchantmen were captured—one American recaptured—the English coast had been approached. With impunity an American frigate—one of those insultingly styled "fir-built, with a bit of striped bunting at her mast-head,"—had almost looked into that narrow channel which is considered the sanctum of a British ship. An alarm had been spread, and a squadron of seven men-of-war (four of them frigates and one a sixty-four gun ship) were assembled to capture him; one of them the Belvidera, which had escaped at the bursting of the President's gun, and spread the news of her being at sea.

It was a great honor to Commodore Rodgers to send such a squadron to look after him; and became still greater to Captain Hull, in the Constitution, who escaped from it after having been almost surrounded by it. It was evening when this captain began to fall in with that squadron, and at daylight found himself almost encompassed by it—three ahead and four astern. Then began that chase which continued seventy-two hours, in which seven pursued one, and seemed often on the point of closing on their prize; in which every means of progress, from reefed topsails to kedging and towing, was put into requisition by either party—the one to escape, the other to overtake; in which the stern-chasers of one were often replying to the bow-chasers of the other; and the greatest precision of manœuvring required to avoid falling under the guns of some while avoiding those of others; and which ended with putting an escape on a level with a great victory. Captain Hull brought his vessel safe into port, and without the sacrifice of her equipment—not an anchor having been cut away, boat stove, or gun thrown overboard to gain speed by lightening the vessel. It was a brilliant result, with all the moral effects of victory, and a splendid vindication of the policy of cruising—showing that we had seamanship to escape the force which we could not fight.

Commodore Rodgers made another extended cruise during this war, a circuit of eight thousand miles, traversing the high seas, coasting the shores of both continents, searching wherever the cruisers or merchantmen of the enemy were expected to be found; capturing what was within his means, avoiding the rest. A British government packet, with nearly $300,000 in specie, was taken; many merchantmen were taken; and, though an opportunity did not offer to engage a frigate of equal or nearly equal force, and to gain one of those electrifying victories for which our cruisers were so remarkable, yet the moral effect was great—demonstrating the ample capacity of an American frigate to go where she pleased in spite of the "thousand ships of war" of the assumed mistress of the seas; carrying damage and alarm to the foe, and avoiding misfortune to itself.

At the attempt of the British upon Baltimore Commodore Rodgers was in command of the maritime defences of that city, and, having no means of contending with the British fleet in the bay, he assembled all the seamen of the ships-of-war and of the flotilla, and entered judiciously into the combinations for the land defence.

Humane feeling was a characteristic of this brave officer, and was verified in all the relations of his life, and in his constant conduct. Standing on the bank of the Susquehanna river, at Havre de Grace, one cold winter day, the river flooded and filled with floating ice, he saw (with others), at a long distance, a living object—discerned to be a human being—carried down the stream. He ventured in, against all remonstrance, and brought the object safe to

shore. It was a colored woman—to him a human being, doomed to a frightful death unless relieved; and heroically relieved at the peril of his own life. He was humane in battle. That was shown in the affair of the Little Belt—chased, hailed, fought (the year before the war), and compelled to answer the hail, and tell who she was, with expense of blood, and largely; but still the smallest possible quantity that would accomplish the purpose. The encounter took place in the night, and because the British captain would not answer the American hail. Judging from the inferiority of her fire that he was engaged with an unequal antagonist, the American Commodore suspended his own fire, while still receiving broadsides from his arrogant little adversary; and only resumed it when indispensable to his own safety, and the enforcement of the question which he had put. An answer was obtained after thirty-one had been killed or wounded on board the British vessel; and this at six leagues from the American coast: and, the doctrine of no right to stop a vessel on the high seas to ascertain her character not having been then invented, no political consequence followed this bloody enforcement of maritime police—exasperated against each other as the two nations were at the time.

At the death of Decatur, killed in that lamentable duel, I have heard Mr. Randolph tell, and he alone could tell it, of the agony of Rodgers as he stood over his dying friend, in bodily contention with his own grief—convulsed within, calm without; and keeping down the struggling anguish of the soul by dint of muscular power.

That feeling heart was doomed to suffer a great agony in the untimely death of a heroic son, emulating the generous devotion of the father, and perishing in the waves, in vain efforts to save comrades more exhausted than himself; and to whom he nobly relinquished the means of his own safety. It was spared another grief of a kindred nature (not having lived to see it), in the death of another heroic son, lost in the sloop-of-war Albany, in one of those calamitous founderings at sea in which the mystery of an unseen fate deepens the shades of death, and darkens the depths of sorrow—leaving the hearts of far distant friends a prey to a long agony of hope and fear—only to be solved in an agony still deeper.

Commodore Rodgers died at the head of the American navy, without having seen the rank of Admiral established in our naval service, for which I voted when senator, and hoped to have seen conferred on him, and on others who have done so much to exalt the name of their country; and which rank I deem essential to the good of the service, even in the cruising system I deem alone suitable to us.

35. Anti-Duelling Act

The death of Mr. Jonathan Cilley, a representative in Congress from the State of Maine, killed in a duel with rifles, with Mr. Graves of Kentucky, led to the passage of an act with severe penalties against duelling, in the District of Columbia, or out of it upon agreement within the District. The penalties were—death to all the survivors, when any one was killed: a five years imprisonment in the penitentiary for giving or accepting a challenge. Like all acts passed under a sudden excitement, this act was defective, and more the result of good intentions than of knowledge of human nature. Passions of the mind, like diseases of the body, are liable to break out in a different form when suppressed in the one they had assumed. No physician suppresses an eruption without considering what is to become of the virus which is escaping, if stopped and confined to the body: no legislator should suppress an evil without considering whether a worse one is at the same time planted. I was a young member of the general assembly of Tennessee (1809), when a most worthy member (Mr. Robert C. Foster), took credit to himself for having put down billiard tables in Nashville. Another most worthy member (General Joseph Dixon) asked him how many card tables he had put up in their place? This was a side of the account to which the suppressor of billiard tables had not looked: and which opened up a view of serious consideration to every person intrusted with the responsible business of legislation—a business requiring so much knowledge of human nature, and so seldom invoking the little we possess. It has been on my mind ever since; and I have had constant occasions to witness its disregard—and seldom more lamentably than in the case of this anti-duelling act. It looked to one evil, and saw nothing else. It did not look to the assassinations, under the pretext of self-defence, which were to rise up in place of the regular duel. Certainly it is deplorable to see a young man, the hope of his father and mother—a ripe man, the head of a family—an eminent man, necessary to his country—struck down in the duel; and should be prevented if possible. Still this deplorable practice is not so bad as the bowie knife, and the revolver, and their pretext of self-defence—thirsting for blood. In the duel, there is at least consent on both sides, with a preliminary opportunity for settlement, with a chance for the law to arrest them, and room for the interposition of friends as the affair goes on. There is usually equality of terms; and it would not be called an affair of honor, if honor was not to prevail all round; and if the satisfying a point of honor, and not vengeance, was the end to be attained. Finally, in the regular duel, the principals are in the hands of the seconds (for no man can be made a second without his consent); and as both these are required by the duelling code (for the sake of fairness and humanity), to be free from ill will or grudge towards the adversary principal, they are expected to terminate the affair as soon as the point of honor is satisfied—and, the less the injury, so much the better. The only exception to these rules is, where the principals are in such relations to each other as to admit of no accommodation, and the injury such as to admit of no compromise. In the knife and revolver business, all this is different. There is no preliminary interval for settlement—no chance for officers of justice to intervene—no room for friends to interpose. Instead of equality of terms, every advantage is sought. Instead of consent, the victim is set upon at the most unguarded moment. Instead of satisfying a point of honor, it is vengeance to be glutted. Nor does the difference stop with death. In the duel, the unhurt principal scorns to continue the combat upon his disabled adversary: in the knife and revolver case, the hero of these weapons continues firing and stabbing while the prostrate body of the dying man gives a sign of life. In the duel the survivor never assails the character of the fallen: in the knife and revolver case, the first movement of the victor is to attack the character of his victim—to accuse him of an intent to murder; and to make out a case of self-

defence, by making out a case of premeditated attack against the other. And in such false accusation, the French proverb is usually verified—*the dead and the absent are always in the wrong*.

The anti-duelling act did not suppress the passions in which duels originate: it only suppressed one mode, and that the least revolting, in which these passions could manifest themselves. It did not suppress the homicidal intent—but gave it a new form: and now many members of Congress go into their seats with deadly weapons under their garments—ready to insult with foul language, and prepared to kill if the language is resented. The act should have pursued the homicidal intent into whatever form it might assume; and, therefore, should have been made to include all unjustifiable homicides.

The law was also mistaken in the nature of its penalties: they are not of a kind to be enforced, if incurred. It is in vain to attempt to punish more ignominiously, and more severely, a duel than an assassination. The offences, though both great, are of very different degrees; and human nature will recognize the difference though the law may not: and the result will be seen in the conduct of juries, and in the temper of the pardoning power. A species of penalty unknown to the common law, and rejected by it, and only held good when a man was the vassal of his lord—the dogma that the private injury to the family is merged in the public wrong—this species of penalty (amends to the family) is called for by the progress of homicides in our country; and not as a substitute for the death penalty, but cumulative. Under this dogma, a small injury to a man's person brings him a moneyed indemnity; in the greatest of all injuries, that of depriving a family of its support and protector, no compensation is allowed. This is preposterous, and leads to deadly consequences. It is cheaper now to kill a man, than to hurt him; and, accordingly, the preparation is generally to kill, and not to hurt. The frequency, the wantonness, the barbarity, the cold-blooded cruelty, and the demoniac levity with which homicides are committed with us, have become the opprobrium of our country. An incredible number of persons, and in all parts of the country, seem to have taken the code of Draco for their law, and their own will for its execution—kill for every offence. The death penalty, prescribed by divine wisdom, is hardly a scare-crow. Some States have abolished it by statute—some communities, virtually, by a mawkish sentimentality: and every where, the jury being the judge of the law as well as of the fact, find themselves pretty much in a condition to do as they please. And unanimity among twelve being required, as in the English law, instead of a concurrence of three-fifths in fifteen, as in the Scottish law, it is in the power of one or two men to prevent a conviction, even in the most flagrant cases. In this deluge of bloodshed some new remedy is called for in addition to the death penalty; and it may be best found in the principle of compensation to the family of the slain, recoverable in every case where the homicide was not justifiable under the written laws of the land. In this wide-spread custom of carrying deadly weapons, often leading to homicides where there was no previous intent, some check should be put on a practice so indicative of a bad heart—a heart void of social duty, and fatally bent on mischief; and this check may be found in making the fact of having such arms on the person an offence in itself, *prima facie* evidence of malice, and to be punished cumulatively by the judge; and that without regard to the fact whether used or not in the affray.

The anti-duelling act of 1839 was, therefore, defective in not pursuing the homicidal offence into all the new forms it might assume; in not giving damages to a bereaved family—and not punishing the carrying of the weapon, whether used or not—only accommodating the degree of punishment to the more or less use that had been made of it. In the Halls of Congress it should be an offence, in itself, whether drawn or not, subjecting the offender to all the penalties for a high misdemeanor—removal from office—disqualification to hold any office of trust or profit under the United States—and indictment at law besides.

36. Slavery Agitation In The House Of Representatives, And Retiring Of Southern Members From The Hall

The most angry and portentous debate which had yet taken place in Congress, occurred at this time in the House of Representatives. It was brought on by Mr. William Slade, of Vermont, who, besides presenting petitions of the usual abolition character, and moving to refer them to a committee, moved their reference to a select committee, with instructions to report a bill in conformity to their prayer. This motion, inflammatory and irritating in itself, and without practical legislative object, as the great majority of the House was known to be opposed to it, was rendered still more exasperating by the manner of supporting it. The mover entered into a general disquisition on the subject of slavery, all denunciatory, and was proceeding to speak upon it in the State of Virginia, and other States, in the same spirit, when Mr. Legare, of South Carolina, interposed, and—

"Hoped the gentleman from Vermont would allow him to make a few remarks before he proceeded further. He sincerely hoped that gentleman would consider well what he was about before he ventured on such ground, and that he would take time to consider what might be its probable consequences. He solemnly entreated him to reflect on the possible results of such a course, which involved the interests of a nation and a continent. He would warn him, not in the language of defiance, which all brave and wise men despised, but he would warn him in the language of a solemn sense of duty, that if there was 'a spirit aroused in the North in relation to this subject,' that spirit would encounter another spirit in the South full as stubborn. He would tell them that, when this question was forced upon the people of the South, they would be ready to take up the gauntlet. He concluded by urging on the gentleman from Vermont to ponder well on his course before he ventured to proceed."

Mr. Slade continued his remarks when Mr. Dawson of Georgia, asked him for the floor, that he might move an adjournment—evidently to carry off the storm which he saw rising. Mr. Slade refused to yield it; so the motion to adjourn could not be made. Mr. Slade continued, and was proceeding to answer his own inquiry put to himself—*what was Slavery?* when Mr. Dawson again asked for the floor, to make has motion of adjournment. Mr. Slade refused it: a visible commotion began to pervade the House—members rising, clustering together, and talking with animation. Mr. Slade continued, and was about reading a judicial opinion in one of the Southern States which defined a slave to be a chattel—when Mr. Wise called him to order for speaking beside the question—the question being upon the abolition of slavery in the District of Columbia, and Mr. Slade's remarks going to its legal character, as property in a State. The Speaker, Mr. John White, of Kentucky, sustained the call, saying it was not in order to discuss the subject of slavery in any of the States. Mr. Slade denied that he was doing so, and said he was merely quoting a Southern judicial decision as he might quote a legal opinion delivered in Great Britain. Mr. Robertson, of Virginia, moved that the House adjourn. The Speaker pronounced the motion (and correctly), out of order, as the member from Vermont was in possession of the floor and addressing the House. He would, however, suggest to the member from Vermont, who could not but observe the state of the House, to confine himself strictly to the subject of his motion. Mr. Slade went on at great length, when Mr. Petrikin, of Pennsylvania, called him to order; but the Chair did not sustain the call. Mr. Slade went on, quoting from the Declaration of Independence, and the constitutions of the several States, and had got to that of Virginia, when Mr. Wise called him to order for reading

papers without the leave of the House. The Speaker decided that no paper, objected to, could be read without the leave of the House. Mr. Wise then said:

"That the gentleman had wantonly discussed the abstract question of slavery, going back to the very first day of the creation, instead of slavery as it existed in the District, and the powers and duties of Congress in relation to it. He was now examining the State constitutions to show that as it existed in the States it was against them, and against the laws of God and man. This was out of order."

Mr. Slade explained, and argued in vindication of his course, and was about to read a memorial of Dr. Franklin, and an opinion of Mr. Madison on the subject of slavery—when the reading was objected to by Mr. Griffin, of South Carolina; and the Speaker decided they could not be read without the permission of the House. Mr. Slade, without asking the permission of the House, which he knew would not be granted, assumed to understand the prohibition as extending only to himself personally, said—"*Then I send them to the clerk: let him read them.*" The Speaker decided that this was equally against the rule. Then Mr. Griffin withdrew the objection, and Mr. Slade proceeded to read the papers, and to comment upon them as he went on, and was about to go back to the State of Virginia, and show what had been the feeling there on the subject of slavery previous to the date of Dr. Franklin's memorial: Mr. Rhett, of South Carolina, inquired of the Chair what the opinions of Virginia fifty years ago had to do with the case? The Speaker was about to reply, when Mr. Wise rose with warmth, and said—"He has discussed the whole abstract question of slavery: of slavery in Virginia: of slavery in my own district: and I now ask all my colleagues to retire with me from this hall." Mr. Slade reminded the Speaker that he had not yielded the floor; but his progress was impeded by the condition of the House, and the many exclamations of members, among whom Mr. Halsey, of Georgia, was heard calling on the Georgia delegation to withdraw with him; and Mr. Rhett was heard proclaiming, that the South Carolina members had already consulted together, and agreed to have a meeting at three o'clock in the committee room of the District of Columbia. Here the Speaker interposed to calm the House, standing up in his place and saying:

"The gentleman from Vermont had been reminded by the Chair that the discussion of slavery, as existing within the States, was not in order; when he was desirous to read a paper and it was objected to, the Chair had stopped him; but the objection had been withdrawn, and Mr. Slade had been suffered to proceed; he was now about to read another paper, and objection was made; the Chair would, therefore, take the question on permitting it to be read."

Many members rose, all addressing the Chair at the same time, and many members leaving the hall, and a general scene of noise and confusion prevailing. Mr. Rhett succeeded in raising his voice above the roar of the tempest which raged in the House, and invited the entire delegations from all the slave States to retire from the hall forthwith, and meet in the committee room of the District of Columbia. The Speaker again essayed to calm the House, and again standing up in his place, he recapitulated his attempts to preserve order, and vindicated the correctness of his own conduct—seemingly impugned by many. What his personal feelings were on the subject (he was from a slave State), might easily be conjectured. He had endeavored to enforce the rules. Had it been in his power to restrain the discussion, he should promptly have exercised the power; but it was not. Mr. Slade, continuing, said the paper which he wished to read was of the continental Congress of 1774. The Speaker was about to put the question on leave, when Mr. Cost Johnson, of Maryland, inquired whether it would be in order to force the House to vote that the member from Vermont be not permitted to proceed? The Speaker replied it would not. Then Mr. James J. McKay, of North Carolina—a clear, coolheaded, sagacious man—interposed the objection

which headed Mr. Slade. There was a rule of the House, that when a member was called to order, he should take his seat; and if decided to be out of order, he should not be allowed to speak again, except on the leave of the House. Mr. McKay judged this to be a proper occasion for the enforcement of that rule; and stood up and said:

"That the gentleman had been pronounced out of order in discussing slavery in the States; and the rule declared that when a member was so pronounced by the Chair, he should take his seat, and if any one objected to his proceeding again, he should not do so, unless by leave of the House. Mr. McKay did now object to the gentleman from Vermont proceeding any farther."

Redoubled noise and confusion ensued—a crowd of members rising and speaking at once—who eventually yielded to the resounding blows of the Speaker's hammer upon the lid of his desk, and his apparent desire to read something to the House, as he held a book (recognized to be that of the rules) in his hand. Obtaining quiet, so as to enable himself to be heard, he read the rule referred to by Mr. McKay; and said that, as objection had now, for the first time, been made under that rule to the gentleman's resuming his speech, the Chair decided that he could not do so without the leave of the House. Mr. Slade attempted to go on: the Speaker directed him to take his seat until the question of leave should be put. Then, Mr. Slade, still keeping on his feet, asked leave to proceed as in order, saying he would not discuss slavery in Virginia. On that question Mr. Allen, of Vermont, asked the yeas and nays. Mr. Rencher, of North Carolina, moved an adjournment. Mr. Adams, and many others, demanded the yeas and nays on this motion, which were ordered, and resulted in 106 yeas, and 63 nays—some fifty or sixty members having withdrawn. This opposition to adjournment was one of the worst features of that unhappy day's work—the only effect of keeping the House together being to increase irritation, and multiply the chances for an outbreak. From the beginning Southern members had been in favor of it, and essayed to accomplish it, but were prevented by the tenacity with which Mr. Slade kept possession of the floor: and now, at last, when it was time to adjourn any way—when the House was in a condition in which no good could be expected, and great harm might be apprehended, there were sixty-three members—being nearly one-third of the House—willing to continue it in session. They were:

"Messrs. Adams, Alexander, H. Allen, J. W. Allen, Aycrigg, Bell, Biddle, Bond, Borden, Briggs, Wm. B. Calhoun, Coffin, Corwin, Cranston, Curtis, Cushing, Darlington, Davies, Dunn, Evans, Everett, Ewing I. Fletcher, Fillmore, Goode, Grennell, Haley, Hall, Hastings, Henry, Herod, Hoffman, Lincoln, Marvin, S. Mason, Maxwell, McKennan, Milligan, M. Morris, C. Morris, Naylor, Noyes, Ogle, Parmenter, Patterson, Peck, Phillips, Potts, Potter, Rariden, Randolph, Reed, Ridgway, Russel, Sheffer, Sibley, Slade, Stratton, Tillinghast, Toland, A. S. White, J. White, E. Whittlesey—63."

The House then stood adjourned; and as the adjournment was being pronounced, Mr. Campbell of South Carolina, stood up on a chair, and calling for the attention of members, said:

"He had been appointed, as one of the Southern delegation, to announce that all those gentlemen who represented slaveholding States, were invited to attend the meeting now being held in the District committee room."

Members from the slave-holding States had repaired in large numbers to the room in the basement, where they were invited to meet. Various passions agitated them—some violent. Extreme propositions were suggested, of which Mr. Rhett, of South Carolina, in a letter to his constituents, gave a full account of his own—thus:

"In a private and friendly letter to the editor of the Charleston Mercury amongst other events accompanying the memorable secession of the Southern members from the hall of the House of Representatives, I stated to him, that I had prepared two resolutions, drawn as amendments to the motion of the member from Vermont, whilst he was discussing the institution of slavery in the South, 'declaring, that the constitution having failed to protect the South in the peaceable possession and enjoyment of their rights and peculiar institutions, it was expedient that the Union should be dissolved; and the other, appointing a committee of two members from each State, to report upon the best means of peaceably dissolving it.' They were intended as amendments to a motion, to refer with instructions to report a bill, abolishing slavery in the District of Columbia. I expected them to share the fate, which inevitably awaited the original motion, so soon as the floor could have been obtained, viz., to be laid upon the table. My design in presenting them, was, to place before Congress and the people, what, in my opinion, was the true issue upon this great and vital question; and to point out the course of policy by which it should be met by the Southern States."

But extreme counsels did not prevail. There were members present, who well considered that, although the provocation was great, and the number voting for such a firebrand motion was deplorably large, yet it was but little more than the one-fourth of the House, and decidedly less than one half of the members from the free States: so that, even if left to the free State vote alone, the motion would have been rejected. But the motion itself, and the manner in which it was supported, was most reprehensible—necessarily leading to disorder in the House, the destruction of its harmony and capacity for useful legislation, tending to a sectional segregation of the members, the alienation of feeling between the North and the South; and alarm to all the slaveholding States. The evil required a remedy, but not the remedy of breaking up the Union; but one which might prevent the like in future, while administering a rebuke upon the past. That remedy was found in adopting a proposition to be offered to the House, which, if agreed to, would close the door against any discussion upon abolition petitions in future, and assimilate the proceedings of the House, in that particular, to those of the Senate. This proposition was put into the hands of Mr. Patton, of Virginia, to be offered as an amendment to the rules at the opening of the House the next morning. It was in these words:

"*Resolved*, That all petitions, memorials, and papers, touching the abolition of slavery or the buying, selling, or transferring of slaves, in any State, District, or Territory, of the United States, be laid on the table, without being debated, printed, read, or referred, and that no further action whatever shall be had thereon."

Accordingly, at the opening of the House, Mr. Patton asked leave to submit the resolution—which was read for information. Mr. Adams objected to the grant of leave. Mr. Patton then moved a suspension of the rules—which motion required two-thirds to sustain it; and, unless obtained, this salutary remedy for an alarming evil (which was already in force in the Senate) could not be offered. It was a test motion, and on which the opponents of abolition agitation in the House required all their strength: for unless two to one, they were defeated. Happily the two to one were ready, and on taking the yeas and nays, demanded by an abolition member (to keep his friends to the track, and to hold the free State anti-abolitionists to their responsibility at home), the result stood 135 yeas to 60 nays—the full two-thirds, and fifteen over. The yeas on this important motion, were:

Messrs. Hugh J. Anderson, John T. Andrews, Charles G. Atherton, William Beatty, Andrew Beirne, John Bell, Bennet Bicknell, Richard Biddle, Samuel Birdsall, Ratliff Boon, James W. Bouldin, John C. Brodhead, Isaac H. Bronson, Andrew D. W. Bruyn, Andrew Buchanan, John Calhoun, C. C. Cambreleng, Wm. B. Campbell, John Campbell, Timothy J. Carter, Wm.

B. Carter, Zadok Casey, John Chambers, John Chaney, Reuben Chapman, Richard Cheatham, Jonathan Cilley, John F. H. Claiborne, Jesse F. Cleaveland, Wm. K. Clowney, Walter Coles, Thomas Corwin, Robert Craig, John W. Crocket, Samuel Cushman, Edmund Deberry, John I. De Graff, John Dennis, George C. Dromgoole, John Edwards, James Farrington, John Fairfield, Jacob Fry, jr., James Garland, James Graham, Seaton Grantland, Abr'm P. Grant, William J. Graves. Robert H. Hammond, Thomas L. Hamer, James Harlan, Albert G. Harrison, Richard Hawes, Micajah T. Hawkins, Charles E. Haynes, Hopkins Holsey, Orrin Holt, George W. Hopkins, Benjamin C. Howard, Edward B. Hubley, Jabez Jackson, Joseph Johnson, Wm. Cost Johnson, John W. Jones, Gouverneur Kemble, Daniel Kilgore, John Klingensmith, jr., Joab Lawler, Hugh S. Legare, Henry Logan, Francis S. Lyon, Francis Mallory, James M. Mason, Joshua L. Martin, Abram P. Maury, Wm. L. May, James J. McKay, Robert McClellan, Abraham McClelland, Charles McClure, Isaac McKim, Richard H. Menefee, Charles F. Mercer, Wm. Montgomery, Ely Moore, Wm. S. Morgan, Samuel W. Morris, Henry A. Muhlenberg, John L. Murray, Wm. H. Noble, John Palmer, Amasa J. Parker, John M. Patton, Lemuel Paynter, Isaac S. Pennybacker, David Petrikin, Lancelot Phelps, Arnold Plumer, Zadock Pratt, John H. Prentiss, Luther Reily, Abraham Rencher, John Robertson, Samuel T. Sawyer, Augustine H. Shepperd, Charles Shepard, Ebenezer J. Shields, Matthias Sheplor, Francis O. J. Smith, Adam W. Snyder, Wm. W. Southgate, James B. Spencer, Edward Stanly, Archibald Stuart, Wm. Stone, John Taliaferro, Wm. Taylor, Obadiah Titus, Isaac Toucey, Hopkins L. Turney, Joseph R. Underwood, Henry Vail, David D. Wagener, Taylor Webster, Joseph Weeks, Albert S. White, John White, Thomas T. Whittlesey, Lewis Williams, Sherrod Williams, Jared W. Williams, Joseph L. Williams, Christ'r H. Williams, Henry A. Wise, Archibald Yell.

The nays were:

Messrs. John Quincy Adams, James Alexander, jr., Heman Allen, John W. Allen, J. Banker Aycrigg, Wm. Key Bond, Nathaniel B. Borden, George N. Briggs, Wm. B. Calhoun, Charles D. Coffin, Robert B. Cranston, Caleb Cushing, Edward Darlington, Thomas Davee, Edward Davies, Alexander Duncan, George H. Dunn, George Evans, Horace Everett, John Ewing, Isaac Fletcher, Millard Filmore, Henry A. Foster, Patrick G. Goode, George Grennell, jr., Elisha Haley, Hiland Hall, Alexander Harper, Wm. S. Hastings, Thomas Henry, Wm. Herod, Samuel Ingham, Levi Lincoln, Richard P. Marvin, Samson Mason, John P. B. Maxwell, Thos. M. T. McKennan, Mathias Morris, Calvary Morris, Charles Naylor, Joseph C. Noyes, Charles Ogle, Wm. Parmenter, Wm. Patterson, Luther C. Peck, Stephen C. Phillips, David Potts, jr., James Rariden, Joseph F. Randolph, John Reed, Joseph Ridgway, David Russell, Daniel Sheffer, Mark H. Sibley, Wm. Slade, Charles C. Stratton, Joseph L. Tillinghast, George W. Toland, Elisha Whittlesey, Thomas Jones Yorke.

This was one of the most important votes ever delivered in the House. Upon its issue depended the quiet of the House on one hand, or on the other, the renewal, and perpetuation of the scenes of the day before—ending in breaking up all deliberation, and all national legislation. It was successful, and that critical step being safely over, the passage of the resolution was secured—the free State friendly vote being itself sufficient to carry it: but, although the passage of the resolution was secured, yet resistance to it continued. Mr. Patton rose to recommend his resolution as a peace offering, and to prevent further agitation by demanding the previous question. He said:

"He had offered this resolution in the spirit of peace and harmony. It involves (said Mr. P.), so far as I am concerned, and so far as concerns some portion of the representatives of the slaveholding States, a concession; a concession which we make for the sake of peace, harmony, and union. We offer it in the hope that it may allay, not exasperate excitement; we

desire to extinguish, not to kindle a flame in the country. In that spirit, sir, without saying one word in the way of discussion; without giving utterance to any of those emotions which swell in my bosom at the recollection of what took place here yesterday, I shall do what I have never yet done since I have been a member of this House, and which I have very rarely sustained, when done by others: I move the previous question."

Then followed a scene of disorder, which thus appears in the Register of Debates:

"Mr. Adams rose and said. Mr. Speaker, the gentleman precedes his resolution—(Loud cries of 'Order! order!' from all parts of the hall.) Mr. A. He preceded it with remarks—('Order! order!')

"The Chair reminded the gentleman that it was out of order to address the House after the demand for the previous question.

"Mr. Adams. I ask the House—(continued cries of 'Order!' which completely drowned the honorable member's voice.)"

Order having been restored, the next question was—"Is the demand for the previous question seconded?"—which seconding would consist of a majority of the whole House—which, on a division, quickly showed itself. Then came the further question—"*Shall the main question be now put?*"—on which the yeas and nays were demanded, and taken; and ended in a repetition of the vote of the same 63 against it. The main question was then put, and carried; but again, on yeas and nays, to hold free State members to their responsibility; showing the same 63 in the negative, with a few additional votes from free State members, who, having staked themselves on the vital point of suspending the rules, saw no use in giving themselves further trouble at home, by giving an unnecessary vote in favor of stifling abolition debate. In this way, the ranks of the 63 were increased to 74.

Thus was stifled, and in future prevented in the House, the inflammatory debates on these disturbing petitions. It was the great session of their presentation—being offered by hundreds, and signed by hundreds of thousands of persons—many of them women, who forgot their sex and their duties, to mingle in such inflammatory work; some of them clergymen, who forgot their mission of peace, to stir up strife among those who should be brethren. Of the pertinacious 63, who backed Mr. Slade throughout, the most notable were Mr. Adams, who had been President of the United States—Mr. Fillmore, who became so—and Mr. Caleb Cushing, who eventually became as ready to abolish all impediments to the general diffusion of slavery, as he then was to abolish slavery itself in the District of Columbia. It was a portentous contest. The motion of Mr. Slade was, not for an inquiry into the expediency of abolishing slavery in the District of Columbia (a motion in itself sufficiently inflammatory), but to get the command of the House to bring in a bill for that purpose—which would be a decision of the question. His motion failed. The storm subsided; and very few of the free State members who had staked themselves on the issue, lost any thing among their constituents for the devotion which they had shown to the Union.

37. Abolitionists Classified By Mr. Clay Ultras Denounced: Slavery Agitators North And South Equally Denounced As Dangerous To The Union

“It is well known to the Senate, said Mr. Clay, that I have thought that the most judicious course with abolition petitions has not been of late pursued by Congress. I have believed that it would have been wisest to have received and referred them, without opposition, and to have reported against their object in a calm and dispassionate and argumentative appeal to the good sense of the whole community. It has been supposed, however, by a majority of Congress that it was most expedient either not to receive the petitions at all, or, if formally received, not to act definitively upon them. There is no substantial difference between these opposite opinions, since both look to an absolute rejection of the prayer of the petitioners. But there is a great difference in the form of proceeding; and, Mr. President, some experience in the conduct of human affairs has taught me to believe that a neglect to observe established forms is often attended with more mischievous consequences than the infliction of a positive injury. We all know that, even in private life, a violation of the existing usages and ceremonies of society cannot take place without serious prejudice. I fear, sir, that the abolitionists have acquired a considerable apparent force by blending with the object which they have in view a collateral and totally different question arising out of an alleged violation of the right of petition. I know full well, and take great pleasure in testifying, that nothing was remoter from the intention of the majority of the Senate, from which I differed, than to violate the right of petition in any case in which, according to its judgment, that right could be constitutionally exercised, or where the object of the petition could be safely or properly granted. Still, it must be owned that the abolitionists have seized hold of the fact of the treatment which their petitions have received in Congress, and made injurious impressions upon the minds of a large portion of the community. This, I think, might have been avoided by the course which I should have been glad to have seen pursued.

“And I desire now, Mr. President, to advert to some of those topics which I think might have been usefully embodied in a report by a committee of the Senate, and which, I am persuaded, would have checked the progress, if it had not altogether arrested the efforts of abolition. I am sensible, sir, that this work would have been accomplished with much greater ability, and with much happier effect, under the auspices of a committee, than it can be by me. But, anxious as I always am to contribute whatever is in my power to the harmony, concord, and happiness of this great people, I feel myself irresistibly impelled to do whatever is in my power, incompetent as I feel myself to be, to dissuade the public from continuing to agitate a subject fraught with the most direful consequences.

“There are three classes of persons opposed, or apparently opposed, to the continued existence of slavery in the United States. The first are those who, from sentiments of philanthropy and humanity, are conscientiously opposed to the existence of slavery, but who are no less opposed, at the same time, to any disturbance of the peace and tranquillity of the Union, or the infringement of the powers of the States composing the confederacy. In this class may be comprehended that peaceful and exemplary society of ‘Friends,’ one of whose established maxims is, an abhorrence of war in all its forms, and the cultivation of peace and good-will amongst mankind. The next class consists of apparent abolitionists—that is, those who, having been persuaded that the right of petition has been violated by Congress, co-operate with the abolitionists for the sole purpose of asserting and vindicating that right. And

the third class are the real ultra-abolitionists, who are resolved to persevere in the pursuit of their object at all hazards, and without regard to any consequences, however calamitous they may be. With them the rights of property are nothing; the deficiency of the powers of the general government is nothing; the acknowledged and incontestable powers of the States are nothing; civil war, a dissolution of the Union, and the overthrow of a government in which are concentrated the fondest hopes of the civilized world, are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences. With this class, the immediate abolition of slavery in the District of Columbia, and in the territory of Florida, the prohibition of the removal of slaves from State to State, and the refusal to admit any new State, comprising within its limits the institution of domestic slavery, are but so many means conducing to the accomplishment of the ultimate but perilous end at which they avowedly and boldly aim; are but so many short stages in the long and bloody road to the distant goal at which they would finally arrive. Their purpose is abolition, universal abolition, peaceably if it can, forcibly if it must. Their object is no longer concealed by the thinnest veil; it is avowed and proclaimed. Utterly destitute of constitutional or other rightful power, living in totally distinct communities, as alien to the communities in which the subject on which they would operate resides, so far as concerns political power over that subject, as if they lived in Africa or Asia, they nevertheless promulgate to the world their purpose to be to manumit forthwith, and without compensation, and without moral preparation, three millions of negro slaves, under jurisdictions altogether separated from those under which they live.

“I have said that immediate abolition of slavery in the District of Columbia and in the territory of Florida, and the exclusion of new States, were only means towards the attainment of a much more important end. Unfortunately, they are not the only means. Another, and much more lamentable one is that which this class is endeavoring to employ, of arraying one portion against another portion of the Union. With that view, in all their leading prints and publications, the alleged horrors of slavery are depicted in the most glowing and exaggerated colors, to excite the imaginations and stimulate the rage of the people in the free States against the people in the slave States. The slaveholder is held up and represented as the most atrocious of human beings. Advertisements of fugitive slaves to be sold are carefully collected and blazoned forth, to infuse a spirit of detestation and hatred against one entire and the largest section of the Union. And like a notorious agitator upon another theatre (Mr. Daniel O’Connell), they would hunt down and proscribe from the pale of civilized society the inhabitants of that entire section. Allow me, Mr. President, to say, that whilst I recognize in the justly wounded feelings of the Minister of the United States at the court of St. James much to excuse the notice which he was provoked to take of that agitator, in my humble opinion, he would better have consulted the dignity of his station and of his country in treating him with contemptuous silence. That agitator would exclude us from European society—he who himself can only obtain a contraband admission, and is received with scornful repugnance into it! If he be no more desirous of our society than we are of his, he may rest assured that a state of eternal non-intercourse will exist between us. Yes, sir, I think the American Minister would have best pursued the dictates of true dignity by regarding the language of that member of the British House of Commons as the malignant ravings of the plunderer of his own country, and the libeller of a foreign and kindred people.

“But the means to which I have already adverted are not the only ones which this third class of ultra-Abolitionists are employing to effect their ultimate end. They began their operations by professing to employ only persuasive means in appealing to the humanity, and enlightening the understandings, of the slaveholding portion of the Union. If there were some kindness in this avowed motive, it must be acknowledged that there was rather a

presumptuous display also of an assumed superiority in intelligence and knowledge. For some time they continued to make these appeals to our duty and our interest; but impatient with the slow influence of their logic upon our stupid minds, they recently resolved to change their system of action. To the agency of their powers of persuasion, they now propose to substitute the powers of the ballot box; and he must be blind to what is passing before us, who does not perceive that the inevitable tendency of their proceedings is, if these should be found insufficient, to invoke, finally, the more potent powers of the bayonet.

"Mr. President, it is at this alarming stage of the proceedings of the ultra-Abolitionists that I would seriously invite every considerate man in the country solemnly to pause, and deliberately to reflect, not merely on our existing posture, but upon that dreadful precipice down which they would hurry us. It is because these ultra-Abolitionists have ceased to employ the instruments of reason and persuasion, have made their cause political, and have appealed to the ballot box, that I am induced, upon this occasion, to address you.

"There have been three epochs in the history of our country at which the spirit of abolition displayed itself. The first was immediately after the formation of the present federal government. When the constitution was about going into operation, its powers were not well understood by the community at large, and remained to be accurately interpreted and defined. At that period numerous abolition societies were formed, comprising not merely the Society of Friends, but many other good men. Petitions were presented to Congress, praying for the abolition of slavery. They were received without serious opposition, referred, and reported upon by a committee. The report stated that the general government had no power to abolish slavery as it existed in the several States, and that these States themselves had exclusive jurisdiction over the subject. The report was generally acquiesced in, and satisfaction and tranquillity ensued; the abolition societies thereafter limiting their exertions, in respect to the black population, to offices of humanity within the scope of existing laws.

"The next period when the subject of slavery and abolition, incidentally, was brought into notice and discussion, was on the memorable occasion of the admission of the State of Missouri into the Union. The struggle was long, strenuous, and fearful. It is too recent to make it necessary to do more than merely advert to it, and to say, that it was finally composed by one of those compromises characteristic of our institutions, and of which the constitution itself is the most signal instance.

"The third is that in which we now find ourselves, and to which various causes have contributed. The principal one, perhaps, is British emancipation in the islands adjacent to our continent. Confounding the totally different cases of the powers of the British Parliament and those of our Congress, and the totally different conditions of the slaves in the British West India Islands and the slaves in the sovereign and independent States of this confederacy, superficial men have inferred from the undecided British experiment the practicability of the abolition of slavery in these States. All these are different. The powers of the British Parliament are unlimited, and often described to be omnipotent. The powers of the American Congress, on the contrary, are few, cautiously limited, scrupulously excluding all that are not granted, and above all, carefully and absolutely excluding all power over the existence or continuance of slavery in the several States. The slaves, too, upon which British legislation operated, were not in the bosom of the kingdom, but in remote and feeble colonies, having no voice in Parliament. The West India slaveholder was neither representative, or represented in that Parliament. And while I most fervently wish complete success to the British experiment of the West India emancipation, I confess that I have fearful forebodings of a disastrous termination. Whatever it may be, I think it must be admitted that, if the British Parliament treated the West India slaves as freemen, it also treated the West India freemen as

slaves. If instead of these slaves being separated by a wide ocean from the parent country, three or four millions of African negro slaves had been dispersed over England, Scotland, Wales and Ireland, and their owners had been members of the British Parliament—a case which would have presented some analogy to our own country—does any one believe that it would have been expedient or practical to have emancipated them, leaving them to remain, with all their embittered feelings, in the United kingdom, boundless as the powers of the British government are?

"Other causes have conspired with the British example to produce the existing excitement from abolition. I say it with profound regret, and with no intention to occasion irritation here or elsewhere, that there are persons in both parts of the Union who have sought to mingle abolition with politics, and to array one portion of the Union against the other. It is the misfortune of free countries that, in high party times, a disposition too often prevails to seize hold of every thing which can strengthen the one side or weaken the other. Prior to the late election of the present President of the United States, he was charged with being an abolitionist, and abolition designs were imputed to many of his supporters. Much as I was opposed to his election, and am to his administration, I neither shared in making or believing the truth of the charge. He was scarcely installed in office before the same charge was directed against those who opposed his election.

"It is not true—I rejoice that it is not true—that either of the two great parties in this country has any design or aim at abolition. I should deeply lament if it were true. I should consider, if it were true, that the danger to the stability of our system would be infinitely greater than any which does, I hope, actually exist. Whilst neither party can be, I think, justly accused of any abolition tendency or purpose, both have profited, and both been injured, in particular localities, by the accession or abstraction of abolition support. If the account were fairly stated, I believe the party to which I am opposed has profited much more, and been injured much less, than that to which I belong. But I am far, for that reason, from being disposed to accuse our adversaries of abolitionism."

38. Bank Of The United States: Resignation Of Mr. Biddle: Final Suspension

On the first of January of this year this Bank made an exposition of its affairs to the General Assembly of Pennsylvania, as required by its charter, in which its assets aggregated $66,180,396; and its liabilities aggregated $33,180,855: the exposition being verified by the usual oaths required on such occasions.

On the 30th of March following Mr. Biddle resigned his place as president of the Bank, giving as a reason for it that, "*the affairs of the institution were in a state of great prosperity, and no longer needed his services*."

On the same day the board of directors in accepting the resignation, passed a resolve declaring that the President Biddle had left the institution "*prosperous in all its relations, strong in its ability to promote the interest of the community, cordial with other banks, and secure in the esteem and respect of all connected with it at home or abroad*."

On the 9th of October the Bank closed her doors upon her creditors, under the mild name of suspension—never to open them again.

In the month of April preceding, when leaving Washington to return to Missouri, I told the President there would be another suspension, headed by the Bank of the United States, before we met again: at my return in November it was his first expression to remind me of that conversation; and to say it was the second time I had foreseen these suspensions, and warned him of them. He then jocularly said, don't predict so any more. I answered I should not; for it was the last time this Bank would suspend.

Still dominating over the moneyed systems of the South and West, this former colossal institution was yet able to carry along with her nearly all the banks of one-half of the Union: and using her irredeemable paper against the solid currency of the New York and other Northern banks, and selling fictitious bills on Europe, she was able to run them hard for specie—curtail their operations—and make panic and distress in the money market. At the same time by making an imposing exhibition of her assets, arranging a reciprocal use of their notes with other suspended banks, keeping up an apparent par value for her notes and stocks by fictitious and collusive sales and purchases, and above all, by her political connection with the powerful opposition—she was enabled to keep the field as a bank, and as a political power: and as such to act an effective part in the ensuing presidential election. She even pretended to have become stronger since the time when Mr. Biddle left her so prosperous; and at the next exposition of her affairs to the Pennsylvania legislature (Jan. 1, 1840), returned her assets at $74,603,142; her liabilities at $36,959,539, and her surplus at $37,643,603. This surplus, after paying all liabilities, showed the stock to be worth a premium of $2,643,603. And all this duly sworn to.

39. First Session Twenty-Sixth Congress: Members: Organization: Political Map Of The House

Members of the Senate.

New Hampshire.—Henry Hubbard, Franklin Pierce.

Maine.—John Ruggles, Reuel Williams.

Massachusetts.—John Davis. Daniel Webster.

Vermont.—Sam'l Prentiss, Sam'l S. Phelps.

Rhode Island.—Nehemiah R. Knight, N. F. Dixon.

Connecticut.—Thaddeus Betts, Perry Smith.

New York.—Silas Wright, N. P. Tallmadge.

New Jersey.—Sam'l L. Southard, Garret D. Wall.

Pennsylvania.—James Buchanan, Daniel Sturgeon.

Delaware.—Thomas Clayton.

Maryland.—John S. Spence, Wm. D. Merrick.

Virginia.—William H. Roane.

North Carolina.—Bedford Brown, R. Strange.

South Carolina.—John C. Calhoun, Wm. Campbell Preston.

Georgia.—Wilson Lumpkin, Alfred Cuthbert.

Kentucky.—Henry Clay, John J. Crittenden.

Tennessee.—Hugh L. White, Alex. Anderson.

Ohio.—William Allen, Benjamin Tappan.

Indiana.—Oliver H. Smith, Albert S. White.

Mississippi.—Robert J. Walker, John Henderson.

Louisiana.—Robert C. Nicholas, Alexander Mouton.

Illinois.—John M. Robinson, Richard M. Young.

Alabama.—Clement C. Clay, Wm. Rufus King.

Missouri.—Thomas H. Benton, Lewis F. Linn.

Arkansas.—William S. Fulton, Ambrose Sevier.

Michigan.—John Norvell, Augustus S. Porter.

Members of the House of Representatives.

Maine.—Hugh J. Anderson, Nathan Clifford, Thomas Davee, George Evans, Joshua A. Lowell, Virgil D. Parris, Benjamin Randall, Albert Smith.

New Hampshire.—Charles G. Atherton, Edmund Burke, Ira A. Eastman, Tristram Shaw, Jared W. Williams.

Connecticut.—Joseph Trumbull, William L. Storrs, Thomas W. Williams, Thomas B. Osborne, Truman Smith, John H. Brockway.

Vermont.—Hiland Hall, William Slade, Horace Everett, John Smith, Isaac Fletcher.

Massachusetts.—Abbot Lawrence, Leverett Saltonstall, Caleb Cushing, William Parmenter, Levi Lincoln, [Vacancy,] George N. Briggs, William B. Calhoun, William S. Hastings, Henry Williams, John Reed, John Quincy Adams.

Rhode Island.—Chosen by general ticket. Joseph L. Tillinghast, Robert B. Cranston.

New York.—Thomas B. Jackson, James de la Montayne, Ogden Hoffman, Edward Curtis, Moses H. Grinnell, James Monroe, Gouverneur Kemble, Charles Johnson, Nathaniel Jones, Rufus Palen, Aaron Vanderpoel, John Ely, Hiram P. Hunt, Daniel D. Barnard, Anson Brown, David Russell, Augustus C. Hand, John Fine, Peter J. Wagoner, Andrew W. Doig, John G. Floyd, David P. Brewster, Thomas C. Crittenden, John H. Prentiss, Judson Allen,

John C. Clark, S. B. Leonard, Amasa Dana, Edward Rogers, Nehemiah H. Earl, Christopher Morgan, Theron R. Strong, Francis P. Granger, Meredith Mallory, Seth M. Gates, Luther C. Peck, Richard P. Marvin, Millard Fillmore, Charles F. Mitchell.

New Jersey.—Joseph B. Randolph, Peter D. Vroom, Philemon Dickerson, William R. Cooper, Daniel B. Ryall, Joseph Kille.

Pennsylvania.—William Beatty, Richard Biddle, James Cooper, Edward Davies, John Davis, John Edwards, Joseph Fornance, John Galbraith, James Gerry, Robert H. Hammond, Thomas Henry, Enos Hook, Francis James, George M. Keim, Isaac Leet, Albert G. Marchand, Samuel W. Morris, George McCulloch, Charles Naylor, Peter Newhard, Charles Ogle, Lemuel Paynter, David Petrikin, William S. Ramsey, John Sergeant, William Simonton, George W. Toland, David D. Wagener.

Delaware.—Thomas Robinson, jr.

Maryland.—James Carroll, John Dennis, Solomon Hillen, jr., Daniel Jenifer, William Cost Johnson, Francis Thomas, Philip F. Thomas, John T. H. Worthington.

Virginia.—Linn Banks, Andrew Beirne, John M. Botts, Walter Coles, Robert Craig, George C. Dromgoole, James Garland, William L. Goggin, John Hill, Joel Holleman, George W. Hopkins, Robert M. T. Hunter, Joseph Johnson, John W. Jones, William Lucas, Charles F. Mercer, Francis E. Rives, Green B. Samuels, Lewis Steinrod, John Taliaferro, Henry A. Wise.

North Carolina.—Jesse A. Bynum, Henry W. Connor, Edmund Deberry, Charles Fisher, James Graham, Micajah T. Hawkins, John Hill, James J. McKay, William Montgomery, Kenneth Rayner, Charles Shepard, Edward Stanly, Lewis Williams.

South Carolina.—Sampson H. Butler, John Campbell, John K. Griffin, Isaac E. Holmes, Francis W. Pickens, R. Barnwell Rhett, James

Rogers, Thomas B. Sumter, Waddy Thompson, jr.

Georgia.—Julius C. Alford, Edward J. Black, Walter T. Colquitt, Mark A. Cooper, William C. Dawson, Richard W. Habersham, Thomas B. King, Eugenius A. Nisbet, Lott Warren.

Alabama.—R. H. Chapman, David Hubbard, George W. Crabb, Dixon H. Lewis, James Dillett.

Louisiana.—Edward D. White, Edward Chinn, Rice Garland.

Mississippi.—A. G. Brown, J. Thompson.

Missouri.—John Miller, John Jameson.

Arkansas.—Edward Cross.

Tennessee.—William B. Carter, Abraham McClellan, Joseph L. Williams, Julius W. Blackwell, Hopkins L. Turney, William B. Campbell, John Bell, Meredith P. Gentry, Harvey M. Watterson, Aaron V. Brown, Cave Johnson, John W. Crockett, Christopher H. Williams.

Kentucky.—Linn Boyd, Philip Triplett, Joseph Underwood, Sherrod Williams, Simeon W. Anderson, Willis Green, John Pope, William J. Graves, John White, Richard Hawes, L. W. Andrews, Garret Davis, William O. Butler.

Ohio.—Alexander Duncan, John B. Weller, Patrick G. Goode, Thomas Corwin, William Doane, Calvary Morris, William K. Bond, Joseph Ridgway, William Medill, Samson Mason, Isaac Parish, Jonathan Taylor, D. P. Leadbetter, George Sweeny, John W. Allen, Joshua R. Giddings, John Hastings, D. A. Starkweather, Henry Swearingen.

Michigan.—Isaac E. Crary.

Indiana.—Geo. H. Proffit, John Davis, John Carr, Thomas Smith, James Rariden, Wm. W. Wick, T. A. Howard.

Illinois.—John Reynolds, Zadok Casey,
John T. Stuart.

The organization of the House was delayed for many days by a case of closely and earnestly contested election from the State of New Jersey. Five citizens, to wit: John B. Aycrigg, John B. Maxwell, William Halsted, Thomas C. Stratton, Thomas Jones Yorke, had received the governor's certificate as duly elected: five other citizens, to wit: Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, John Kille, claimed to have received a majority of the lawful votes given in the election: and each set demanded admission as representatives. No case of contested election was ever more warmly disputed in the House. The two sets of claimants were of opposite political parties: the House was nearly divided: five from one side and added to the other would make a difference of ten votes: and these ten might determine its character. The first struggle was on the part of the members holding the certificates claiming to be admitted, and to act as members, until the question of *right* should be decided; and as this would give them a right to vote for speaker, it might have had the effect of deciding that important election: and for this point a great struggle was made by the whig party. The democracy could not ask for the immediate admission of the five democratic claimants, as they only presented a case which required to be examined before it could be decided. Their course was to exclude both sets, and send them equally before the committee of contested elections; and in the mean time, a resolution to proceed with the organization of the House was adopted after an arduous and protracted struggle, in which every variety of parliamentary motion was exhausted by each side to accomplish its purpose; and, at the end of three months it was referred to the committee to report which five of the ten contestants had received the greatest number of legal votes. This was putting the issue on the rights of the voters—on the broad and popular ground of choice by the people: and was equivalent to deciding the question in favor of the democratic contestants, who held the certificate of the Secretary of State that the majority of votes returned to his office was in their favor,—counting the votes of some precincts which the governor and council had rejected for illegality in holding the elections. As the constitutional judge of the election, qualifications and returns of its own members, the House disregarded the decision of the governor and council; and, deferring to the representative principle, made the decision turn, not upon the conduct of the officers holding the election, but upon the rights of the voters.

This strenuous contest was not terminated until the 10th of March—nearly one hundred days from the time of its commencement. The five democratic members were then admitted to their seats. In the mean time the election for speaker had been brought on by a vote of 118 to 110—the democracy having succeeded in bringing on the election after a total exhaustion of every parliamentary manœuvre to keep it off. Mr. John W. Jones, of Virginia, was the democratic nominee: Mr. Jno. Bell, of Tennessee, was nominated on the part of the whigs. The whole vote given in was 235, making 118 necessary to a choice. Of these, Mr. Jones received 118: Mr. Bell, 102. Twenty votes were scattered, of which 11, on the whig side, went to Mr. Dawson of Georgia; and 9 on the democratic side were thrown upon three southern members. Had any five of these nine voted for Mr. Jones, it would have elected him: while the eleven given to Mr. Dawson would not have effected the election of Mr. Bell. It was clear the democracy had the majority, for the contested election from New Jersey having been sent to a committee, and neither set of the contestants allowed to vote, the question became purely and simply one of party: but there was a fraction in each party which did not go with the party to which it belonged: and hence, with a majority in the House to bring on the election, and a majority voting in it, the democratic nominee lacked five of the number requisite to elect him. The contest was continued through five successive ballotings without any better result for Mr. Jones, and worse for Mr. Bell; and it became evident that there was a

fraction of each party determined to control the election. It became a question with the democratic party what to do? The fraction which did not go with the party were the friends of Mr. Calhoun, and although always professing democratically had long acted with the whigs, and had just returned to the body of the party against which they had been acting. The election was in their hands, and they gave it to be known that if one of their number was taken, they would vote with the body of the party and elect him: and Mr. Dixon H. Lewis, of Alabama, was the person indicated. The extreme importance of having a speaker friendly to the administration induced all the leading friends of Mr. Van Buren to go into this arrangement, and to hold a caucus to carry it into effect. The caucus was held: Mr. Lewis was adopted as the candidate of the party: and, the usual resolves of unanimity having been adopted, it was expected to elect him on the first trial. He was not, however, so elected; nor on the second trial; nor on the third; nor on any one up to the seventh: when, having never got a higher vote than Mr. Jones, and falling off to the one-half of it, he was dropped; and but few knew how the balk came to pass. It was thus: The writer of this View was one of a few who would not capitulate to half a dozen members, known as Mr. Calhoun's friends, long separated from the party, bitterly opposing it, just returning to it, and undertaking to govern it by constituting themselves into a balance wheel between the two nearly balanced parties. He preferred a clean defeat to any victory gained by such capitulation. He was not a member of the House, but had friends there who thought as he did; and these he recommended to avoid the caucus, and remain unbound by its resolves; and when the election came on, vote as they pleased: which they did: and enough of them throwing away their votes upon those who were no candidates, thus prevented the election of Mr. Lewis: and so returned upon the little fraction of pretenders the lesson which they had taught.

It was the same with the whig party. A fraction of its members refused to support the regular candidate of the party; and after many fruitless trials to elect him, he was abandoned—Mr. Robert M. T. Hunter, of Virginia, taken up, and eventually elected. He had voted with the whig party in the New Jersey election case—among the scattering in the votes for speaker; and was finally elected by the full whig vote, and a few of the scattering from the democratic ranks. He was one of the small band of Mr. Calhoun's friends; so that that gentleman succeeded in governing the whig election of speaker, after failing to govern that of the democracy.

In looking over the names of the candidates for speaker it will be seen that the whole were Southern men—no Northern man being at any time put in nomination, or voted for. And this circumstance illustrates a pervading system of action between the two sections from the foundation of the government—the southern going for the honors, the northern for the benefits of the government. And each has succeeded, but with the difference of a success in a solid and in an empty pursuit. The North has become rich upon the benefits of the government: the South has grown lean upon its honors.

This arduous and protracted contest for speaker, and where the issue involved the vital party question of the organization of the House, and where every member classified himself by a deliberate and persevering series of votes, becomes important in a political classification point of view, and is here presented in detail as the political map of the House—taking the first vote as showing the character of the whole.

1. Members voting for Mr. Jones: 113.

Judson Allen, Hugh J. Anderson, Charles G. Atherton, Linn Banks, William Beatty, Andrew Beirne, Julius W. Blackwell, Linn Boyd, David P. Brewster, Aaron V. Brown, Albert G. Brown, Edmund Burke, Sampson H. Butler, William O. Butler, Jesse A. Bynum, John Carr, James Carroll, Zadok Casey, Reuben Chapman, Nathan Clifford, Walter Coles, Henry W.

Connor, Robert Craig, Isaac E. Crary, Edward Cross, Amasa Dana, Thomas Davee, John Davis, John W. Davis, William Doan, Andrew W. Doig, George C. Dromgoole, Alexander Duncan, Nehemiah H. Earl, Ira A. Eastman, John Ely, John Fine, Isaac Fletcher, John G. Floyd, Joseph Fornance, John Galbraith, James Gerry, Robert H. Hammond, Augustus C. Hand, John Hastings, Micajah T. Hawkins, John Hill of North Carolina, Solomon Hillen jr., Joel Holleman, Enos Hook, Tilghman A. Howard, David Hubbard, Thomas B. Jackson, John Jameson, Joseph Johnson, Cave Johnson, Nathaniel Jones, George M. Keim, Gouverneur Kemble, Daniel P. Leadbetter, Isaac Leet, Stephen B. Leonard, Dixon H. Lewis, Joshua A. Lowell, William Lucas, Abraham McLellan, George McCulloch, James J. McKay, Meredith Mallory, Albert G. Marchand, William Medill, John Miller, James D. L. Montanya, William Montgomery, Samuel W. Morris, Peter Newhard, Isaac Parrish, William Parmenter, Virgil D. Parris, Lemuel Paynter, David Petrikin, Francis W. Pickens, John H. Prentiss, William S. Ramsey, John Reynolds, R. Barnwell Rhett, Francis E. Rives, Thomas Robinson jr., Edward Rodgers, Green B. Samuels, Tristram Shaw, Charles Shepard, Albert Smith, John Smith, Thomas Smith, David A. Starkweather, Lewis Steenrod, Theron R. Strong, Henry Swearingen, George Sweeny, Jonathan Taylor, Francis Thomas, Philip F. Thomas, Jacob Thompson, Hopkins L. Turney, Aaron Vanderpoel, David D. Wagner, Harvey M. Watterson, John B. Weller, William W. Wick, Jared W. Williams, Henry Williams, John T. H. Worthington.

2. Members voting for Mr. Bell: 102.

John Quincy Adams, John W. Allen, Simeon H. Anderson, Landaff W. Andrews, Daniel D. Barnard, Richard Biddle, William K. Bond, John M. Botts, George N. Briggs, John H. Brockway, Anson Brown, William B. Calhoun, William B. Campbell, William B. Carter, Thomas W. Chinn, Thomas C. Chittenden, John C. Clark, James Cooper, Thomas Corwin, George W. Crabb, Robt. B. Cranston, John W. Crockett, Edward Curtis, Caleb Cushing, Edward Davies, Garret Davis, William C. Dawson, Edmund Deberry, John Dennis, James Dellet, John Edwards, George Evans, Horace Everett, Millard Fillmore, Rice Garland, Seth M. Gates, Meredith P. Gentry, Joshua R. Giddings, William L. Goggin, Patrick G. Goode, James Graham, Francis Granger, Willis Green, William J. Graves, Moses H. Grinnell, Hiland Hall, William S. Hastings, Richard Hawes, Thomas Henry, John Hill of Virginia, Ogden Hoffman, Hiram P. Hunt, Francis James, Daniel Jenifer, Charles Johnston, William Cost Johnson, Abbott Lawrence, Levi Lincoln, Richard P. Marvin, Samson Mason, Charles F. Mercer, Charles F. Mitchell, James Monroe, Christopher Morgan, Calvary Morris, Charles Naylor, Charles Ogle, Thomas B. Osborne, Rufus Palen, Luther C. Peck, John Pope, George H. Proffit, Benjamin Randall, Joseph F. Randolph, James Rariden, Kenneth Rayner, John Reed, Joseph Ridgway, David Russell, Leverett Saltonstall, John Sergeant, William Simonton, William Slade, Truman Smith, Edward Stanly, William L. Storrs, John T. Stuart, John Taliaferro, Joseph L. Tillinghast, George W. Toland, Philip Triplett, Joseph Trumbull, Joseph R. Underwood, Peter J. Wagner, Edward D. White, John White, Thomas W. Williams, Lewis Williams, Joseph L. Williams, Christopher H. Williams, Sherrod Williams, Henry A. Wise.

3. Scattering: 20.

The following named members voted for William C. Dawson, of Georgia.

Julius C. Alford, John Bell, Edward J. Black, Richard W. Habersham, George W. Hopkins, Hiram P. Hunt, William Cost Johnson, Thomas B. King, Eugenius A. Nisbet, Waddy Thompson, jr., Lott Warren.

The following named members voted for Dixon H. Lewis, of Alabama:

John Campbell, Mark A. Cooper, John K. Griffin, John W. Jones, Walter T. Colquitt.

The following named members voted for Francis W. Pickens, of South Carolina:

Charles Fisher, Isaac E. Holmes, Robert M. T. Hunter, James Rogers, Thomas B. Sumter.

James Garland voted for George W. Hopkins, of Virginia.

Charles Ogle voted for Robert M. T. Hunter, of Virginia.

40. First Session Of The Twenty-Sixth Congress: President's Message

The President met with firmness the new suspension of the banks of the southern and western half of the Union, headed by the Bank of the United States. Far from yielding to it he persevered in the recommendation of his great measures, found in their conduct new reasons for the divorce of Bank and State, and plainly reminded the delinquent institutions with a total want of the reasons for stopping payment which they had alleged two years before. He said:

"It now appears that there are other motives than a want of public confidence under which the banks seek to justify themselves in a refusal to meet their obligations. Scarcely were the country and government relieved, in a degree, from the difficulties occasioned by the general suspension of 1837, when a partial one, occurring within thirty months of the former, produced new and serious embarrassments, though it had no palliation in such circumstances as were alleged in justification of that which had previously taken place. There was nothing in the condition of the country to endanger a well-managed banking institution; commerce was deranged by no foreign war; every branch of manufacturing industry was crowned with rich rewards; and the more than usual abundance of our harvests, after supplying our domestic wants, had left our granaries and storehouses filled with a surplus for exportation. It is in the midst of this, that an irredeemable and depreciated paper currency is entailed upon the people by a large portion of the banks. They are not driven to it by the exhibition of a loss of public confidence; or of a sudden pressure from their depositors or note-holders, but they excuse themselves by alleging that the current of business, and exchange with foreign countries, which draws the precious metals from their vaults, would require, in order to meet it, a larger curtailment of their loans to a comparatively small portion of the community, than it will be convenient for them to bear, or perhaps safe for the banks to exact. The plea has ceased to be one of necessity. Convenience and policy are now deemed sufficient to warrant these institutions in disregarding their solemn obligations. Such conduct is not merely an injury to individual creditors, but it is a wrong to the whole community, from whose liberality they hold most valuable privileges—whose rights they violate, whose business they derange, and the value of whose property they render unstable and insecure. It must be evident that this new ground for bank suspensions, in reference to which their action is not only disconnected with, but wholly independent of, that of the public, gives a character to their suspensions more alarming than any which they exhibited before, and greatly increases the impropriety of relying on the banks in the transactions of the government."

The President also exposed the dangerous nature of the whole banking system from its chain of connection and mutual dependence of one upon another, so as to make the misfortune or criminality of one the misfortune of all. Our country banks were connected with those of New York and Philadelphia: they again with the Bank of England. So that a financial crisis commencing in London extends immediately to our great Atlantic cities; and thence throughout the States to the most petty institutions of the most remote villages and counties: so that the lever which raised or sunk our country banks was in New York and Philadelphia, while they themselves were worked by a lever in London; thereby subjecting our system to the vicissitudes of English banking, and especially while we had a national bank, which, by a law of its nature, would connect itself with the Bank of England. All this was well shown by the President, and improved into a reason for disconnecting ourselves from a moneyed system, which, in addition to its own inherent vices and fallibilities, was also subject to the

vices, fallibilities, and even inimical designs of another, and a foreign system—belonging to a power, always our competitor in trade and manufactures—sometimes our enemy in open war.

"Distant banks may fail, without seriously affecting those in our principal commercial cities; but the failure of the latter is felt at the extremities of the Union. The suspension at New York, in 1837, was every where, with very few exceptions, followed, as soon as it was known; that recently at Philadelphia immediately affected the banks of the South and West in a similar manner. This dependence of our whole banking system on the institutions in a few large cities, is not found in the laws of their organization, but in those of trade and exchange. The banks at that centre to which currency flows, and where it is required in payments for merchandise, hold the power of controlling those in regions whence it comes, while the latter possess no means of restraining them; so that the value of individual property, and the prosperity of trade, through the whole interior of the country, are made to depend on the good or bad management of the banking institutions in the great seats of trade on the seaboard. But this chain of dependence does not stop here. It does not terminate at Philadelphia or New York. It reaches across the ocean, and ends in London, the centre of the credit system. The same laws of trade, which give to the banks in our principal cities power over the whole banking system of the United States, subject the former, in their turn, to the money power in Great Britain. It is not denied that the suspension of the New York banks in 1837, which was followed in quick succession throughout the Union, was partly produced by an application of that power; and it is now alleged, in extenuation of the present condition of so large a portion of our banks, that their embarrassments have arisen from the same cause. From this influence they cannot now entirely escape, for it has its origin in the credit currencies of the two countries; it is strengthened by the current of trade and exchange, which centres in London, and is rendered almost irresistible by the large debts contracted there by our merchants, our banks, and our States. It is thus that an introduction of a new bank into the most distant of our villages, places the business of that village within the influence of the money power in England. It is thus that every new debt which we contract in that country, seriously affects our own currency, and extends over the pursuits of our citizens its powerful influence. We cannot escape from this by making new banks, great or small, State or National. The same chains which bind those now existing to the centre of this system of paper credit, must equally fetter every similar institution we create. It is only by the extent to which this system has been pushed of late, that we have been made fully aware of its irresistible tendency to subject our own banks and currency to a vast controlling power in a foreign land; and it adds a new argument to those which illustrate their precarious situation. Endangered in the first place by their own mismanagement, and again by the conduct of every institution which connects them with the centre of trade in our own country, they are yet subjected, beyond all this, to the effect of whatever measures, policy, necessity, or caprice, may induce those who control the credits of England to resort to. Is an argument required beyond the exposition of these facts, to show the impropriety of using our banking institutions as depositories of the public money? Can we venture not only to encounter the risk of their individual and mutual mismanagement, but, at the same time, to place our foreign and domestic policy entirely under the control of a foreign moneyed interest? To do so is to impair the independence of our government, as the present credit system has already impaired the independence of our banks. It is to submit all its important operations, whether of peace or war, to be controlled or thwarted at first by our own banks, and then by a power abroad greater than themselves. I cannot bring myself to depict the humiliation to which this government and people might be sooner or later reduced, if the means for defending their rights are to be made dependent upon those who may have the most powerful of motives to impair them."

These were sagacious views, clearly and strongly presented, and new to the public. Few had contemplated the evils of our paper system, and the folly and danger of depending upon it for currency, under this extended and comprehensive aspect; but all saw it as soon as it was presented; and this actual dependence of our banks upon that of England became a new reason for the governmental dissolution of all connection with them. Happily they were working that dissolution themselves, and producing that disconnection by their delinquencies which they were able to prevent Congress from decreeing. An existing act of Congress forbid the employment of any non-specie paying bank as a government depository, and equally forbid the use of its paper. They expected to coerce the government to do both: it did neither: and the disconnection became complete, even before Congress enacted it.

The President had recommended, in his first annual message, the passage of a pre-emption act in the settlement of the public lands, and of a graduation act to reduce the price of the lands according to their qualities, governed by the length of time they had been in market. The former of these recommendations had been acted upon, and became law; and the President had now the satisfaction to communicate its beneficial operation.

“On a former occasion your attention was invited to various considerations in support of a pre-emption law in behalf of the settlers on the public lands; and also of a law graduating the prices for such lands as had long been in the market unsold, in consequence of their inferior quality. The execution of the act which was passed on the first subject has been attended with the happiest consequences, in quieting titles, and securing improvements to the industrious; and it has also, to a very gratifying extent, been exempt from the frauds which were practised under previous pre-emption laws. It has, at the same time, as was anticipated, contributed liberally during the present year to the receipts of the Treasury. The passage of a graduation law, with the guards before recommended, would also, I am persuaded, add considerably to the revenue for several years, and prove in other respects just and beneficial. Your early consideration of the subject is, therefore, once more earnestly requested.”

The opposition in Congress, who blamed the administration for the origin and conduct of the war with the Florida Indians, had succeeded in getting through Congress an appropriation for a negotiation with this tribe, and a resolve requesting the President to negotiate. He did so—with no other effect than to give an opportunity for renewed treachery and massacre. The message said:

“In conformity with the expressed wishes of Congress, an attempt was made in the spring to terminate the Florida war by negotiation. It is to be regretted that these humane intentions should have been frustrated, and that the efforts to bring these unhappy difficulties to a satisfactory conclusion should have failed. But, after entering into solemn engagements with the Commanding General, the Indians, without any provocation, recommenced their acts of treachery and murder. The renewal of hostilities in that Territory renders it necessary that I should recommend to your favorable consideration the measure proposed by the Secretary at War (the armed occupation of the Territory).”

With all foreign powers the message had nothing but what was friendly and desirable to communicate. Nearly every question of dissension and dispute had been settled under the administration of his predecessor. The accumulated wrongs of thirty years to the property and persons of our citizens, had been redressed under President Jackson. He left the foreign world in peace and friendship with his country; and his successor maintained the amicable relations so happily established.

41. Divorce Of Bank And State; Divorce Decreed

This measure, so long and earnestly contested, was destined to be carried into effect at this session; but not without an opposition on the part of the whig members in each House, which exhausted both the powers of debate, and the rules and acts of parliamentary warfare. Even after the bill had passed through all its forms—had been engrossed for the third reading, and actually been read a third time and was waiting for the call of the vote, with a fixed majority shown to be in its favor—the warfare continued upon it, with no other view than to excite the people against it: for its passage in the Senate was certain. It was at this last moment that Mr. Clay delivered one of his impassioned and glowing speeches against it.

"Mr. President, it is no less the duty of the statesman than the physician, to ascertain the exact state of the body to which he is to minister before he ventures to prescribe any healing remedy. It is with no pleasure, but with profound regret, that I survey the present condition of our country. I have rarely, I think never, known a period of such universal and intense distress. The general government is in debt, and its existing revenue is inadequate to meet its ordinary expenditure. The States are in debt, some of them largely in debt, insomuch that they have been compelled to resort to the ruinous expedient of contracting new loans to meet the interest upon prior loans; and the people are surrounded with difficulties; greatly embarrassed, and involved in debt. Whilst this is, unfortunately, the general state of the country, the means of extinguishing this vast mass of debt are in constant diminution. Property is falling in value—all the great staples of the country are declining in price, and destined, I fear, to further decline. The certain tendency of this very measure is to reduce prices. The banks are rapidly decreasing the amount of their circulation. About one-half of them, extending from New Jersey to the extreme Southwest, have suspended specie payments, presenting an image of a paralytic, one moiety of whose body is stricken with palsy. The banks are without a head; and, instead of union, concert, and co-operation between them, we behold jealousy, distrust, and enmity. We have no currency whatever possessing uniform value throughout the whole country. That which we have, consisting almost entirely of the issues of banks, is in a state of the utmost disorder, insomuch that it varies, in comparison with the specie standard, from par to fifty per cent. discount. Exchanges, too, are in the greatest possible confusion, not merely between distant parts of the Union, but between cities and places in the same neighborhood. That between our great commercial marts of New York and Philadelphia, within five or six hours of each other, vacillating between seven and ten per cent. The products of our agricultural industry are unable to find their way to market from the want of means in the hands of traders to purchase them, or from the want of confidence in the stability of things. Many of our manufactories stopped or stopping, especially in the important branch of woollens; and a vast accumulation of their fabrics on hand, owing to the destruction of confidence and the wretched state of exchange between different sections of the Union. Such is the unexaggerated picture of our present condition. And amidst the dark and dense cloud that surrounds us, I perceive not one gleam of light. It gives me nothing but pain to sketch the picture. But duty and truth require that existing diseases should be fearlessly examined and probed to the bottom. We shall otherwise be utterly incapable of conceiving or applying appropriate remedies. If the present unhappy state of our country had been brought upon the people by their folly and extravagance, it ought to be borne with fortitude, and without complaint, and without reproach. But it is my deliberate judgment that it has not been—that the people are not to blame—and that the principal causes of existing embarrassments are not to be traced to them. Sir, it is not my purpose to waste the time or excite the feelings of members of the Senate by dwelling long on what I suppose to be

those causes. My object is a better, a higher, and I hope a more acceptable one—to consider the remedies proposed for the present exigency. Still, I should not fulfil my whole duty if I did not briefly say that, in my conscience, I believe our pecuniary distresses have mainly sprung from the refusal to recharter the late Bank of the United States; the removal of the public deposits from that institution; the multiplication of State banks in consequence; and the Treasury stimulus given to them to extend their operations; the bungling manner in which the law, depositing the surplus treasure with the States, was executed; the Treasury circular; and although last, perhaps not least, the exercise of the power of the veto on the bill for distributing, among the States, the net proceeds of the sales of the public lands."

This was the opening of the speech—the continuation and conclusion of which was bound to be in harmony with this beginning; and obliged to fill up the picture so pathetically drawn. It did so, and the vote being at last taken, the bill passed by a fair majority—24 to 18. But it had the House of Representatives still to encounter, where it had met its fate before; and to that House it was immediately sent for its concurrence. A majority were known to be for it; but the shortest road was taken to its passage; and that was under the debate-killing pressure of the previous question. That question was freely used; and amendment after amendment cut off; motion after motion stifled; speech after speech suppressed; the bill carried from stage to stage by a sort of silent struggle (chiefly interrupted by the repeated process of calling yeas and nays), until at last it reached the final vote—and was passed—by a majority, not large, but clear—124 to 107. This was the 30th of June, that is to say, within twenty days of the end of a session of near eight months. The previous question, so often abused, now so properly used (for the bill was an old measure, on which not a new word was to be spoken, or a vote to be changed, the only effort being to stave it off until the end of the session), accomplished this good work—and opportunely; for the next Congress was its deadly foe.

The bill was passed, but the bitter spirit which pursued it was not appeased. There is a form to be gone through after the bill has passed all its three readings—the form of agreeing to its title. This is as much a matter of course and form as it is to give a child a name after it is born: and, in both cases, the parents having the natural right of bestowing the name. But in the case of this bill the title becomes a question, which goes to the House, and gives to the enemies of the measure a last chance of showing their temper towards it: for it is a form in which nothing but temper can be shown. This is sometimes done by simply voting against the title, as proposed by its friends—at others, and where the opposition is extreme, it is done by a motion to amend the title by striking it out, and substituting another of odium, and this mode of opposition gives the party opposed to it an opportunity of expressing an opinion on the merits of the bill itself, compressed into an essence, and spread upon the journal for a perpetual remembrance. This was the form adopted on this occasion. The name borne at the head of the bill was inoffensive, and descriptive. It described the bill according to its contents, and did it in appropriate and modest terms. None of the phrases used in debate, such as "Divorce of Bank and State," "Sub-treasury," "Independent Treasury," &c., and which had become annoying to the opposition, were employed, but a plain title of description in these terms: "*An act to provide for the collection, safe-keeping, and disbursing of the public money.*" To this title Mr. James Cooper, of Pennsylvania, moved an amendment, in the shape of a substitute, in these words: "*An act to reduce the value of property, the products of the farmer, and the wages of labor, to destroy the indebted portions of the community, and to place the Treasury of the nation in the hands of the President.*" Before a vote could be taken upon this proposed substitute, Mr. Caleb Cushing, of Massachusetts, proposed to amend it by adding "*to enable the public money to be drawn from the public Treasury without appropriation made by law*," and having proposed this amendment to Mr. Cooper's

amendment, Mr. Cushing began to speak to the contents of the bill. Then followed a scene in which the parliamentary history must be allowed to speak for itself.

"Mr. Cushing then resumed, and said he had moved the amendment with a view of making a very limited series of remarks pertinent to the subject. He was then proceeding to show why, in his opinion, the contents of the bill did not agree with its title, when

"Mr. *Petrikin*, of Pennsylvania, called him to order.

"The Speaker said the gentleman from Massachusetts had a right to amend the title of the bill, if it were not a proper title. He had, therefore, a right to examine the contents of the bill, to show that the title was improper.

"Mr. Petrikin still objected.

"The Speaker said the gentleman from Pennsylvania would be pleased to reduce his point of order to writing.

"Mr. Proffit, of Indiana, called Mr. Petrikin to order; and after some colloquial debate, the objection was withdrawn.

"Mr. Cushing then resumed, and appeared very indignant at the interruption. He wished to know if the measure was to be forced on the country without affording an opportunity to say a single word. He said they were at the last act in the drama, but the end was not yet. Mr. C. then proceeded to give his reasons why he considered the bill as an unconstitutional measure, as he contended that it gave the Secretary power to draw on the public money without appropriations by law. He concluded by observing that he had witnessed the incubation and hatching of this *cockatrice*, but he hoped the time was not far distant when the people would put their feet on the *reptile* and crush it to the dust.

"Mr. Pickens, of South Carolina, then rose, and in a very animated manner said he had wished to make a few remarks upon the bill before its passage, but he was now compelled to confine himself in reply to the very extraordinary language and tone assumed by the gentleman from Massachusetts. What right had he to speak of this bill as being forced on the country by "*brutal numbers*?" That gentleman had defined the bill according to *his* conception of it; but he would tell the gentleman, that the bill would, thank God, deliver this government from the hands of those who for so many years had lived by *swindling* the proceeds of honest labor. Yes, said Mr. P., I thank my God that the hour of our deliverance is now so near, from a system which has wrung the hard earnings from productive industry for the benefit of a few irresponsible corporations.

"Sir, I knew the contest would be fierce and bitter. The bill, in its principles, draws the line between the great *laboring and landed interests* of this confederacy, and those who are identified with *capitalists in stocks* and live upon *incorporated credit*. The latter class have lived and fattened upon the fiscal action of this government, from the *funding system* down to the present day—and now they feel like wolves who have been driven back from the warm blood they have been lapping for forty years. Well may the gentleman [Mr. Cushing], who represents those interests, cry out and exclaim that it is a bill passed in force by fraud and power—it is the power and the spirit of a free people determined to redeem themselves and their government.

"Here the calls to order were again renewed from nearly every member of the opposition, and great confusion prevailed.

"The Speaker with much difficulty succeeded in restoring something like order, and as none of those who had so vociferously called Mr. P. to order, raised any point,

“Mr. Pickens proceeded with his remarks, and alluding to the words of Mr. Cushing, that “this was the last act of the drama,” said this was the first, and not the last act of the drama. There were great questions that lay behind this, connected with the fiscal action of the government, and which we will be called on to decide in the next few years; they were all connected with one great and complicated system. This was the commencement, and only a branch of the system.

“Here the cries of order from the opposition were renewed, and after the storm had somewhat subsided,

“Mr. P. said, rather than produce confusion at that late hour of the day, when this great measure was so near a triumphant consummation, and, in spite of all the exertions of its enemies, was about to become the law of the land, he would not trespass any longer on the attention of the House. But the gentleman had said that because the first section had declared what should constitute the Treasury, and that another section had provided for keeping portions of the Treasury in other places than the safes and vaults in the Treasury building of this place; that, therefore, it was to be inferred that those who were to execute it would draw money from the Treasury without appropriations by law, and thus to perpetrate a fraud upon the constitution. Mr. P. said, let those who are to execute this bill dare to commit this outrage, and use money for purposes not intended in appropriations by law, and they would be visited with the indignation of an outraged and wronged people. It would be too gross and palpable. Such is not the broad meaning and intention of the bill. The construction given by the gentleman was a forced and technical one, and not natural. It was too strained to be seriously entertained by any one for a moment. He raised his protest against it.

“Mr. P. regretted the motion admitted of such narrow and confined debate. He would not delay the passage of the bill upon so small a point. He congratulated the country that we had approached the period when the measure was about to be triumphantly passed into a permanent law of the land. It is a great measure. Considering the lateness of the hour, the confusion in the House, and that the gentleman had had the advantage of an opening speech, he now concluded by demanding the previous question.

“On this motion the disorder among the opposition was renewed with tenfold fury, and some members made use of some very hard words, accompanied by violent gesticulation.

“It was some minutes before any thing approaching order could be restored.

“The Speaker having called on the sergeant-at-arms to clear the aisles,

“The call of the previous question was seconded, and the main question on the amendment to the amendment ordered to be put.

“The motion for the previous question having received a second, the main question was ordered.

“The question was then taken on Mr. Cushing’s amendment to the amendment, and disagreed to without a count.

“The question recurring on the substitute of Mr. Cooper, of Pennsylvania, for the original title of the bill,

“Mr. R. Garland, of Louisiana, demanded the yeas and nays, which having been ordered, were—yeas 87, nays 128.”

Eighty-seven members voted, on yeas and nays, for Mr. Cooper’s proposed title, which was a strong way of expressing their opinion of it. For Mr. Cushing’s amendment to it, there were too few to obtain a division of the House; and thus the bill became complete by getting a

name—but only by the summary, silent, and enforcing process of the previous question. Even the title was obtained by that process. The passage of this act was the distinguishing glory of the Twenty-sixth Congress, and the "crowning mercy" of Mr. Van Buren's administration. Honor and gratitude to the members, and all the remembrance which this book can give them. Their names were:

In the Senate:—Messrs. Allen of Ohio, Benton, Brown of North Carolina, Buchanan, Calhoun, Clay of Alabama, Cuthbert of Georgia, Fulton of Arkansas, Grundy, Hubbard of New Hampshire, King of Alabama, Linn of Missouri, Lumpkin of Georgia, Mouton of Louisiana, Norvell of Michigan, Pierce of New Hampshire, Roane of Virginia, Sevier of Arkansas, Smith of Connecticut, Strange of North Carolina, Tappan of Ohio, Walker of Mississippi, Williams of Maine.

In the House of Representatives:—Messrs. Judson Allen, Hugh J. Anderson, Charles G. Atherton, William Cost Johnson, Cave Johnson, Nathaniel Jones, John W. Jones, George M. Keim, Gouverneur Kemble, Joseph Kille, Daniel P. Leadbetter, Isaac Leet, Stephen B. Leonard, Dixon H. Lewis, Joshua A. Lowell, William Lucas, Abraham McClellan, George McCulloch, James J. McKay, Meredith Mallory, Albert G. Marchand, William Medill, John Miller, James D. L. Montanya, Linn Banks, William Beatty, Andrew Beirne, William Montgomery, Samuel W. Morris, Peter Newhard, Isaac Parrish, William Parmenter, Virgil D. Parris, Lemuel Paynter, David Petrikin, Francis W. Pickens, John H. Prentiss, William S. Ramsey, John Reynolds, R. Barnwell Rhett, Francis E. Rives, Thomas Robinson, Jr., Edward Rogers, James Rogers, Daniel B. Ryall, Green B. Samuels, Tristram Shaw, Charles Shepard, Edward J. Black, Julius W. Blackwell, Linn Boyd, John Smith, Thomas Smith, David A. Starkweather, Lewis Steenrod, Theron R. Strong, Thomas D. Sumter, Henry Swearingen, George Sweeney, Jonathan Taylor, Francis Thomas, Philip F. Thomas, Jacob Thompson, Hopkins L. Turney, Aaron Vanderpoel, Peter D. Vroom, David D. Wagener, Harvey M. Watterson, John B. Weller, Jared W. Williams, Henry Williams, John T. H. Worthington.

42. Florida Armed Occupation Bill: Mr. Benton's Speech: Extracts

Armed occupation, with land to the occupant, is the true way of settling and holding a conquered country. It is the way which has been followed in all ages, and in all countries, from the time that the children of Israel entered the promised land, with the implements of husbandry in one hand, and the weapons of war in the other. From that day to this, all conquered countries had been settled in that way. Armed[1688] settlement, and a homestead in the soil, was the principle of the Roman military colonies, by which they consolidated their conquests. The northern nations bore down upon the south of Europe in that way: the settlers of the New World—our pilgrim fathers and all—settled these States in that way: the settlement of Kentucky and Tennessee was effected in the same way. The armed settlers went forth to fight, and to cultivate. They lived in stations first—an assemblage of blockhouses (the Roman presidium), and emerged to separate settlements afterwards; and in every instance, an interest in the soil—an inheritance in the land—was the reward of their enterprise, toil, and danger. The peninsula of Florida is now prepared for this armed settlement: the enemy has been driven out of the field. He lurks, an unseen foe, in the swamps and hammocks. He no longer shows himself in force, or ventures a combat; but, dispersed and solitary, commits individual murders and massacres. The country is prepared for armed settlement.

It is the fashion—I am sorry to say it—to depreciate the services of our troops in Florida—to speak of them as having done nothing; as having accomplished no object for the country, and acquired no credit for themselves. This was a great error. The military had done an immensity there; they had done all that arms could do, and a great deal that the axe and the spade could do. They had completely conquered the country; that is to say, they had driven the enemy from the field; they had dispersed the foe; they had reduced them to a roving banditti, whose only warfare was to murder stragglers and families. Let any one compare the present condition of Florida with what it was at the commencement of the war, and see what a change has taken place. Then combats were frequent. The Indians embodied continually, fought our troops, both regulars, militia, and volunteers. Those hard contests cannot be forgotten. It cannot be forgotten how often these Indians met our troops in force, or hung upon the flanks of marching columns, harassing and attacking them at every favorable point. Now all this is done. For two years past, we have heard of no such thing. The Indians, defeated in these encounters, and many of them removed to the West, have now retired from the field, and dispersed in small parties over the whole peninsula of Florida. They are dispersed over a superficies of 45,000 square miles, and that area sprinkled all over with haunts adapted to their shelter, to which they retire for safety like wild beasts, and emerge again for new mischief. Our military have then done much; they have done all that military can do; they have broken, dispersed, and scattered the enemy. They have driven them out of the field; they have prepared the country for settlement, that is to say, for armed settlement. There has been no battle, no action, no skirmish, in Florida, for upwards of two years. The last combats were at Okeechobee and Caloosahatchee, above two years ago. There has been no *war* since that time; nothing but individual massacres. The country has been waiting for settlers for two years; and this bill provides for them, and offers them inducements to settle.

Besides their military labors, our troops have done an immensity of labor of a different kind. They have penetrated and perforated the whole peninsula of Florida; they have gone through the *Serbonian bogs* of that peninsula; they have gone where the white man's foot never

before was seen to tread; and where no Indian believed it could ever come. They have gone from the Okeefekonee swamp to the Everglades; they have crossed the peninsula backwards and forwards, from the Gulf of Mexico to the Atlantic Ocean. They have sounded every morass, threaded every hammock, traced every creek, examined every lake, and made the topography of the country as well known as that of the counties of our States. The maps which the topographical officers have constructed, and the last of which is in the Report of the Secretary at War, attest the extent of these explorations, and the accuracy and minuteness of the surveys and examinations. Besides all this, the troops have established some hundreds of posts; they have opened many hundred miles of wagon road; and they have constructed some thousands of feet of causeways and bridges. These are great and meritorious labors. They are labors which prepare the country for settlement; prepare it for the 10,000 armed cultivators which this bill proposes to send there.

Mr. B. said he paid this tribute cheerfully to the merits of our military, and our volunteers and militia employed in Florida; the more cheerfully, because it was the inconsiderate custom of too many to depreciate the labors of these brave men. He took pleasure, here in his place, in the American Senate, to do them justice; and that without drawing invidious comparisons—without attempting to exalt some at the expense of others. He viewed with a favorable eye—with friendly feelings—with prepossessions in their favor—all who were doing their best for their country; and all such—all who did their best for their country—should have his support and applause, whether fortune was more or less kind to them, in crowning their meritorious exertions with success. He took pleasure in doing all this justice; but his tribute would be incomplete, if he did not add what was said by the Secretary at War, in his late report, and also by the immediate commander, General Taylor.

Mr. B. repeated, that the military had done their duty, and deserved well of their country. They had brought the war to that point, when there was no longer an enemy to be fought; when there was nothing left but a banditti to be extirpated. Congress, also, had tried its policy—the policy of peace and conciliation—and the effort only served to show the unparalleled treachery and savageism of the ferocious beasts with which we had to deal. He alluded to the attempts at negotiation and pacification, tried this summer under an intimation from Congress. The House of Representatives, at the last session, voted $5,000 for opening negotiations with these Indians. When the appropriation came to the Senate, it was objected to by himself and some others, from the knowledge they had of the character of these Indians, and their belief that it would end in treachery and misfortune. The House adhered; the appropriation was made; the administration acted upon it, as they felt bound to do; and behold the result of the attempt! The most cruel and perfidious massacres plotted and contrived while making the treaty itself! a particular officer selected, and stipulated to be sent to a particular point, under the pretext of establishing a trading-post, and as a protector, there to be massacred! a horrible massacre in reality perpetrated there; near seventy persons since massacred, including families; the Indians themselves emboldened by our offer of peace, and their success in treachery; and the whole aspect of the war made worse by our injudicious attempt at pacification.

Lt. Col. Harney, with a few soldiers and some citizens, was reposing on the banks of the Caloosahatchee, under the faith of treaty negotiations, and on treaty ground. He was asleep. At the approach of daybreak he was roused by the firing and yells of the Indians, who had got possession of the camp, and killed the sergeant and more than one-half of his men. Eleven soldiers and five citizens were killed; eight soldiers and two citizens escaped. Seven of the soldiers, taking refuge in a small sail-boat, then lying off in the stream, in which the two citizens fortunately had slept that night, as soon as possible weighed anchor, and favored by a light breeze, slipped off unperceived by the Indians. The Colonel himself escaped with great

difficulty, and after walking fifteen miles down the river, followed by one soldier, came to a canoe, which he had left there the evening previous, and succeeded, by this means, in getting on board the sail-boat, where he found those who had escaped in her. Before he laid down to sleep, the treacherous Chitto Tustenuggee, partaking his hospitality, lavished proofs of friendship upon him. Here was an instance of treachery of which there was no parallel in Indian warfare. With all their treachery, the treaty-ground is a sacred spot with the Indians; but here, in the very articles of a treaty itself, they plan a murderous destruction of an officer whom they solicited to be sent with them as their protector; and, to gratify all their passions of murder and robbery at once, they stipulate to have their victims sent to a remote point, with settlers and traders, as well as soldiers, and with a supply of goods. All this they arranged; and too successfully did they execute the plan. And this was the beginning of their *execution* of the treaty. Massacres, assassinations, robberies, and house-burnings, have followed it up, until the suburbs of St. Augustine and Tallahasse are stained with blood, and blackened with fire. About seventy murders have since taken place, including the destruction of the shipwrecked crews and passengers on the southern extremity of the peninsula.

The plan of Congress has, then, been tried; the experiment of negotiation has been tried and has ended disastrously and cruelly for us, and with greatly augmenting the confidence and ferocity of the enemy. It puts an end to all idea of finishing the war there by peaceable negotiation. Chastisement is what is due to these Indians, and what they expect. They mean to keep no faith with the government, and henceforth they will expect no faith to be reposed in them. The issue is now made; we have to expel them by force, or give up forty-five thousand square miles of territory—much of it an old settled country—to be ravaged by this banditti.

The plan of Congress has been tried, and has ended in disaster; the military have done all that military can do; the administration have now in the country all the troops which can be spared for the purpose. They have there the one-half of our regular infantry, to wit: four regiments out of eight; they have there the one-half of our dragoons, to wit: one regiment; they even have there a part of our artillery, to wit: one regiment; and they have besides, there, a part of the naval force to scour the coasts and inlets; and, in addition to all this, ten companies of Florida volunteers. Even the marines under their accomplished commander (Col. Henderson), and at his request, have been sent there to perform gallant service, on an element not their own. No more of our troops can be spared for that purpose; the West and the North require the remainder, and more than the remainder. The administration can do no more than it has done with the means at its command. It is laid under the necessity of asking other means; and the armed settlers provided for in this bill are the principal means required. One thousand troops for the war, is all that is asked in addition to the settlers, in this bill.

This then is the point we are at: To choose between granting these means, or doing nothing! Yes, sir, to choose between the recommendations of the administration, and nothing! I say, these, or nothing; for I presume Congress will not prescribe another attempt at negotiation; no one will recommend an increase of ten thousand regular troops; no one will recommend a draft of ten thousand militia. It is, then, the plan of the administration, or nothing; and this brings us to the question, whether the government can now fold its arms, leave the regulars to man their posts, and abandon the country to the Indians? This is now the question; and to this point I will direct the observations which make it impossible for us to abdicate our duty, and abandon the country to the Indians.

I assume it then as a point granted, that Florida cannot be given up—that she cannot be abandoned—that she cannot be left in her present state. What then is to be done? Raise an army of ten thousand men to go there to fight? Why, the men who are there now can find nobody to fight! It is two years since a fight has been had; it is two years since we have heard

of a fight. Ten men, who will avoid surprises and ambuscades, can now go from one end of Florida to the other. As warriors, these Indians no longer appear, it is only as assassins, as robbers, as incendiaries, that they lurk about. The country wants settlers, not an army. It has wanted these settlers for two years; and this bill provides for them, and offers them the proper inducements to go. And here I take the three great positions, that this bill is the *appropriate* remedy; that it is the *efficient* remedy; that it is the *cheap* remedy, for the cure of the Florida difficulties. It is the appropriate remedy; for what is now wanted, is not an army to fight, but settlers and cultivators to retain possession of the country, and to defend their possessions. We want people to take possession, and keep possession, and the armed cultivator is the man for that. The blockhouse is the first house to be built in an Indian country; the stockade is the first fence to be put up. Within that blockhouse, and a few of them together—a hollow square of blockhouses, two miles long on each side, two hundred yards apart, and enclosing a good field—safe habitations are found for families. The faithful mastiff, to give notice of the approach of danger, and a few trusty rifles in brave hands, make all safe. Cultivation and defence then goes hand in hand. The heart of the Indian sickens when he hears the crowing of the cock, the barking of the dog, the sound of the axe, and the crack of the rifle. These are the true evidences of the dominion of the white man; these are the proof that the owner has come, and means to stay; and then they feel it to be time for them to go. While soldiers alone are in the country, they feel their presence to be temporary; that they are mere sojourners in the land, and sooner or later must go away. It is the settler alone, the armed settler, whose presence announces the dominion—the permanent dominion—of the white man.

It is the most efficient remedy. On this point we can speak with confidence, for the other remedies have been tried, and have failed. The other remedies are to catch the Indians, and remove them; or, to negotiate with them, and induce them to go off. Both have been tried; both are exhausted. No human being now thinks that our soldiers can catch these Indians; no one now believes in the possibility of removing them by treaty. No other course remains to be tried, but the armed settlement; and that is so obvious, that it is difficult to see how any one that has read history, or has heard how this new world was settled, or how Kentucky and Tennessee were settled, can doubt it.

The peninsula is a desolation. Five counties have been depopulated. The inhabitants of five counties—the survivors of many massacres—have been driven from their homes: this bill is intended to induce them to return, and to induce others to go along with them. Such inducements to settle and defend new countries have been successful in all ages and in all nations; and cannot fail to be effectual with us. *Deliberat Roma, perit Saguntum*, became the watchword of reproach, and of stimulus to action in the Roman Senate when the Senate deliberated while a colony was perishing. *Saguntum perishes while Rome deliberates*: and this is truly the case with ourselves and Florida. That beautiful and unfortunate territory is a prey to plunder, fire, and murder. The savages kill, burn and rob—where they find a man, a house, or an animal in the desolation which they have made. Large part of the territory is the empty and bloody skin of an immolated victim.

43. Assumption Of The State Debts

About one-half of the States had contracted debts abroad which they were unable to pay when due, and in many instances were unable to pay the current annual interest. These debts at this time amounted to one hundred and seventy millions of dollars, and were chiefly due in Great Britain. They had been converted into a stock, and held in shares, and had gone into a great number of hands; and from defaults in payments were greatly depreciated. The Reverend Sydney Smith, of witty memory, and amiable withal, was accustomed to lose all his amiability, but no part of his wit, when he spoke of his Pennsylvania bonds—which in fact was very often. But there was another class of these bond-holders who did not exhale their griefs in wit, caustic as it might be, but looked to more substantial relief—to an assumption in some form, disguised or open, virtual or actual, of these debts by the federal government. These British capitalists, connected with capitalists in the United States, possessed a weight on this point which was felt in the halls of Congress. The disguised attempts at this assumption, were in the various modes of conveying federal money to the States in the shape of distributing surplus revenue, of dividing the public land money, and of bestowing money on the States under the fallacious title of a deposit. But a more direct provision in their behalf was wanted by these capitalists, and in the course of the year 1839 a movement to that effect was openly made through the columns of their regular organ—The London Bankers' Circular, emanating from the most respectable and opulent house of the Messrs. Baring, Brothers and Company. At this open procedure on the part of these capitalists, it was deemed expedient to meet the attempt *in limine* by a positive declaration in Congress against the constitutionality, the justice, and the policy of any such measure. With this view Mr. Benton, at the commencement of the first session of Congress after the issuing of the Bankers' Circular, submitted a series of resolutions in the Senate, which, with some modification, and after an earnest debate, were passed in that body. These were the resolutions:

"1. That the assumption of such debts either openly, by a direct promise to pay them, or disguisedly by going security for their payment, or by creating surplus revenue, or applying the national funds to pay them, would be a gross and flagrant violation of the constitution, wholly unwarranted by the letter or spirit of that instrument, and utterly repugnant to all the objects and purposes for which the federal Union was formed.

"2. That the debts of the States being now chiefly held by foreigners, and constituting a stock in foreign markets greatly depreciated, any legislative attempt to obtain the assumption or securityship of the United States for their payment, or to provide for their payment out of the national funds, must have the effect of enhancing the value of that stock to the amount of a great many millions of dollars, to the enormous and undue advantage of foreign capitalists, and of jobbers and gamblers in stocks; thereby holding out inducement to foreigners to interfere in our affairs, and to bring all the influences of a moneyed power to operate upon public opinion, upon our elections, and upon State and federal legislation, to produce a consummation so tempting to their cupidity, and so profitable to their interest.

"3. That foreign interference and foreign influence, in all ages, and in all countries, have been the bane and curse of free governments; and that such interference and influence are far more dangerous, in the insidious intervention of the moneyed power, than in the forcible invasions of fleets and armies.

"4. That to close the door at once against all applications for such assumption, and to arrest at their source the vast tide of evils which would flow from it, it is necessary that the constituted authorities, without delay, shall RESOLVE and DECLARE their utter opposition to the proposal contained in the late London Bankers' Circular in relation to State debts, contracted for local and State purposes, and recommending to the Congress of the United States to assume, or guarantee, or provide for the ultimate payment of said debts."

In the course of the discussion of these resolutions an attempt was made to amend them, and to reverse their import, by obtaining a direct vote of the Senate in favor of distributing the public land revenue among the States to aid them in the payment of these debts. This proposition was submitted by Mr. Crittenden, of Kentucky; and was in these words: "That it would be just and proper to distribute the proceeds of the sales of the public lands among the several States in fair and ratable proportions; and that the condition of such of the States as have contracted debts is such, at the present moment of pressure and difficulty, as to render such distribution especially expedient and important." This proposition received a considerable support, and was rejected upon yeas and nays—28 to 17. The yeas were Messrs. Betts of Connecticut, Clay of Kentucky, Crittenden, Davis of Massachusetts, Dixon of Rhode Island, Knight of Connecticut, Merrick of Maryland, Phelps of Vermont, Porter of Michigan, Prentiss of Vermont, Ruggles of Maine, Smith of Indiana, Southard of New Jersey, Spence of Maryland, Tallmadge, Webster, White of Indiana. The nays were: Messrs. Allen of Ohio, Anderson of Tennessee, Benton, Bedford Brown, Calhoun, Clay of Alabama, Alfred Cuthbert, Grundy, Henderson of Mississippi, Hubbard, King of Alabama, Linn of Missouri, Lumpkin of Georgia, Mouton, Nicholas of Louisiana, Norvell of Michigan, Pierce, Preston, Roane, Robinson, Sevier, Strange, Sturgeon, Tappan of Ohio, Wall of New Jersey, Williams, Wright. As the mover of the resolutions Mr. Benton supported them in a speech, of which some extracts are given in the next chapter.

44. Assumption Of The State Debts: Mr. Benton's Speech: Extracts

The assumption of the State debts contracted for State purposes has been for a long time a measure disguisedly, and now is a measure openly, pressed upon the public mind. The movement in favor of it has been long going on; opposing measures have not yet commenced. The assumption party have the start, and the advantage of conducting the case; and they have been conducting it for a long time, and in a way to avoid the name of assumption while accomplishing the thing itself. All the bills for distributing the public land revenue—all the propositions for dividing surplus revenue—all the refusals to abolish unnecessary taxes—all the refusals to go on with the necessary defences of the country—were so many steps taken in the road to assumption. I know very well that many who supported these measures had no idea of assumption, and would oppose it as soon as discovered; but that does not alter the nature of the measures they supported, and which were so many steps in the road to that assumption, then shrouded in mystery and futurity, now ripened into strength, and emboldened into a public disclosure of itself. Already the State legislatures are occupied with this subject, while we sit here, waiting its approach.

It is time for the enemies of assumption to take the field, and to act. It is a case in which they should give, and not receive, the attack. The President has led the way; he has shown his opinions. He has nobly done his duty. He has shown the evils of diverting the general funds from their proper objects—the mischiefs of our present connection with the paper system of England—and the dangers of foreign influence from any further connection with it. In this he has discharged a constitutional and a patriotic duty. Let the constituted authorities, each in their sphere, follow his example, and declare their opinions also. Let the Senate especially, as part of the legislative power—as the peculiar representative of the States in their sovereign capacity—let this body declare its sentiments, and, by its resolves and discussions, arrest the progress of the measure here, and awaken attention to it elsewhere. As one of the earliest opposers of this measure—as, in fact, the very earliest opposer of the whole family of measures of which it is the natural offspring—as having denounced the assumption in disguise in a letter to my constituents long before the London Bankers' letter revealed it to the public: as such early, steadfast, and first denouncer of this measure, I now come forward to oppose it in form, and to submit the resolves which may arrest it here, and carry its discussion to the forum of the people.

I come at once to the point, and say that disguised assumption, in the shape of land revenue distribution, is the form in which we shall have to meet the danger; and I meet it at once in that disguise. I say there is no authority in the constitution to raise money from any branch of the revenue for distribution among the States, or to distribute that which had been raised for other purposes. The power of Congress to raise money is not unlimited and arbitrary, but restricted, and directed to the national objects named in the constitution. The means, the amount, and the application, are all limited. The means are direct taxes—duties on imports—and the public lands; the objects are the support of the government—the common defence—and the payment of the debts of the Union: the amount to be raised is of course limited to the amount required for the accomplishment of these objects. Consonant to the words and the spirit of the constitution, is the title, the preamble and the tenor of all the early statutes for raising money; they all declare the object for which the money is wanted; they declare the object at the head of the act. Whether it be a loan, a direct tax, or a duty on imports, the object of the loan, the tax, or the duty, is stated in the preamble to the act; Congress thus excusing

and justifying themselves for the demand in the very act of making it, and telling the people plainly what they wanted with the money. This was the way in all the early statutes; the books are full of examples; and it was only after money began to be levied for objects not known to the constitution, that this laudable and ancient practice was dropped. Among the enumerated objects for which money can be raised by Congress, is that of paying the debts of the Union; and is it not a manifest absurdity to suppose that, while it requires an express grant of power to enable us to pay the debts of the Union, we can pay those of the States by implication and by indirection? No, sir, no. There is no constitutional way to assume these State debts, or to pay them, or to indorse them, or to smuggle the money to the States for that purpose, under the pretext of dividing land revenue, or surplus revenue, among them. There is no way to do it. The whole thing is constitutionally impossible. It was never thought of by the framers of our constitution. They never dreamed of such a thing. There is not a word in their work to warrant it, and the whole idea of it is utterly repugnant and offensive to the objects and purposes for which the federal Union was framed.

We have had one assumption in our country and that in a case which was small in amount, and free from the impediment of a constitutional objection; but which was attended by such evils as should deter posterity from imitating the example. It was in the first year of the federal government; and although the assumed debts were only twenty millions, and were alleged to have been contracted for general purposes, yet the assumption was attended by circumstances of intrigue and corruption, which led to the most violent dissension in Congress, suspended the business of the two Houses, drove some of the States to the verge of secession, and menaced the Union with instant dissolution. Mr. Jefferson, who was a witness of the scene, and who was overpowered by General Hamilton, and by the actual dangers of the country, into its temporary support, thus describes it:

“This game was over (funding the soldiers’ certificates), and another was on the carpet at the moment of my arrival; and to this I was most ignorantly and innocently made to hold the candle. This fiscal manœuvre is well known by the name of the assumption. Independently of the debts of Congress, the States had, during the war, contracted separate and heavy debts, &c. * * * * This money, whether wisely or foolishly spent, was pretended to have been spent for *general* purposes, and ought therefore to be paid from the *general* purse. But it was objected, that nobody knew what these debts were, what their amount, or what their proofs. No matter; we will guess them to be twenty millions. But of these twenty millions, we do not know how much should be reimbursed to one State or how much to another. No matter; we will guess. And so another scramble was set on foot among the several States, and some got much, some little, some nothing. * * * * This measure produced the most bitter and angry contests ever known in Congress, before or since the union of the States. * * * * The great and trying question, however, was lost in the House of Representatives. So high were the feuds excited by this subject, that on its rejection business was suspended. Congress met and adjourned, from day to day, without doing any thing, the parties being too much out of temper to do business together. The Eastern members particularly, who, with Smith from South Carolina, were the principal gamblers in these scenes, threatened a secession and dissolution. * * * * But it was finally agreed that whatever importance had been attached to the rejection of this proposition, the preservation of the Union, and of concord among the States, was more important; and that, therefore, it would be better that the vote of rejection should be rescinded; to effect which, some members should change their votes. But it was observed that this pill would be peculiarly bitter to the Southern States, and that some concomitant measure should be adopted to sweeten it a little to them. There had before been propositions to fix the seat of government either at Philadelphia, or at Georgetown, on the Potomac; and it was thought that, by giving it to Philadelphia for ten years, and to

Georgetown permanently afterwards, this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone. So two of the Potomac members (White and Lee, but White with a revulsion of stomach almost convulsive) agreed to change their votes, and Hamilton undertook to carry the other point; and so the assumption was passed, and twenty millions of stock divided among the favored States, and thrown in as a pabulum to the stock-jobbing herd. * * * Still the machine was not complete; the effect of the funding system and of the assumption would be temporary; it would be lost with the loss of the individual members whom it had enriched; and some engine of influence more permanent must be contrived while these myrmidons were yet in place to carry it through. This engine was the Bank of the United States."

What a picture is here presented! Debts assumed in the mass, without knowing what they were in the gross, or what in detail—Congress in a state of disorganization, and all business suspended for many days—secession and disunion openly menaced—compromise of interests—intrigue—buying and selling of votes—conjunction of parties to pass two measures together, neither of which could be passed separately—speculators infesting the halls of legislation, and openly struggling for their spoil—the funding system a second time sanctioned and fastened upon the country—jobbers and gamblers in stocks enriched—twenty millions of additional national debt created—and the establishment of a national bank insured. Such were the evils attending a small assumption of twenty millions of dollars, and that in a case where there was no constitutional impediment to be evaded or surmounted. For in that case the debts assumed had been incurred for the general good—for the general defence during the revolution: in this case they have been incurred for the local benefit of particular States. Half the States have incurred none; and are they to be taxed to pay the debts of the rest?

These stocks are now greatly depreciated. Many of the present holders bought them upon speculation, to take the chance of the rise. A diversion of the national domain to their payment would immediately raise them far above par—would be a present of fifty or sixty cents on the dollar, and of fifty or sixty millions in the gross—to the foreign holders, and, virtually, a present of so much public land to them. It is in vain for the bill to say that the proceeds of the lands are to be divided among the States. The indebted States will deliver their portion to their creditors; they will send it to Europe, they will be nothing but the receivers-general and the sub-treasurers of the bankers and stockjobbers of London, Paris, and of Amsterdam. The proceeds of the sales of the lands will go to them. The hard money, wrung from the hard hand of the western cultivator, will go to these foreigners; and the whole influence of these foreigners will be immediately directed to the enhancement of the price of our public lands, and to the prevention of the passage of all the laws which go to graduate their price, or to grant pre-emptive rights to the settlers.

What more unwise and more unjust than to contract debts on long time, as some of the States have done, thereby invading the rights and mortgaging the resources of posterity, and loading unborn generations with debts not their own? What more unwise than all this, which several of the States have done, and which the effort now is to make all do? Besides the ultimate burden in the shape of final payment, which is intended to fall upon posterity, the present burden is incessant in the shape of annual interest, and falling upon each generation, equals the principal in every periodical return of ten or a dozen years. Few have calculated the devouring effect of annual interest on public debts, and considered how soon it exceeds the principal. Who supposes that we have paid near three hundred millions of interest on our late national debt, the principal of which never rose higher than one hundred and twenty-seven millions, and remained but a year or two at that? Who supposes this? Yet it is a fact that we have paid four hundred and thirty-one millions for principal and interest of that debt; so that

near three hundred millions, or near double the maximum amount of the debt itself, must have been paid in interest alone; and this at a moderate interest varying from three to six per cent. and payable at home. The British national debt owes its existence entirely to this policy. It was but a trifle in the beginning of the last century, and might have been easily paid during the reigns of the first and second George; but the policy was to fund it, that is to say, to pay the interest annually, and send down the principal to posterity; and the fruit of that policy is now seen in a debt of four thousand five hundred millions of dollars, two hundred and fifty millions of annual taxes, with some millions of people without bread; while an army, a navy, and a police, sufficient to fight all Europe, is kept under pay, to hold in check and subordination the oppressed and plundered ranks of their own population. And this is the example which the transferrers of the State debt would have us to imitate, and this the end to which they would bring us!

I do not dilate upon the evils of a foreign influence. They are written upon the historical page of every free government, from the most ancient to the most modern: they are among those most deeply dreaded, and most sedulously guarded against by the founders of the American Union. The constitution itself contains a special canon directed against them. To prevent the possibility of this foreign influence, every species of foreign connection, dependence, or employment, is constitutionally forbid to the whole list of our public functionaries. The inhibition is express and fundamental, that "*no person holding any office of profit or trust under the United States shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State*." All this was to prevent any foreign potentate from acquiring partisans or influence in our government—to prevent our own citizens from being seduced into the interests of foreign powers. Yet, to what purpose all these constitutional provisions against petty sovereignties, if we are to invite the moneyed power which is able to subsidize kings, princes, and potentates—if we are to invite this new and master power into the bosom of our councils, give it an interest in controlling public opinion, in directing federal and State legislation, and in filling our cities and seats of government with its insinuating agents, and its munificent and lavish representatives? To what purpose all this wise precaution against the possibility of influence from the most inconsiderable German or Italian prince, if we are to invite the combined bankers of England, France, and Holland, to take a position in our legislative halls, and by a simple enactment of a few words, to convert their hundreds of millions into a thousand millions, and to take a lease of the labor and property of our citizens for generations to come? The largest moneyed operation which we ever had with any foreign power, was that of the purchase of Louisiana from the Great Emperor. That was an affair of fifteen millions. It was insignificant and contemptible, compared to the hundreds of millions for which these bankers are now upon us. And are we, while guarded by the constitution against influence from an emperor and fifteen millions, to throw ourselves open to the machinations of bankers, with their hundreds of millions?

45. Death Of General Samuel Smith, Of Maryland; And Notice Of His Life And Character

He was eighteen years a senator, and nearly as long a member of the House—near forty years in Congress: which speaks the estimation in which his fellow-citizens held him. He was thoroughly a business member, under all the aspects of that character: intelligent, well informed, attentive, upright; a very effective speaker, without pretending to oratory: well read: but all his reading subordinate to common sense and practical views. At the age of more than seventy he was still one of the most laborious members, both in the committee room and the Senate: and punctual in his attendance in either place. He had served in the army of the Revolution, and like most of the men of that school, and of that date, had acquired the habit of punctuality, for which Washington was so remarkable—that habit which denotes a well-ordered mind, a subjection to a sense of duty, and a considerate regard for others. He had been a large merchant in Baltimore, and was particularly skilled in matters of finance and commerce, and was always on committees charged with those subjects—to which his clear head, and practical knowledge, lent light and order in the midst of the most intricate statements. He easily seized the practical points on these subjects, and presented them clearly and intelligibly to the chamber. Patriotism, honor, and integrity were his eminent characteristics; and utilitarian the turn of his mind; and beneficial results the object of his labors. He belonged to that order of members who, without classing with the brilliant, are nevertheless the most useful and meritorious. He was a working member; and worked diligently, judiciously, and honestly, for the public good. In politics he was democratic, and greatly relied upon by the Presidents Jefferson, Madison, and Monroe. He was one of the last of the revolutionary stock that served in the Senate—remaining there until 1833—above fifty years after that Declaration of Independence which he had helped to make good, with his sword. Almost octogenarian, he was fresh and vigorous to the last, and among the most assiduous and deserving members. He had acquired military reputation in the war of the Revolution, and was called by his fellow-citizens to take command of the local troops for the defence of Baltimore, when threatened by the British under General Ross, in 1814—and commanded successfully—with the judgment of age and the fire of youth. At his death, his fellow-citizens of Baltimore erected a monument to his memory—well due to him as one of her longest and most respected inhabitants, as having been one of her eminent merchants, often her representative in Congress, besides being senator; as having defended her both in the war of the Revolution and in that of 1812; and as having made her welfare and prosperity a special object of his care in all the situations of his life, both public and private.

46. Salt; The Universality Of Its Supply; Mystery And Indispensability Of Its Use; Tyranny And Impiety Of Its Taxation; Speech Of Mr. Benton: Extracts

It is probable that salt is the most abundant substance of our globe—that it is more abundant than earth itself. Like other necessaries of life—like air, and water, and food—it is universally diffused, and inexhaustibly supplied. It is found in all climates, and in a great variety of forms. The waters hold it in solution; the earth contains it in solid masses. Every sea contains it. It is found in all the boundless oceans which surround and penetrate the earth, and through all their fathomless depths. Many inland seas, lakes, ponds, and pools are impregnated with it. Streams of saline water, in innumerable places, emerging from the bowels of the earth, approach its surface, and either issue from it in perennial springs, or are easily reached by wells. In the depths of the earth itself it is found in solid masses of interminable extent. Thus inexhaustibly abundant, and universally diffused, the wisdom and goodness of Providence is further manifested in the cheapness and facility of the preparation of this necessary of life, for the use of man. In all the warm latitudes, and especially between the tropics, nature herself performs the work. The beams of the sun evaporate the sea water in all the low and shallow reservoirs, where it is driven by the winds, or admitted by the art of man; and this evaporation leaves behind a deposit of pure salt, ready for use, and costing very little more than the labor of gathering it up. In the interior, and in the colder latitudes, artificial heat is substituted for the beams of the sun: the simplest process of boiling is resorted to; and where fuel is abundant, and especially coal, the preparation of this prime necessary is still cheap and easy; and from six to ten cents the real bushel may be considered as the ordinary cost of production. Such is the bountiful and cheap supply of this article, which a beneficent Providence has provided for us. The Supreme Ruler of the Universe has done every thing to supply his creatures with it. Man, the fleeting shadow of an instant, invested with his little brief authority, has done much to deprive them of it. In all ages of the world, and in all countries, salt has been a subject, at different periods, of heavy taxation, and sometimes of individual or of government monopoly; and precisely, because being an article that no man could do without, the government was sure of its tax, and the monopolizer of his price. Almost all nations, in some period of their history, have suffered the separate or double infliction of a tax, and a monopoly on its salt; and, at some period, all have freed themselves, from one or both. At present, there remain but two countries which suffer both evils, our America, and the British East Indies. All others have got rid of the monopoly; many have got rid of the tax. Among others, the very country from which we copied it, and the one above all others least able to do without the product of the tax. England, though loaded with debt, and taxed in every thing, is now free from the salt tax. Since 1822, it has been totally suppressed; and this necessary of life is now as free there as air and water. She even has a statute to guard its price, and common law to prevent its monopoly.

This act was passed in 1807. The common law of England punishes all monopolizers, forestallers, and regraters. The Parliament, in 1807, took cognizance of a reported combination to raise the price of salt, and examined the manufacturers on oath: and rebuked them.

Mr. B. said that a salt tax was not only politically, but morally wrong: it was a species of impiety. Salt stood alone amidst the productions of nature, without a rival or substitute, and the preserver and purifier of all things. Most nations had regarded it as a mystic and sacred substance. Among the heathen nations of antiquity, and with the Jews, it was used in the religious ceremony of the sacrifices—the head of the victim being sprinkled with salt and water before it was offered. Among the primitive Christians, it was the subject of Divine allusions, and the symbol of purity, of incorruptibility, and of perpetuity. The disciples of Christ were called "the salt of the earth;" and no language, or metaphor, could have been more expressive of their character and mission—pure in themselves, and an antidote to moral, as salt was to material corruption. Among the nations of the East salt always has been, and still is, the symbol of friendship, and the pledge of inviolable fidelity. He that has eaten another's salt, has contracted towards his benefactor a sacred obligation; and cannot betray or injure him thereafter, without drawing upon himself (according to his religious belief) the certain effects of the Divine displeasure. While many nations have religiously regarded this substance, all have abhorred its taxation; and this sentiment, so universal, so profound, so inextinguishable in the human heart, is not to be overlooked by the legislator.

Mr. B. concluded his speech with declaring implacable war against this tax, with all its appurtenant abuses, of monopoly in one quarter of the Union, and of undue advantages in another. He denounced it as a tax upon the entire economy of NATURE and of ART—a tax upon man and upon beast—upon life and upon health—upon comfort and luxury—upon want and superfluity—upon food and upon raiment—on washing, and on cleanliness. He called it a heartless and tyrant tax, as inexorable as it was omnipotent and omnipresent; a tax which no economy could avoid—no poverty could shun—no privation escape—no cunning elude—no force resist—no dexterity avert—no curses repulse—no prayers could deprecate. It was a tax which invaded the entire dominion of human operations, falling with its greatest weight upon the most helpless, and the most meritorious; and depriving the nation of benefits infinitely transcending in value, the amount of its own product. I devote myself, said Mr. B., to the extirpation of this odious tax, and its still more odious progeny—*the salt monopoly of the West*. I war against them while they exist, and while I remain on this floor. Twelve years have passed away—two years more than the siege of Troy lasted—since I began this contest. Nothing disheartened by so many defeats, in so long a time, I prosecute the war with unabated vigor; and, relying upon the goodness of the cause, firmly calculate upon ultimate and final success.

47. Pairing Off

At this time, and in the House of Representatives, was exhibited for the first time, the spectacle of members "*pairing off*," as the phrase was; that is to say, two members of opposite political parties agreeing to absent themselves from the duties of the House, without the consent of the House, and without deducting their per diem pay during the time of such voluntary absence. Such agreements were a clear breach of the rules of the House, a disregard of the constitution, and a practice open to the grossest abuses. An instance of the kind was avowed on the floor by one of the parties to the agreement, by giving as a reason for not voting that he had "*paired off*" with another member, whose affairs required him to go home. It was a strange annunciation, and called for rebuke; and there was a member present who had the spirit to administer it; and from whom it came with the greatest propriety on account of his age and dignity, and perfect attention to all his duties as a member, both in his attendance in the House and in the committee rooms. That member was Mr. John Quincy Adams, who immediately proposed to the House the adoption of this resolution: "Resolved, that the practice first openly avowed at the present session of Congress, of pairing off, involves, on the part of the members resorting to it, the violation of the constitution of the United States, of an express rule of this House, and of the duties of both parties in the transaction to their immediate constituents, to this House, and to their country." This resolve was placed on the calendar to take its turn, but not being reached during the session, was not voted upon. That was the first instance of this reprehensible practice, fifty years after the government had gone into operation; but since then it has become common, and even inveterate, and is carried to great length. Members pair off, and do as they please—either remain in the city, refusing to attend to any duty, or go off together to neighboring cities; or separate; one staying and one going; and the one that remains sometimes standing up in his place, and telling the Speaker of the House that he had paired off; and so refusing to vote. There is no justification for such conduct, and it becomes a facile way for shirking duty, and evading responsibility. If a member is under a necessity to go away the rules of the House require him to ask leave; and the journals of the early Congresses are full of such applications. If he is compelled to go, it is his misfortune, and should not be communicated to another. This writer had never seen an instance of it in the Senate during his thirty years of service there; but the practice has since penetrated that body; and "pairing off" has become as common in that House as in the other, in proportion to its numbers, and with an aggravation of the evil, as the absence of a senator is a loss to his State of half its weight. As a consequence, the two Houses are habitually found voting with deficient numbers—often to the extent of a third—often with a bare quorum.

In the first age of the government no member absented himself from the service of the House to which he belonged without first asking, and obtaining its leave; or, if called off suddenly, a colleague was engaged to state the circumstance to the House, and ask the leave. In the journals of the two Houses, for the first thirty years of the government, there is, in the index, a regular head for "absent without leave;" and, turning to the indicated page, every such name will be seen. That head in the index has disappeared in later times. I recollect no instance of leave asked since the last of the early members—the Macons, Randolphs, Rufus Kings, Samuel Smiths, and John Taylors of Caroline—disappeared from the halls of Congress.

48. Tax On Bank Notes: Mr. Benton's Speech: Extracts

Mr. Benton brought forward his promised motion for leave to bring in a bill to tax the circulation of banks and bankers, and of all corporations, companies or individuals which issued paper currency. He said nothing was more reasonable than to require the moneyed interest which was employed in banking, and especially in that branch of banking which was dedicated to the profitable business of converting lampblack and rags into money, to contribute to the support of the government. It was a large interest, very able, and very proper, to pay taxes, and which paid nothing on their profitable issues—profitable to them—injurious to the country. It was an interest which possessed many privileges over the rest of the community by law; which usurped many others which the laws did not grant; which, in fact, set the laws and the government at defiance whenever it pleased; and which, in addition to all these privileges and advantages, was entirely exempt from federal taxation. While the producing and laboring classes were all taxed; while these meritorious classes, with their small incomes, were taxed in their comforts and necessaries—in their salt, iron, sugar, blankets, hats, coats and shoes, and so many other articles—the banking interest, which dealt in hundreds of millions, which manufactured and monopolized money, which put up and put down prices, and held the whole country subject to its power, and tributary to its wealth, paid nothing. This was wrong in itself, and unjust to the rest of the community. It was an error or mistake in government which he had long intended to bring to the notice of the Senate and the country; and he judged the present conjuncture to be a proper time for doing it. Revenue is wanted. A general revision of the tariff is about to take place. An adjustment of the taxes for a long period is about to be made. This is the time to bring forward the banking interest to bear their share of the public burdens, and the more so, as they are now in the fact of proving themselves to be a great burden on the public, and the public mind is beginning to consider whether there is any way to make them amenable to law and government.

In other countries, Mr. B. said, the banking interest was subject to taxation. He knew of no country in which banking was tolerated, except our own, in which it was not taxed. In Great Britain—that country from which we borrow the banking system—the banking interest pays its fair and full proportion of the public taxes: it pays at present near four millions of dollars. It paid in 1836 the sum of $3,725,400: in 1837 it paid $3,594,300. These were the last years for which he had seen the details of the British taxation, and the amounts he had stated comprehended the bank tax upon the whole united kingdom: upon Scotland and Ireland, as well as upon England and Wales. It was a handsome item in the budget of British taxation, and was levied on two branches of the banking business: on the circulation, and on bills of exchange. In the bill which he intended to bring forward, the circulation alone was proposed to be taxed; and, in that respect, the paper system would still remain more favored here than it was in Great Britain.

In our own country, Mr. B. said, the banking interest had formerly been taxed, and that in all its branches; in its circulation, its discounts, and its bills of exchange. This was during the late war with Great Britain; and though the banking business was then small compared to what it is now, yet the product of the tax was considerable, and well worth the gathering: it was about $500,000 per annum. At the end of the war this tax was abolished; while most of the war taxes, laid at the same time, for the same purpose, and for the same period, were continued in force; among them the tax on salt, and other necessaries of life. By a perversion of every principle of righteous taxation, the tax on banks was abolished, and that on salt was

continued. This has remained the case for twenty-five years, and it is time to reverse the proceeding. It is time to make the banks pay and to let salt go free.

Mr. B. next stated the manner of levying the bank tax at present in Great Britain, which he said was done with great facility and simplicity. It was a levy of a fixed sum on the average circulation of the year, which the bank was required to give in for taxation like any other property, and the amount collected by a distress warrant if not paid. This simple and obvious method of making the levy, had been adopted in 1815, and had been followed ever since. Before that time it was effected through the instrumentality of a stamp duty; a stamp being required for each note, but with the privilege of compounding for a gross sum. In 1815 the option of compounding was dropped: a gross amount was fixed by law as the tax upon every million of the circulation; and this change in the mode of collection has operated so beneficially that, though temporary at first, it has been made permanent. The amount fixed was at the rate of £3,500 for every million. This was for the circulation only: a separate, and much heavier tax was laid upon bills of exchange, to be collected by a stamp duty, without the privilege of composition.

Mr. B. here read, from a recent history of the Bank of England, a brief account of the taxation of the circulation of that institution for the last fifty years—from 1790 to the present time. It was at that time that her circulation began to be taxed, because at that time only did she begin to have a circulation which displaced the specie of the country. She then began to issue notes under ten pounds, having been first chartered with the privilege of issuing none less than one hundred pounds. It was a century—from 1694 to 1790—before she got down to £5, and afterwards to £2, and to £1; and from that time the specie basis was displaced, the currency convulsed, and the banks suspending and breaking. The government indemnified itself, in a small degree, for the mischiefs of the pestiferous currency which it had authorized; and the extract which he was about to read was the history of the taxation on the Bank of England notes which, commencing at the small composition of £12,000 per annum, now amounts to a large proportion of the near four millions of dollars which the paper system pays annually to the British Treasury. He read:

"The Bank, till lately, has always been particularly favored in the composition which they paid for stamp duties. In 1791, they paid composition of £12,000 per annum, in lieu of all stamps, either on bill or notes. In 1799, on an increase of the stamp duty, their composition was advanced to £20,000; and an addition of £4,000 for notes issued under £5, raised the whole to £24,000. In 1804, an addition of not less than fifty per cent. was made to the stamp duty; but, although the Bank circulation of notes under £5 had increased from one and a half to four and a half millions, the whole composition was only raised from £24,000 to £32,000. In 1808, there was a further increase of thirty-three per cent. to the stamp duty, at which time the composition was raised from £32,000 to £42,000. In both these instances, the increase was not in proportion even to the increase of duty; and no allowance whatever was made for the increase in the amount of the bank circulation. It was not till the session of 1815, on a further increase of the stamp duty, that the new principle was established, and the Bank compelled to pay a composition in some proportion to the amount of their circulation. The composition is now fixed as follows: Upon the average circulation of the preceding year, the Bank is to pay at the rate of £3,500 per million, on their aggregate circulation, without reference to the different classes and value of their notes. The establishment of this principle, it is calculated, caused a saving to the public, in the years 1815 and 1816, of £70,000. By the neglect of this principle, which ought to have been adopted in 1799, Mr. Ricardo estimated the public to have been *losers*, and the Bank consequently *gainers*, of no less a sum than *half a million*."

Mr. B. remarked briefly upon the equity of this tax, the simplicity of its levy since 1815, and its large product. He deemed it the proper model to be followed in the United States, unless we should go on the principle of copying all that was evil, and rejecting all that was good in the British paper system. We borrowed the banking system from the English, with all its foreign vices, and then added others of our own to it. England has suppressed the pestilence of notes under £5 (near $25); we retain small notes down to a dollar, and thence to the fractional parts of a dollar. She has taxed all notes; and those under £5 she taxed highest while she had them; we, on the contrary, tax none. The additional tax of £4,000 on the notes under £5 rested on the fair principle of taxing highest that which was most profitable to the owner, and most injurious to the country. The small notes fell within that category, and therefore paid highest.

Having thus shown that bank circulation was now taxed in Great Britain, and had been for fifty years, he proceeded to show that it had also been taxed in the United States. This was in the year 1813. In the month of August of that year, a stamp-act was passed, applicable to banks and to bankers, and taxing them in the three great branches of their business, to wit: the circulation, the discounts, and the bills of exchange. On the circulation, the tax commenced at one cent on a one dollar note, and rose gradually to fifty dollars on notes exceeding one thousand dollars; with the privilege of compounding for a gross sum in lieu of the duty. On the discounts, the tax began at five cents on notes discounted for one hundred dollars, and rose gradually to five dollars on notes of eight thousand dollars and upwards. On bills of exchange, it began at five cents on bills of fifty dollars, and rose to five dollars on those of eight thousand dollars and upwards.

Such was the tax, continued Mr. B., which the moneyed interest, employed in banking, was required to pay in 1813, and which it continued to pay until 1817. In that year the banks were released from taxation, while taxes were continued upon all the comforts and necessaries of life. Taxes are now continued upon articles of prime necessity—upon salt even—and the question will now go before the Senate and country, whether the banking interest, which has now grown so rich and powerful—which monopolizes the money of the country—beards the government—makes distress or prosperity when it pleases—the question is now come whether this interest shall continue to be exempt from tax, while every thing else has to pay.

Mr. B. said he did not know how the banking interest of the present day would relish a proposition to make them contribute to the support of the government. He did not know how they would take it; but he did know how a banker of the old school—one who paid on sight, according to his promise, and never broke a promise to the holder of his notes—he did know how *such* a banker viewed the act of 1813; and he would exhibit his behavior to the Senate; he spoke of the late Stephen Girard of Philadelphia; and he would let him speak for himself by reading some passages from a petition which he presented to Congress the year after the tax on bank notes was laid.

Mr. B. read:

“That your memorialist has established a bank in the city of Philadelphia, upon the foundation of his own individual fortune and credit, and for his own exclusive emolument, and that he is willing most cheerfully to contribute, in common with his fellow-citizens throughout the United States, a full proportion of the taxes which have been imposed for the support of the national government, according to the profits of his occupation and the value of his estate; but a construction has been given to the acts of Congress laying duties on notes of banks, &c., from which great difficulties have occurred, and great inequalities daily produced to the disadvantage of his bank, that were not, it is confidently believed, within the contemplation of the legislature. And your memorialist having submitted these considerations

to the wisdom of Congress, respectfully prays, that the act of Congress may be so amended as to permit the Secretary of the Treasury to enter into a composition for the stamp duty, in the case of private bankers, as well as in the case of corporations and companies, or so as to render the duty equal in its operations upon every denomination of bankers."

Mr. B. had read these passages from Mr. Girard's petition to Congress in 1814, *first*, for the purpose of showing the readiness with which a banker of the old school paid the taxes which the government imposed upon his business; and, next, to show the very considerable amount of that tax, which on the circulation alone amounted to ten thousand dollars on the million. All this, with the additional tax on the discounts, and on the bills of exchange, Mr. Girard was entirely willing to pay, provided all paid alike. All he asked was equality of taxation, and that he might have the benefit of the same composition which was allowed to incorporated banks. This was a reasonable request, and was immediately granted by Congress.

Mr. B. said revenue was one object of his bill: the regulation of the currency by the suppression of small notes and the consequent protection of the constitutional currency, was another: and for that purpose the tax was proposed to be heaviest on notes under twenty dollars, and to be augmented annually until it accomplished its object.

49. Liberation Of Slaves Belonging To American Citizens In British Colonial Ports

Up to this time, and within a period of ten years, three instances of this kind had occurred. First, that of the schooner Comet. This vessel sailed from the District of Columbia in the year 1830, destined for New Orleans, having, among other things, a number of slaves on board. Her papers were regular, and the voyage in all respects lawful. She was stranded on one of the false keys of the Bahama Islands, opposite to the coast of Florida, and almost in sight of our own shores. The persons on board, including the slaves, were taken by the wreckers, against the remonstrance of the captain and the owners of the slaves, into Nassau, New Providence—one of the Bahama Islands; where the slaves were forcibly seized and detained by the local authorities. The second was the case of the Encomium. She sailed from Charleston in 1834, destined to New Orleans, on a voyage lawful and regular, and was stranded near the same place, and with the same fate with the Comet. She was carried into Nassau, where the slaves were also seized and detained by the local authorities. The slaves belonged to the Messrs. Waddell of North Carolina, among the most respectable inhabitants of the State, and on their way to Louisiana with a view to a permanent settlement in that State. The third case was that of the Enterprize, sailing from the District of Columbia in 1835, destined for Charleston, South Carolina, on a lawful voyage, and with regular papers. She was forced unavoidably, by stress of weather, into Port Hamilton, Bermuda Island, where the slaves on board were forcibly seized and detained by the local authorities. The owners of the slaves, protesting in vain, at the time, and in every instance, against this seizure of their property, afterwards applied to their own government for redress; and after years of negotiation with Great Britain, redress was obtained in the two first cases—the full value of the slaves being delivered to the United States, to be paid to the owners. This was accomplished during Mr. Van Buren's administration, the negotiation having commenced under that of President Jackson. Compensation in the case of the Enterprize had been refused; and the reason given for the distinction in the cases, was, that the two first happened during the time that slavery existed in the British West India colonies—the latter after its abolition there. All these were coasting voyages between one port of the United States and another, and involved practical questions of great interest to all the slave States. Mr. Calhoun brought the question before the Senate in a set of resolutions which he drew up for the occasion; and which were in these words:

"*Resolved*, That a ship or a vessel on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs; as much so as if constituting a part of its own domain.

"*Resolved*, That if such ship or vessel should be forced by stress of weather, or other unavoidable cause, into the port of a friendly power, she would, under the same laws, lose none of the rights appertaining to her on the high seas; but, on the contrary, she and her cargo and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

"*Resolved*, That the brig Enterprize, which was forced unavoidably by stress of weather into Port Hamilton, Bermuda Island, while on a lawful voyage on the high seas from one port of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board by the local authority of the island, was

an act in violation of the laws of nations, and highly unjust to our own citizens to whom they belong."

It was in this latter case that Mr. Calhoun wished to obtain the judgment of the Senate, and the point he had to argue was, whether a municipal regulation of Great Britain could alter the law of nations? Under that law she made indemnity for the slaves liberated in the two first cases: under her own municipal law she denied it in the latter case. The distinction taken by the British minister was, that in the first cases, slavery existing in this British colony and recognized by law, the persons coming in with their slaves had a property in them which had been divested: in the latter case that slavery being no longer recognized in this colony, there was no property in them after their arrival; and consequently no rights divested. Mr. Calhoun admitted that would be the case if the entrance had been voluntary; but denied it where the entrance was forced; as in this case. His argument was:

"I object not to the rule. If our citizens had no right to their slaves, at any time after they entered the British territory—that is, if the mere fact of entering extinguished all right to them (for that is the amount of the rule)—they could, of course, have no claim on the British government, for the plain reason that the local authority, in seizing and detaining the negroes, seized and detained what, by supposition, did not belong to them. That is clear enough; but let us see the application: it is given in a few words. He says: 'Now the owners of the slaves on board the Enterprize never were lawfully in possession of those slaves within the British territory;' assigning for reason, 'that before the Enterprize arrived at Bermuda, slavery had been abolished in the British empire'—an assertion which I shall show, in a subsequent part of my remarks, to be erroneous. From that, and that alone, he comes to the conclusion, 'that the negroes on board the Enterprize had, by entering within the British jurisdiction, acquired rights which the local courts were bound to protect.' Such certainly would have been the case if they had been brought in, or entered voluntarily. He who enters voluntarily the territory of another State, tacitly submits himself, with all his rights, to its laws, and is as much bound to submit to them as its citizens or subjects. No one denies that; but that is not the present case. They entered not voluntarily, but from necessity; and the very point at issue is, whether the British municipal laws could divest their owners of property in their slaves on entering British territory, in cases such as the Enterprize, when the vessel has been forced into their territory by necessity, through an act of Providence, to save the lives of those on board. We deny they can, and maintain the opposite ground:—that the law of nations in such cases interposes and protects the vessel and those on board, with their rights, against the municipal laws of the State, to which they have never submitted, and to which it would be cruel and inhuman, as well as unjust, to subject them. Such is clearly the point at issue between the two governments; and it is not less clear, that it is the very point assumed by the British negotiator in the controversy."

This is fair reasoning upon the law of the case, and certainly left the law of nations in full force in favor of the American owners. The equity of the case was also fully stated and the injury shown to be of a practical kind, which self-protection required the United States to prevent for the future. In this sense, Mr. Calhoun argued:

"To us this is not a mere abstract question, nor one simply relating to the free use of the high seas. It comes nearer home. It is one of free and safe passage from one port to another of our Union; as much so to us, as a question touching the free and safe use of the channels between England and Ireland on the one side, and the opposite coast of the continent on the other, would be to Great Britain. To understand its deep importance to us, it must be borne in mind, that the island of Bermuda lies but a short distance off our coast, and that the channel between the Bahama islands and Florida is not less than two hundred miles in length, and on

an average not more than fifty wide; and that through this long, narrow and difficult channel, the immense trade between our ports on the Gulf of Mexico and the Atlantic coast must pass, which, at no distant period, will constitute more than half of the trade of the Union. The principle set up by the British government, if carried out to its full extent, would do much to close this all-important channel, by rendering it too hazardous for use. She has only to give an indefinite extension to the principle applied to the case of the Enterprize, and the work would be done; and why has she not as good a right to apply it to a cargo of sugar or cotton, as to the slaves who produced it."

The resolutions were referred to the committee on foreign relations, which reported them back with some slight alteration, not affecting or impairing their force; and in that form they were unanimously adopted by the Senate. Although there was no opposition to them, the importance of the occasion justified a record of the vote: and they were accordingly taken by yeas and nays—or rather, by yeas: for there were no nays. This was one of the occasions on which the mind loves to dwell, when, on a question purely sectional and Southern, and wholly in the interest of slave property, there was no division of sentiment in the American Senate.

50. Resignation Of Senator Hugh Lawson White Of Tennessee: His Death: Some Notice Of His Life And Character

This resignation took place under circumstances, not frequent, but sometimes occurring in the Senate—that of receiving instructions from the General Assembly of his State, which either operate as a censure upon a senator, or require him to do something which either his conscience, or his honor forbids. Mr. White at this time—the session of 1839-'40—received instructions from the General Assembly of his State which affected him in both ways—condemning past conduct, and prescribing a future course which he could not follow. He had been democratic from his youth—came into the Senate—had grown aged—as such: but of late years had voted generally with the whigs on their leading measures, and classed politically with them in opposition to Mr. Van Buren. In these circumstances he received instructions to reverse his course of voting on these leading measures—naming them; and requiring him to support the administration of Mr. Van Buren. He consulted his self-respect, as well as obeyed a democratic principle; and sent in his resignation. It was the conclusion of a public life which disappointed its whole previous course. From his youth he had been a popular man, and that as the fair reward of conduct, without practising an art to obtain it, or even seeming to know that he was winning it. Bred a lawyer, and coming early to the bar, he was noted for a probity, modesty and gravity—with a learning, ability, assiduity and patience—which marked him for the judicial bench: and he was soon placed upon it—that of the Superior Court. Afterwards, when the judiciary of the State was remodelled, he was placed on the bench of the Supreme Court. It was considered a favor to the public to get him to take the place. That is well known to the writer of this View, then a member of the General Assembly of Tennessee, and the author of the new modelled judiciary. He applied to Judge White, who had at that time returned to the bar to know if he would take the place; and considered the new system accredited with the public on receiving his answer that he would. That was all that he had to do with getting the appointment: he was elected unanimously by the General Assembly, with whom the appointment rested. That is about the way in which he received all his appointments, either from his State, or from the federal government—merely agreeing to take the office if it was offered to him; but not always agreeing to accept: often refusing—as in the case of a cabinet appointment offered him by President Jackson, his political and personal friend of forty years' standing. It was long before he would enter a political career, but finally consented to become senator in the Congress of the United States: always discharging the duties of an office, when accepted, with the assiduity of a man who felt himself to be a machine in the hands of his duty; and with an integrity of purpose which left his name without spot or stain. It is beautiful to contemplate such a career; sad to see it set under a cloud in his advanced years. He became alienated from his old friends, both personally and politically—even from General Jackson; and eventually fell under the censure of his State, as above related—that State which, for more than forty years, had considered it a favor to itself that he should accept the highest offices in her gift. He resigned in January, and died in May—his death accelerated by the chagrin of his spirit; for he was a man of strong feelings, though of such measured and quiet deportment. His death was announced in the Senate by the senator who was his colleague at the time of his resignation—Mr. Alexander Anderson; and the motion for the usual honors to his memory was seconded by Senator Preston, who pronounced on the occasion a eulogium on the deceased as just as it was beautiful.

“I do not know, Mr. President, whether I am entitled to the honor I am about to assume in seconding the resolutions which have just been offered by the senator from Tennessee, in honor of his late distinguished colleague; and yet, sir, I am not aware that any one present is more entitled to this melancholy honor, if it belongs to long acquaintance, to sincere admiration, and to intimate intercourse. If these circumstances do not entitle me to speak, I am sure every senator will feel, in the emotions which swell his own bosom, an apology for my desire to relieve my own, by bearing testimony to the virtues and talents, the long services and great usefulness, of Judge White.

“My infancy and youth were spent in a region contiguous to the sphere of his earlier fame and usefulness. As long as I can remember any thing, I remember the deep confidence he had inspired as a wise and upright judge, in which station no man ever enjoyed a purer reputation, or established a more implicit reliance in his abilities and honesty. There was an antique sternness and justness in his character. By a general consent he was called Cato. Subsequently, at a period of our public affairs very analogous to the present, he occupied a position which placed him at the head of the financial institutions of East Tennessee. He sustained them by his individual character. The name of Hugh L. White was a guarantee that never failed to attract confidence. Institutions were sustained by the credit of an individual, and the only wealth of that individual was his character. From this more limited sphere of usefulness and reputation, he was first brought to this more conspicuous stage as a member of an important commission on the Spanish treaty, in which he was associated with Mr. Tazewell and Mr. King. His learning, his ability, his firmness, and industry, immediately extended the sphere of his reputation to the boundaries of the country. Upon the completion of that duty, he came into this Senate. Of his career here, I need not speak. His grave and venerable form is even now before us—that air of patient attention, of grave deliberation, of unrelaxed firmness. Here his position was of the highest—beloved, respected, honored; always in his place—always prepared for the business in hand—always bringing to it the treasured reflections of a sedate and vigorous understanding. Over one department of our deliberations he exercised a very peculiar control. In the management of our complex and difficult relations with the Indians we all deferred to him, and to this he addressed himself with unsparing labor, and with a wisdom, a patient benevolence, that justified and vindicated the confidence of the Senate.

“In private life he was amiable and ardent. The current of his feelings was warm and strong. His long familiarity with public affairs had not damped the natural ardor of his temperament. We all remember the deep feeling with which he so recently took leave of this body, and how profoundly that feeling was reciprocated. The good will, the love, the respect which we bestowed upon him then, now give depth and energy to the mournful feelings with which we offer a solemn tribute to his memory.”

And here this notice would stop if it was the design of this work merely to write on the outside of history—merely to chronicle events; but that is not the design. Inside views are the main design: and this notice of Senator White’s life and character would be very imperfect, and vitally deficient, if it did not tell how it happened that a man so favored by his State during a long life should have lost that favor in his last days—received censure from those who had always given praise—and gone to his grave under a cloud after having lived in sunshine. The reason is briefly told. In his advanced age he did the act which, with all old men, is an experiment; and, with most of them, an unlucky one. He married again: and this new wife having made an immense stride from the head of a boarding-house table to the head of a senator’s table, could see no reason why she should not take one step more, and that comparatively short, and arrive at the head of the presidential table. This was before the presidential election of 1836. Mr. Van Buren was the generally accepted democratic

candidate: he was foremost of all the candidates: and the man who is ahead of all the rest, on such occasions, is pretty sure to have a combination of all the rest against him. Mr. Van Buren was no exception to this rule. The whole whig party wished to defeat him: that was a fair wish. Mr. Calhoun's party wished to defeat him: that was invidious: for they could not elect Mr. Calhoun by it. Many professing democrats wished to defeat him, though for the benefit of a whig: and that was a movement towards the whig camp—where most of them eventually arrived. All these parties combined, and worked in concert; and their line of operations was through the vanity of the victim's wife. They excited her vain hopes. And this modest, unambitious man, who had spent all his life in resisting office pressed upon him by his real friends, lost his power of resistance in his old age, and became a victim to the combination against him—which all saw, and deplored, except himself. As soon as he was committed, and beyond extrication, one of the co-operators against him, a whig member of Congress from Kentucky—a witty, sagacious man of good tact—in the exultation of his feelings wrote the news to a friend in his district, who, in a still higher state of exultation, sent it to the newspapers—thus: "*Judge White is on the track, running gayly, and won't come off; and if he would, his wife won't let him.*" This was the whole story, briefly and cheerily told—and truly. He ran the race! without prejudice to Mr. Van Buren—without benefit to the whig candidates—without support from some who had incited him to the trial: and with great political and social damage to himself.

Long an inhabitant of the same State with Judge White—indebted to him for my law license—moving in the same social and political circle—accustomed to respect and admire him—sincerely friendly to him, and anxious for his peace and honor, I saw with pain the progress of the movement against him, and witnessed with profound grief its calamitous consummation.

51. Death Of Ex-Senator Hayne Of South Carolina: Notice Of His Life And Character

Nature had lavished upon him all the gifts which lead to eminence in public, and to happiness, in private life. Beginning with the person and manners—minor advantages, but never to be overlooked when possessed—he was entirely fortunate in these accessorial advantages. His person was of the middle size, slightly above it in height, well proportioned, flexible and graceful. His face was fine—the features manly, well formed, expressive, and bordering on the handsome: a countenance ordinarily thoughtful and serious, but readily lighting up, when accosted, with an expression of kindness, intelligence, cheerfulness, and an inviting amiability. His face was then the reflex of his head and his heart, and ready for the artist who could seize the moment to paint to the life. His manners were easy, cordial, unaffected, affable; and his address so winning, that the fascinated stranger was taken captive at the first salutation. These personal qualities were backed by those of the mind—all solid, brilliant, practical, and utilitarian: and always employed on useful objects, pursued from high motives, and by fair and open means. His judgment was good, and he exercised it in the serious consideration of whatever business he was engaged upon, with an honest desire to do what was right, and a laudable ambition to achieve an honorable fame. He had a copious and ready elocution, flowing at will in a strong and steady current, and rich in the material which constitutes argument. His talents were various, and shone in different walks of life, not often united: eminent as a lawyer, distinguished as a senator: a writer as well as a speaker: and good at the council table. All these advantages were enforced by exemplary morals; and improved by habits of study, moderation, temperance, self-control, and addiction to business. There was nothing holiday, or empty about him—no lying in to be delivered of a speech of phrases. Practical was the turn of his mind: industry an attribute of his nature: labor an inherent impulsion, and a habit: and during his ten years of senatorial service his name was incessantly connected with the business of the Senate. He was ready for all work—speaking, writing, consulting—in the committee-room as well as in the chamber—drawing bills and reports in private, as well as shining in the public debate, and ready for the social intercourse of the evening when the labors of the day were over. A desire to do service to the country, and to earn just fame for himself, by working at useful objects, brought all these high qualities into constant, active, and brilliant requisition. To do good, by fair means, was the labor of his senatorial life; and I can truly say that, in ten years of close association with him I never saw him actuated by a sinister motive, a selfish calculation, or an unbecoming aspiration.

Thus, having within himself so many qualities and requisites for insuring advancement in life, he also had extrinsic advantages, auxiliary to talent, and which contribute to success in a public career. He was well descended, and bore a name dear to the South—the synonym of honor, courage, and patriotism—memorable for that untimely and cruel death of one of its revolutionary wearers, which filled the country with pity for his fate, and horror for his British executioners. The name of Hayne, pronounced any where in the South, and especially in South Carolina, roused a feeling of love and respect, and stood for a passport to honor, until deeds should win distinction. Powerfully and extensively connected by blood and marriage, he had the generous support which family pride and policy extends to a promising scion of the connection. He had fortune, which gave him the advantage of education, and of social position, and left free to cultivate his talents, and to devote them to the public service. Resident in Charleston, still maintaining its colonial reputation for refined society, and high

and various talent, he had every advantage of enlightened and elegant association. Twice happily married in congenial families (Pinckney and Alston), his domestic felicity was kept complete, his connections extended, and fortune augmented. To crown all, and to give effect to every gift with which nature and fortune had endowed him, he had that further advantage, which the Grecian Plutarch never fails to enumerate when the case permits it, and which he considered so auxiliary to the advancement of some of the eminent men whose lives he commemorated—the advantage of being born in a State where native talent was cherished, and where the community made it a policy to advance and sustain a promising young man, as the property of the State, and for the good of the State. Such was, and is, South Carolina; and the young Hayne had the full benefit of the generous sentiment. As fast as years permitted, he was advanced in the State government: as soon as age and the federal constitution permitted, he came direct to the Senate, without passing through the House of Representatives; and to such a Senate as the body then was—Rufus King, John Taylor of Caroline, Mr. Macon, John Gaillard, Edward Lloyd of Maryland, James Lloyd of Massachusetts, James Barbour of Virginia, General Jackson, Louis McLane of Delaware, Wm. Pinkney of Maryland, Littleton Waller Tazewell, Webster, Nathan Sandford, of New York, M. Van Buren, King of Alabama, Samuel Smith of Maryland, James Brown, and Henry Johnson of Louisiana; and many others, less known to fame, but honorable to the Senate from personal decorum, business talent, and dignity of character. Hayne arrived among them; and was considered by such men, and among such men, as an accession to the talent and character of the chamber. I know the estimate they put upon him, the consideration they had for him, and the future they pictured for him: for they were men to look around, and consider who were to carry on the government after they were gone. But the proceedings of the Senate soon gave the highest evidence of the degree of consideration in which he was held. In the very second year of his service, he was appointed to a high duty—such as would belong to age and long service, as well as to talent and elevated character. He was made chairman of the select committee—and select it was—which brought in the bill for the grants ($200,000 in money, and 24,000 acres of land), to Lafayette; and as such became the organ of the expositions, as delicate as they were responsible, which reconciled such grants to the words and spirit of our constitution, and adjusted them to the merit and modesty of the receiver: a high function, and which he fulfilled to the satisfaction of the chamber, and the country.

Six years afterwards he had the great debate with Mr. Webster—a contest of many days, sustained to the last without losing its interest—(which bespoke fertility of resource, as well as ability in both speakers), and in which his adversary had the advantage of a more ripened intellect, an established national reputation, ample preparation, the choice of attack, and the goodness of the cause. Mr. Webster came into that field upon choice and deliberation, well feeling the grandeur of the occasion; and profoundly studying his part. He had observed during the summer, the signs in South Carolina, and marked the proceedings of some public meetings unfriendly to the Union; and which he ran back to the incubation of Mr. Calhoun. He became the champion of the constitution and the Union, choosing his time and occasion, hanging his speech upon a disputed motion with which it had nothing to do, and which was immediately lost sight of in the blaze and expansion of a great national discussion: himself armed and equipped for the contest, glittering in the panoply of every species of parliamentary and forensic weapon—solid argument, playful wit, biting sarcasm, classic allusion; and striking at a new doctrine of South Carolina origin, in which Hayne was not implicated: but his friends were—and that made him their defender. The speech was *at* Mr. Calhoun, then presiding in the Senate, and without right to reply. Hayne became his sword and buckler, and had much use for the latter to cover his friend—hit by incessant blows—cut by many thrusts: but he understood too well the science of defence in wordy as well as military digladiation to confine himself to fending off. He returned, as well as received

blows; but all conducted courteously; and stings when inflicted gently extracted on either side by delicate compliments. Each morning he returned re-invigorated to the contest, like Antæus refreshed, not from a fabulous contact with mother earth, but from a real communion with Mr. Calhoun! the actual subject of Mr. Webster's attack: and from the well-stored arsenal of his powerful and subtle mind, he nightly drew auxiliary supplies. Friends relieved the combatants occasionally; but it was only to relieve; and the two principal figures remained prominent to the last. To speak of the issue would be superfluous; but there was much in the arduous struggle to console the younger senator. To cope with Webster, was a distinction: not to be crushed by him, was almost a victory: to rival him in copious and graceful elocution, was to establish an equality at a point which strikes the masses: and Hayne often had the crowded galleries with him. But, equal argument! that was impossible. The cause forbid it, far more than disparity of force; and reversed positions would have reversed the issue.

I have said elsewhere (Vol. I. of this work), that I deem Mr. Hayne to have been entirely sincere in professing nullification at that time only in the sense of the Virginia resolutions of '98-'99, as expounded by their authors: three years afterwards he left his place in the Senate to become Governor of South Carolina, to enforce the nullification ordinance which the General Assembly of the State had passed, and against which President Jackson put forth his impressive proclamation. Up to this point, in writing this notice, the pen had run on with pride and pleasure—pride in portraying a shining American character: pleasure in recalling recollections of an eminent man, whom I esteemed—who did me the honor to call me friend; and with whom I was intimate. Of all the senators he seemed nearest to me—both young in the Senate, entering it nearly together; born in adjoining States; not wide apart in age; a similarity of political principle: and, I may add, some conformity of tastes and habits. Of all the young generation of statesmen coming on, I considered him the safest—the most like William Lowndes; and best entitled to a future eminent lead. He was democratic, not in the modern sense of the term, as never bolting a caucus nomination, and never thinking differently from the actual administration; but on principle, as founded in a strict, in contradistinction to a latitudinarian construction of the constitution; and as cherishing simplicity and economy in the administration of the federal government, in contradistinction to splendor and extravagance.

With his retiring from the Senate, Mr. Hayne's national history ceases. He does not appear afterwards upon the theatre of national affairs: but his practical utilitarian mind, and ardent industry, found ample and beneficent employment in some noble works of internal improvement. The railroad system of South Carolina, with its extended ramifications, must admit him for its founder, from the zeal he carried into it, and the impulsion he gave it. He died in the meridian of his life, and in the midst of his usefulness, and in the field of his labors—in western North Carolina, on the advancing line of the great iron railway, which is to connect the greatest part of the South Atlantic with the noblest part of the Valley of the Mississippi.

The nullification ordinance, which he became Governor of South Carolina to enforce, was wholly directed against the tariff system of the time—not merely against a protective tariff, but against its fruits—undue levy of revenue, extravagant expenditure; and expenditure in one quarter of the Union of what was levied upon the other. The levy and expenditure were then some twenty-five millions of dollars: they are now seventy-five millions: and the South, while deeply agitated for the safety of slave property—(now as safe, and more valuable than ever, as proved by the witness which makes no mistakes, *the market price*)—is quiet upon the evil which produced the nullification ordinance of 1832: quiet under it, although that evil is three times greater now than then: and without excuse, as the present vast expenditure is the mere effect of mad extravagance. Is this quietude a condemnation of that ordinance? or, is it

of the nature of an imaginary danger which inflames the passions, that it should supersede the real evil which affects the pocket? If the Hayne of 1824, and 1832, was now alive, I think his practical and utilitarian mind would be seeking a proper remedy for the real grievance, now so much greater than ever; and that he would leave the fires of an imaginary danger to die out of themselves, for want of fuel.

52. Abolition Of Specific Duties By The Compromise Act Of 1833: Its Error, And Loss To The Revenue, Shown By Experience

The introduction of the universal *ad valorem* system in 1833 was opposed and deprecated by practical men at the time, as one of those refined subtleties which, aiming at an ideal perfection, overlooks the experience of ages, and disregards the warnings of reason. Specific duties had been the rule—ad valorems the exception—from the beginning of the collection of custom-house revenue. The specific duty was a question in the exact sciences, depending upon a mathematical solution by weight, count, or measure: the ad valorem presented a question to the fallible judgment of men, sure to be different at different places; and subject, in addition to the fallibility of judgment, to the chances of ignorance, indifference, negligence and corruption. All this was urged against the act at the time, but in vain. It was a piece of legislation arranged out of doors—christened a compromise, which was to save the Union—brought into the House to be passed without alteration: and was so passed, in defiance of all judgment and reason by the aid of the votes of those—always a considerable per centum in every public body—to whom the name of compromise is an irresistible attraction: amiable men, who would do no wrong of themselves, and without whom the designing could do but little wrong. Objections to this pernicious novelty (of universal ad valorems), were in vain urged then: experience, with her enlightened voice, now came forward to plead against them. The act had been in force seven years: it had had a long, and a fair trial: and that safest of all juries—Time and Experience—now came forward to deliver their verdict. At this session (‘39-’40) a message was sent to the House of Representatives by the President, covering reports from the Secretary of the Treasury, and from the Comptroller of the Treasury, with opinions from the late Attorneys-general of the United States (Messrs. Benjamin F. Butler and Felix Grundy), and letters from the collectors of the customs in all the principal Atlantic ports, all relating to the practical operation of the ad valorem system, and showing it to be unequal, uncertain, unsafe—diverse in its construction—injurious to the revenue—open to unfair practices—and greatly expensive from the number of persons required to execute it. The whole document may be profitably studied by all who deprecate unwise and pernicious legislation; but a selection of a few of the cases of injurious operation which it presents will be sufficient to give an idea of the whole. Three classes of goods are selected—silks, linens, and worsted: all staple articles, and so well known as to be the least susceptible of diversity of judgment; and yet on which, in the period of four years, a fraction over five millions of dollars had been lost to the Treasury from diversity of construction between the Treasury officers and the judiciary—with the further prospective loss of one million and three-quarters in the ensuing three years if the act was not amended. The document, at page 44, states the annual ascertained loss during four years’ operation of the act on these classes of goods, to be:

“In 1835 -

$624,356

In 1837 -

463,090

1836 -

847,162

1838 -

428,237

“Making in the four years $2,362,845; and the comptroller computes the annual prospective loss during the time the act may remain unaltered, at $800,000. So much for silks; now for linens. The same page, for the same four years, represents the annual loss on this article to be:

In 1835 -

$370,785

In 1837 -

303,241

1836 -

516,988

1838 -

226,375

“Making the sum of $1,411,389 on this article for the four years; to which is to be added the estimated sum of $400,000, for the future annual losses, if the act remains unaltered.

“On worsted goods, for the same time, and on page 45, the report exhibits the losses thus:

In 1835 -

$409,329

In 1837 -

209,391

1836 -

416,832

1838 -

249,590

“Making a total of ascertained loss on this head, in the brief space of four years, amount to the sum of $1,285,142; with a computation of a prospective loss of $500,000 per annum, while the compromise act remains as it is.”

Such were the losses from diversity of construction alone on three classes of goods, in the short space of four years; and these classes staple goods, composed of a single material. When it came to articles of mixed material, the diversity became worse. Custom-house officers disagreed: comptrollers and treasurers disagreed: attorneys-general disagreed. Courts were referred to, and their decision overruled all. Many importers stood suits; and the courts and juries overruled all the officers appointed to collect the revenue. The government could only collect what they are allowed. Often, after paying the duty assessed, the party has brought his action and recovered a large part of it back. So that this ad valorem system, besides its great expense, its chance for diversity of opinions among the appraisers, and its openness to corruption, also gave rise to differences among the highest administrative and law officers of the government, with resort to courts of law, in nearly all which the United States was the loser.

53. Refined Sugar And Rum Drawbacks: Their Abuse Under The Compromise Act Of 1833: Mr. Benton's Speech

Mr. Benton rose to make the motion for which he had given notice on Friday last, for leave to bring in a bill to reduce the drawbacks allowed on the exportation of rum and refined sugars; and the bounties and allowances to fishing vessels, in proportion to the reduction which had been made, and should be made, in the duties upon imported sugars, molasses and salt, upon which these bounties and allowances were respectively granted.

Mr. B. said that the bill, for the bringing in of which he was about to ask leave, proposed some material alteration in the act of 1833, for the modification of the tariff, commonly called the compromise act; and as that act was held by its friends to be sacred and inviolable, and entitled to run its course untouched and unaltered, it became his duty to justify his bill in advance; to give reasons for it before he ventured to submit the question of leave for its introduction; and to show, beforehand, that here was great and just cause for the measure he proposed.

Mr. B. said it would be recollected, by those who were contemporary with the event, and might be seen by all who should now look into our legislative history of that day, that he was thoroughly opposed to the passage of the act of 1833; that he preferred waiting the progress of Mr. Verplanck's bill; that he opposed the compromise act, from beginning to end; made speeches against it, which were not answered; uttered predictions of it, which were disregarded; proposed amendments to it, which were rejected; showed it to be an adjournment, not a settlement, of the tariff question; and voted against it, on its final passage, in a respectable minority of eighteen. It was not his intention at this time to recapitulate all the objections which he then made to the act; but to confine himself to two of those objections, and to those two of them, the truth and evils of which TIME had developed; and for which evils the public good demands an immediate remedy to be applied. He spoke of the drawbacks and allowances founded upon duties, which duties were to undergo periodical reductions, while the drawbacks and allowances remained undiminished; and of the vague and arbitrary tenor of the act, which rendered it incapable of any regular, uniform, or safe execution. He should confine himself to these two objections; and proceed to examine them in the order in which they were mentioned.

At page 208 of the Senate journal, session of 1832-33, is seen this motion: "Moved by Mr. Benton to add to the bill a section in the following words: '*That all drawbacks allowed on the exportation of articles manufactured in the United States from materials imported from foreign countries, and subject to duty, shall be reduced in proportion to the reduction of duties provided for in this act.*'" The particular application of this clause, as explained and enforced at the time, was to sugar and molasses, and the refined sugar, and the rum manufactured from them.

As the laws then stood, and according to the principle of all drawbacks, the exporters of these refined sugars and rum were allowed to draw back from the Treasury precisely as much money as had been paid into the Treasury on the importation of the article out of which the exported article was manufactured. This was the principle, and this was the law; and so rigidly was this insisted upon by the manufacturing and exporting interest, that only four years before the compromise act, namely, in 1829, the drawback on refined sugars exported

was raised from four to five cents a pound upon the motion of General Smith, a then senator from Maryland; and this upon an argument and a calculation made by him to show that the quantity of raw sugar contained in every pound of refined sugar, had, in reality, paid five instead of four cents duty. My motion appeared to me self-evidently just, as the new act, in abolishing all specific duties, and reducing every thing to an ad valorem duty of twenty per centum, would reduce the duties on sugar and molasses eventually to the one-third or the one-fourth of their then amount; and, unless the drawback should be proportionately reduced, the exporter of refined sugars and rum, instead of drawing back the exact amount he had paid into the Treasury, would in reality draw back three or four times as much as had been paid in. This would be unjust in itself; and, besides being unjust, would involve a breach of the constitution, for, so much of the drawback as was not founded upon the duty, would be a naked bounty paid for nothing out of the Treasury. I expected my motion to be adopted by a unanimous vote; on the contrary, it was rejected by a vote of 24 to 18;[13] and I had to leave it to Time, that slow, but sure witness, to develope the evils which my arguments had been unable to show, and to enforce the remedies which the vote of the Senate had rejected. That witness has come. Time, with his unerring testimony, has arrived. The act of 1833 has run the greater part of its course, without having reached its ultimate depression of duties, or developed its greatest mischiefs; but it has gone far enough to show that it has done immense injury to the Treasury, and must continue to do it if a remedy is not applied. Always indifferent to my rhetoric, and careful of my facts—always leaving oratory behind, and laboring to establish a battery of facts in front—I have applied at the fountain head of information—the Treasury Department—for all the statistics connected with the subject; and the successive reports which had been received from that department, on the salt duties and the fishing bounties and allowances, and on the sugar and molasses duties, and the drawbacks on exported rum and refined sugar, and which had been printed by the order of the Senate, had supplied the information which constituted the body of facts which must carry conviction to the mind of every hearer.

Mr. B. said he would take up the sugar duties first, and show what had been the operation of the act of 1833, in relation to the revenue from that article, and the drawbacks founded upon it. In document No. 275, laid upon our tables on Friday last, we find four tables in relation to this point, and a letter from the Register of the Treasury, Mr. T. L. Smith, describing their contents.

These tables are all valuable. The whole of the information which they contain is useful, and is applicable to the business of legislation, and goes to enlighten us on the subject under consideration; but it is not in my power, continued Mr. B., to quote them in detail. Results and prominent facts only can be selected; and, proceeding on this plan, I here show to the Senate, from table No. 1, that as early as the year 1837—being only four years after the compromise act—the drawback paid on the exportation of refined sugar actually exceeded the amount of revenue derived from imported sugar, by the sum of $861 71. As the duties continued to diminish, and the drawback remained the same, this excess was increased in 1838 to $12,690; and in 1839 it was increased to $20,154 37. Thus far the results are mathematical; they are copied from the Treasury books; they show the actual operation of the compromise act on this article, down to the end of the last year. These are facts to pause at, and think upon. They imply that the sugar refiners manufactured more sugar than was

[13] The following was the vote:
Yeas—Messrs. Benton, Buckner, Calhoun, Dallas, Dickerson, Dudley, Forsyth, Johnston, Kane, King, Rives, Robinson, Seymour, Tomlinson, Webster, White, Wilkins, and Wright—18.
Nays—Messrs. Bell, Bibb, Black, Clay, Clayton, Ewing, Foot, Grundy, Hendricks, Holmes, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Tipton, Troup, Tyler—24.

imported into the United States for each of these three years—that they not only manufactured, but exported, in a refined state, more than was imported into the United States, about 400,000 lbs. more the last of these years—that they paid duty on these quantities, not leaving a pound of imported sugar to have been used or duty paid on it by any other person—and not leaving a pound of their own refined sugar to be used in the United States. In other words, the whole amount of the revenue from brown and clayed sugars was paid over to 29 sugar refiners from 1837: and not only the whole amount, but the respective sums of $861 71, and $12,690, and $20,154 37, in that and the two succeeding years, over and above that amount. This is what the table shows as far as the act has gone; and as we know that the refiners only consumed a small part of the sugar imported, and only exported a part of what they refined, and consequently only paid duty on a small part, it stands to reason that a most enormous abuse has been committed—the fault of the law allowing them to "draw back" out of the Treasury what they had never put into it.

The table then goes on to show the prospective operation of the act for the remainder of the time which it has to run, and which will include the great reductions of duty which are to take place in 1841 and 1842; and here the results become still more striking. Assuming the importation of each succeeding year to be the same that it was in 1839, and the excess of the drawback over the duties will be, for 1840, $37,343 38; for 1841, the same; for 1842, $114,693 94; and for 1843, the sum of $140,477 45. That is to say, these refiners will receive the whole of the revenue from the sugar tax, and these amounts in addition, for these four years; when they would not be entitled, under an honest law, to more than the one fortieth part of the revenue—which, in fact, is more than they received while the law was honest. These will be the bounties payable out of the Treasury in the present, and in the three succeeding years, provided the importation of sugars shall be the same that it was in 1839; but will it be the same? To this question, both reason and experience answer in the negative. They both reply that the importation will increase in proportion to the increased profit which the increasing difference between the duty and the drawback will afford; and this reply is proved by the two first columns in the table under consideration. These columns show that, under the encouragement to importation already afforded by the compromise act, the import of sugar increased in six years from 1,558,971 pounds, costing $72,336, to 11,308,561 pounds, costing $554,119. Here was an enormous increase under a small inducement compared to that which is to follow; so that we have reason to conclude that the importations of the present and ensuing years, unless checked by the passage of the bill which I propose to bring in, will not only increase in the ratio of the past years, but far beyond it; and will in reality be limited only by the capacity of the world to supply the demand: so great will be the inducement to import raw or clayed sugars, and export refined. The effect upon our Treasury must be great. Several hundred thousand dollars per annum must be taken from it for nothing; the whole extracted from the Secretary of the Treasury in hard money; his reports having shown us that, while paper money, and even depreciated paper, is systematically pressed upon the government in payment of duties, nothing but gold and silver will be received back in payment of drawbacks. But it is not the Treasury only that would suffer: the consumers of sugar would come in for their share of the burden: the drawback will keep up the price; and the home consumer must pay the drawback as well as the government; otherwise the refined sugar will seek a foreign market. The consumers of brown sugar will suffer in the same manner; for the manufacturers will monopolize it, and refine it, and have their five cents drawback, either at home or abroad. Add to all this, it will be well if enterprising dealers shall not impose domestic sugars upon the manufacturers, and thus convert the home crop into an article entitled to drawback.

Such are the mischiefs of the act of 1833 in relation to this article; they are great already, and still greater are yet to come. As early as 1837, the whole amount of the sugar revenue, and $861,71 besides, was delivered over to some twenty odd manufacturers of refined sugars! At this day, the whole amount of that revenue goes to these few individuals, and $37,343,38 besides. This is the case this year. Henceforth they are to receive the whole amount of this revenue, with some hundreds of thousands of dollars besides, to be drawn from other branches of revenue, unless this bill is passed which I propose to bring in. This is the effect of the act, dignified with the name of compromise, and hallowed by the imputed character of sacred and inviolable! It turns over a tax levied from seventeen millions of people on an article of essential comfort, and almost a necessary; it turns over this whole tax to a few individuals; and that not being enough to satisfy their demand, they receive the remainder from the National Treasury! It violates the constitution to the whole extent of the excess of the drawback over the duty. It subjects the Treasury to an unforeseen amount of undue demands. It deprives the people of the whole benefit of the reduction of the sugar tax, provided for by the act itself; and subjects them to the mercies of those who may choose to monopolize the article for refinement and exportation. The whole number of persons into whose hands all this money and power is thrown, is, according to a statement derived from Gov. Wolf, the late collector of the customs at Philadelphia, no more than own the 29 sugar refineries; the whole of which, omitting some small ones in the West, and three in New Orleans, are situate on the north side of Mason and Dixon's line. Members from the South and West complain of the unequal working of our revenue system—of the large amounts expended in the northeast—the trifle expended South and West. But, why complain? Their own improvident and negligent legislation makes it so. This bill alone, in only one of its items—the sugar item—will send millions, before 1842, to the north side of that famous line: and this bill was the concoction, and that out of doors, of one member from the South and one more from the West.

Mr. Benton would proceed to the next article to the effect upon which, of the compromise act, he would wish to call their attention; and that article was imported molasses, and its manufacture, in the shape of exported rum. On this article, and its manufacture, the operation of the act was of the same character, though not to the same degree, that it was on sugars; the duties were reduced, while the drawback remained the same. This was constantly giving drawback where no duty had been paid; and in 1842 the whole of the molasses tax will go to these rum distillers—giving the legal implication that they had imported all the molasses that came into the United States, and paid duty on it—and then exported it all in the shape of rum—leaving not a gallon to have been consumed by the rest of the community, nor even a gallon of their own rum to have been drank in the United States. All this is clear from the regular operation of the compromise act, in reducing duties without making a corresponding reduction in the drawbacks founded upon them. But is there not to be cheating in addition to the regular operation of the act? If not, we shall be more fortunate than we have been heretofore, and that under the circumstances of greater temptation. It is well known that whiskey can be converted into New England rum, and exported as such, and receive the drawback of the molasses duty; and that this has been done just as often as the price of whiskey (and the meanest would answer the purpose) was less than the cost of molasses. The process was this. Purchase base whiskey at a low rate—filtrate it through charcoal, to deprive it of smell and taste—then pass it through a rum distillery, in company with a little real rum—and the whiskey would come out rum, very fit to be sold as such at home, or exported as such, with the benefit of drawback. All this has been done, and has been proved to be done; and, therefore, may be done again, and certainly will be done, under the increased temptation which the compromise act now affords, and will continue to afford, if not amended as proposed by the bill I propose to bring in. It was proved before a committee of

the House of Representatives in the session of 1827-8. Mr. Jeromus Johnson, then a member of Congress from the city of New York, now a custom-house officer in that city, testified directly to the fact. To the question: "*Are there not large quantities of whiskey used with molasses in the distillation of what is called New England rum?*" He answered: "*There are:*" and that when mixed at the rate of only four gallons to one, and the mixture run through a rum distillery—the whiskey previously deprived of its taste and smell by filtration through charcoal—the best practised rum drinker could not tell the difference—even if appealed to by a custom-house officer. That whiskey is now used for that purpose, is clearly established by the table marked B. That table shows that the importation of foreign molasses for the year 1839 was 392,368 gallons; and the exportation of distilled rum for that quantity was 356,699 gallons; that is to say, nearly as many gallons of rum went out as of molasses came in; and, admitting that a gallon of good molasses will make a gallon of rum, yet the average is below it. Inferior or common molasses falls short of producing gallon for gallon by from 5 to 7½ per cent. Now make an allowance for this deficiency; allow also for the quantity of foreign molasses consumed in the United States in other ways; allow likewise for the quantity of rum made from molasses, and not exported, but consumed at home: allow for these three items, and the conviction becomes irresistible, that whiskey was used in the distillation of rum in the year 1839, and exported with the benefit of drawback! and that such will continue to be the case (if this blunder is not corrected), as the duty gets lower and the temptation to export whiskey, under the disguise of New England rum, becomes greater. After 1842, this must be a great business, and the molasses drawback a good profit on mean whiskey.

Putting these two items together—the sugar and the molasses drawbacks—and some millions must be plundered from the Treasury under the preposterous provisions of this compromise act.

54. Fishing Bounties And Allowances, And Their Abuse: Mr. Benton's Speech: Extracts

The bill which I am asking leave to introduce, proposes to reduce the fishing bounties and allowances in proportion to the reduction which the salt duty has undergone, and is to undergo; and at the threshold I am met by the question, whether these allowances are founded upon the salt duty, and should rise and fall with it, or are independent of that duty, and can be kept up without it? I hold the affirmative of this question. I hold that the allowances rest upon the duty, and upon nothing else, and that there is neither statute law nor constitution to support them on any other foundation. This is what I hold: but I should not have noticed the question at this time except for the issue joined upon it between the senator from Massachusetts who sits farthest on the other side (Mr. Davis), and myself. He and I have made up an issue on this point; and without going into the argument at this time, I will cite him to the original petition from the Massachusetts legislature, asking for a drawback of the duties, or, as they styled it, "a remission of duties on all the dutiable articles used in the fisheries; and also premiums and bounties:" and having shown this petition, I will point to half a dozen acts of Congress which prove my position—hoping that they may prove sufficient, but promising to come down upon him with an avalanche of authorities if they are not.

The dutiable articles used in the fisheries, and of which a remission duty was asked in the petition, were: salt, rum, tea, sugar, molasses, coarse woollens, lines and hooks, sail-cloth, cordage, iron, tonnage. This petition, presented to Congress in the year 1790, was referred to the Secretary of State (Mr. Jefferson), for a report upon it; and his report was, that a drawback of duties ought to be allowed, and that the fisheries are not to draw support from the Treasury; the words, "drawback of duty," only applying to articles exported, was confined to the salt upon that part of the fish which were shipped to foreign countries: and to this effect was the legislation of Congress. I briefly review the first half dozen of these acts.

1. The act of 1789—the same which imposed a duty of six cents a bushel on salt, and which granted a bounty of five cents a barrel on pickled fish exported, and also on beef and pork exported, and five cents a quintal on dried fish exported—declared these bounties to be "in lieu of a drawback of the duties imposed on the importation of the salt employed and expended thereon." This act is decisive of the whole question. In the first place it declares the bounty to be in lieu of a drawback of the salt duty. In the second place, it conforms to the principle of all drawbacks, and only grants the bounty on the part of the fish which is exported. In the third place, it gives the same bounty, and in the same words, to the exporters of salted beef and pork which is given to the exporters of fish: and certainly mariners were not expected to be created among the raisers of swine and cattle—which negatives the idea of this being an encouragement to the formation of seamen.

2. In 1790 the duty on salt was doubled: it was raised from six to twelve cents a bushel: by the same act the fishing bounties and allowances were also doubled: they were raised from five to ten cents the barrel and the quintal. By this act the bounties and allowances both to fish and provisions, were described to be "in lieu of drawback of the duty on salt used in curing fish and provisions exported."

3. The act of 1792 repeals "the bounty in lieu of drawback on dried fish;" and, "in lieu of that, and as commutation thereof, and as an equivalent therefor," shifts the bounty from the "quintal" of dried fish to the "tonnage" of the fishing vessel; and changes its name from

"bounty" to "allowance." This is the key act to the present system of tonnage allowance to the fishing vessel; and was passed upon the petition of the fishermen, and to enable the "crew" of the vessel to draw the bounty instead of letting it fall into the hands of the exporting merchant. It was done upon the fishermen's petition, and for the benefit of the crew, interested in the adventure, and who had paid the duty on the salt which they used. And to exclude all idea of considering this change as a change of policy, and to cut off all inference that the allowance was now to become a bounty from the Treasury as an encouragement for a seaman's nursery, the act went on to make this precise and explicit declaration: "*That the allowance so granted to the fishing vessel was a commutation of, and an equivalent for, the bounty in lieu of drawback of the duties imposed on the importation of the salt used in curing the fish exported.*" This is plain language—the plain language used by legislators of that day—and defies misconception, misunderstanding, or cavil.

4. In 1797 the duty on salt was raised from twelve cents to twenty cents a bushel: by the same act a corresponding increase was made in the bounties both to exported salted provisions and pickled fish, and in the allowance to the fishing vessels. The salt duty was raised one-third and a fraction: and these bounties and allowances were raised one-third. Thirty-three and one-third per cent. was added all round; and the act, to make all sure, was express in again declaring the bounties and allowances to be a commutation in lieu of the drawback of the salt duty.

5. The act of April 12th, 1800, continues the salt duty, and with it all the bounties to salted provisions and pickled fish exported, and all the allowances to fishing vessels, for ten years; and then adds this proviso: "That these allowances shall not be understood to be continued for a longer time than the correspondent duties on salt, respectively, for which the said allowances were granted, shall be payable." Such are the terms of the act of the year 1800. It is a clincher. It nails up, and crushes every thing. It shows that Congress was determined that the salt duty, and the bounties and allowances, should be one and indivisible: that they should come, and go together—should rise and fall together—should live and die together.

6. In 1807, Mr. Jefferson being President, the salt tax was abolished upon his recommendation: and with it all the bounties and allowances to fishing vessels, to pickled fish, and to salted beef and pork were all swept away. The same act abolished the whole. The first section repealed the salt duty: the second repealed the bounties and allowances: and the repeal of both was to take effect on the same day—namely, on the first day of January, 1808: a day which deserves to be nationally commemorated, as the day of the death of an odious, criminal and impious tax. The beneficent and meritorious act was in these words: "*That from and after the first day of January next, so much of any act as allows a bounty on exported salt provisions and pickled fish, in lieu of drawback of the duties on the salt employed in curing the same, and so much of any act as makes allowances to the owners and crews of fishing vessels, in lieu of drawback of the duties paid on the salt used in the same, shall be, and the same hereby is repealed.*" This was the end of the first salt tax in the United States, and of all the bounties and allowances built upon it. It fell, with all its accessories, under the republican administration of Mr. Jefferson—and with the unanimous vote of every republican—and also with the vote of many federalists: so much more favorable were the old federalists than the whigs of this day, to the interests of the people. In fact there were only five votes against the repeal, and not one of these upon the ground that the bounties and allowances were independent of the salt duty.

7. After this, and for six years, there was no salt tax—no fishing bounties or allowances in the United States. The tax, and its progeny lay buried in one common grave, and had no resurrection until the year 1813. The war with Great Britain revived them—the tax and its

offspring together; but only as a temporary measure—as a war tax—to cease within one year after the termination of the war. Before that year was out, the tax, and its appendages were continued—not for any determinate period, but until repealed by Congress. They have not been repealed yet! and that was forty years ago! No act could then have been obtained to continue this duty for the short space of three years. The continuance could only be obtained on the argument that Congress could then repeal it at any time; a fallacious reliance, but always seductive to men of easy and temporizing temperaments.

The pretension that these fishing bounties and allowances were granted as encouragement to mariners, is rejected by every word of the acts which grant them, and by the striking fact, that no part of them goes to the whale fisheries. Not a cent of them had ever gone to a whale ship: they had only gone to the cod and mackerel fisheries. The noble whaler of four or five hundred tons, with her ample crew, which sailed twenty thousand miles, doubling a most tempestuous cape before she arrived at the field of her labors—which remained out three years, waging actual war with the monsters of the deep—a war in which a brave heart, a steady eye, and an iron nerve were as much wanted as in any battle with man;—this noble whaler got nothing. It all went to the hook-and-line men—to the cod and mackerel fisheries, which were carried on in diminutive vessels, as small as five tons, and in the rivers, and along the shores, and on the shallow banks of Newfoundland. Meritorious as these hook-and-line fishermen might be, they cannot compare with the whalers: and these whalers receive no bounties and allowances because they pay no duty on imported salt, re-exported by them.

I now come to the clause in my bill which has called forth these preliminary remarks; the third clause, which proposes the reduction of fishing bounties and allowances in proportion to the reduction which the salt tax has undergone, and shall undergo. And here, it is not the compromise act alone that is to be blamed: a previous act shares that censure with it. In 1830 the salt duty was reduced one-half, to take effect in 1830 and 1831; the fishing bounties and allowances should have been reduced one-half at the same time. I made the motion in the Senate to that effect; but it failed of success. When the compromise act was passed in 1833, and provided for a further reduction of the salt duty—a reduction which has now reduced it two-thirds, and in 1841 and ‘42 will reduce it still lower—when this act was passed, a reduction of the fishing bounties and allowances should have taken place. The two senators who concocted that act in their chambers, and brought it here to be registered as the royal edicts were registered in the times of the old French monarchy; when these two senators concocted this act, they should have inserted a provision in it for the correspondent reduction of the fishing bounties and allowances with the salt tax: they should have placed these allowances, and the refined sugar, and the rum drawbacks, all on the same footing, and reduced them all in proportion to the reduction of the duties on the articles on which they were founded. They did not do this. They omitted the whole; with what mischief you have already seen in the case of rum and refined sugar, and shall presently see in the case of the fishing bounties and allowances. I attempted to supply a part of their omission in making the motion in relation to drawbacks, which was read to you at the commencement of these remarks. Failing in that motion, I made no further attempt, but waited for TIME, the great arbiter of all questions, to show the mischief, and to enforce the remedy. That arbiter is now here, with his proofs in his hand, in the shape of certain reports from the Treasury Department in relation to the salt duty and the fishing bounties and allowances, which have been printed by the order of the Senate, and constitute part of the salt document, No. 196. From that document I now proceed to collect the evidences of one branch of the mischief—the pecuniary branch of it—which the omission to make the proper reductions in these allowances has inflicted upon the country.

The salt duty was reduced one-fourth in the year 1831; the fishing bounties and allowances that year were $313,894; they should have been reduced one-fourth also, which would have made them about $160,000. In 1832 the duty was reduced one-half; the fishing bounties and allowances were paid in full, and amounted to $234,137; they should have been reduced one-half; and then $117,018 would have discharged them. The compromise act was made in 1833, and, under the operation of that act, the salt duty has undergone biennial reductions, until it is now reduced to about one-third of its original amount: if it had provided for the correspondent reduction of the fishing bounties and allowances, there would have been saved from that year to the year 1839—the last to which the returns have been made up—an annual average sum of about $150,000, or a gross sum of about $900,000. The prospective loss can only be estimated; but it is to increase rapidly, owing to the large reductions in the salt duty in the years 1841 and 1842.

The present year, 1840, lacks but a little of exhausting the whole amount of the salt revenue in paying the fishing bounties and allowances; the next year will take more than the whole; and the year after will require about double the amount of the salt revenue of that year to be taken from other branches of the revenue to satisfy the demands of the fishing vessels: thus producing the same result as in the case of the sugar duties—the whole amount of the salt duty, and as much more out of other duties, being paid to the cod and mackerel fishermen, as the whole amount of the sugar tax, and considerably more, is paid to the sugar-refiners. The results for the present year, and the ensuing ones, are of course computed: they are computations founded upon the basis of the last ascertained year's operations. The last year to which all the heads of this branch of business is made up, is the year 1838; and for that year they stand thus: Salt imported, in round numbers, seven millions of bushels; net revenue from it, about $430,000; fishing bounties and allowances, $320,000. Assuming the importation of the present year to be the same, and the bounties and allowances to be the same, the loss to the Treasury will be $206,000; for the salt duty this year will undergo a further reduction. In 1842, when this duty has reached its lowest point, the whole amount of revenue derived from it is computed at about $170,000, while the fishing bounties and allowances continuing the same, namely, about $320,000, the salt revenue in the gross will be little more than half enough to pay it; and, after deducting the weighers' and measurers' fees, which come out of the Treasury, and amount to $52,500 on an importation of seven millions; after deducting this item, there will be a deficiency of about $200,000 in the salt revenue, in meeting the drawbacks, in the shape of bounties and allowances founded upon it. Thus two-thirds of the whole amount of the salt revenue is at this time paid to the fishing vessels. Next year it will all go to them; and after 1842, we shall have to raise money from other sources to the amount of $200,000 per annum, or raise the salt duty itself to produce that amount, in order to satisfy these drawbacks, which were permitted to take the form of bounties and allowances to fishing vessels. Such is the operation of the compromise act! that act which is styled sacred and inviolable!

Of the other mischiefs resulting from this compromise act, which reduced the duties on salt, and the one which preceded it for the same purpose, without reducing the correspondent bounties and allowances to the fishing interest—of these remaining mischiefs, whereof there are many, I mean to mention but one; and merely to mention that, and not to argue it. It is the constitutional objection to the payment of any thing beyond the duty received—the payment of any thing which exceeds the drawback of the duty. Up to that point, I admit the constitutionality of drawbacks, whether passing under that name, or changed to the name of a bounty, or an allowance in lieu of a drawback. I admit the constitutional right of Congress to permit a drawback of the amount paid in: I deny the constitutional right to permit a drawback of any amount beyond what was paid in. This is my position, which I pledge myself to

maintain, if any one disputes it; and applying this principle to the fishing bounties and allowances, and also to the drawbacks in the case of refined sugars and rum: and I boldly affirm that the constitution of the United States has been in a state of flagrant violation, under the compromise act, from the day of its passage to the present hour, and will continue so until the bill is passed which I am about to ask leave to bring in.

Sir, I quit this part of my subject with presenting, in a single picture, the condensed view of what I have been detailing. It is, that the whole annual revenue derived from sugar, salt, and molasses, is delivered over gratuitously to a few thousand persons in a particular section of the Union, and is not even sufficient to satisfy their demands! In other words, that a tax upon a nation of seventeen millions of people, upon three articles of universal consumption, articles of necessity, and of comfort, is laid for the benefit of a few dozen rum distillers and sugar refiners, and a few thousand fishermen; and not being sufficient for them, the deficit, amounting to many hundred thousand dollars per annum, is taken from other branches of the revenue, and presented to them! and all this the effect of an act which was made out of doors, which was not permitted to be amended on its passage, and which is now held to be sacred and inviolable! and which will eventually sink under its own iniquities, though sustained now by a cry which was invented by knavery, and is repeated by ignorance, folly, and faction—a cry that that compromise saved the Union. This is the picture I present—which I prove to be true—and the like of which is not to be seen in the legislation, or even in the despotic decrees, of arbitrary monarchs, in any other country upon the face of the earth.

About five millions of dollars have been taken from the Treasury under these bounties and allowances—the greater part of it most unduly and abusefully.[14] The fishermen are only entitled to an amount equal to the duty paid on the imported salt, which is used upon that part of the fish which is exported; and the law requires not only the exportation to be proved, but the landing and remaining of the cargo in a foreign country. They draw back this year $355,000. Do they pay that amount of duty on the salt put on the modicum of fish which they export? Why, it is about the entire amount of the whole salt tax paid by the whole United States! and to justify their right to it, they must consume on the exported part of their fish the whole quantity of foreign salt now imported into the United States—leaving not a handful to be used by the rest of the population, or by themselves on that part of their fish which is consumed at home—and which is so much greater than the exported part. This shows the enormity of the abuse, and that the whole amount of the salt tax now goes to a few thousand fishermen; and if this compromise act is not corrected, that whole amount, after 1842, will not be sufficient to pay this small class—not equal in number to the farmers in a common Kentucky county; and other money must be taken out of the Treasury to make good the deficiency. I have often attempted to get rid of the whole evil, and render a great service to the country, by repealing *in toto* the tax and all the bounties and allowances erected upon it. At present I only propose, and that without the least prospect of success, to correct a part of the abuse, by reducing the payments to the fishermen in proportion to the reduction of the duty on salt: but the true remedy is the one applied under Mr. Jefferson's administration—total repeal of both.

[14] About four and a quarter millions taken since; and still taking.

55. Expenditures Of The Government

At no point does the working of the government more seriously claim the attention of statesmen than at that of its expenses. It is the tendency of all governments to increase their expenses, and it should be the care of all statesmen to restrain them within the limits of a judicious economy. This obligation was felt as a duty in the early periods of our history, and the doctrine of *economy* became a principle in the political faith of the party, which, whether called Republican as formerly, or Democratic as now, is still the same, and was incorporated in its creed. Mr. Jefferson largely rested the character of his administration upon it; and deservedly: for even in the last year of his administration, and after the enlargement of our territory by the acquisition of Louisiana, the expenses of the government were but about three millions and a half of dollars. At the end of Mr. Monroe's administration, sixteen years later, they had risen to about seven millions; and in the last year of Mr. Van Buren's (sixteen years more), they had risen to about thirteen millions. At the same time, at each of these epochs, and in fact, in every year of every administration, there were payments from the Treasury for extraordinary or temporary objects, often far exceeding in amount the regular governmental expenses. Thus, in the last year of Mr. Jefferson, the whole outlay from the Treasury, was about twelve millions and a half; of which eight millions went to the payment of principal and interest on the public debt, and about one million to other extra objects. And in the last year of Mr. Monroe, the whole payments were about thirty-two millions of dollars, of which sixteen millions and a half went to the liquidation of the public debt; and above eight millions more to other extraordinary and temporary objects. Towards the close of Mr. Van Buren's administration, this aggregate of outlay for all objects had risen to about thirty-seven millions, which the opposition called thirty-nine; and presenting this gross sum as the actual expenses of the government, made a great outcry against the extravagance of the administration; and the people, not understanding the subject, were seriously impressed with the force and truth of that accusation, while the real expenses were but about the one-third of that sum. To present this result in a plain and authentic form, the author of this View obtained a call upon the Secretary for the different payments, ordinary and extraordinary, from the Treasury for a series of years, in which the payments would be placed under three heads—the ordinary, the extraordinary, and the public debt—specifying the items of each; and extending from Monroe's time (admitted to be economical), to Mr. Van Buren's charged with extravagance. This return was made by the Secretary, divided into three columns, with specifications, as required; and though obtained for a temporary and transient purpose, it possesses a permanent interest as giving a complete view of the financial working of the government, and fixing points of comparison in the progress of expenditure—very proper to be looked back upon by those who would hold the government to some degree of economy in the use of the public money. There has been no such examination since the year 1840: there would seem to be room for it now (1855), when the aggregate of appropriations exceed seventy millions of dollars. A deduction for extraordinaries would largely reduce that aggregate, but still leave enough behind to astound the lovers of economy. Three branches of expenditure alone, each within itself, exceeds by upwards of four to one, the whole ordinary expenses of the government in the time of Mr. Jefferson; and upwards of double of such expense in the time of Mr. Monroe; and some millions more than the same aggregate in the last year of Mr. Van Buren. These three branches are, 1. The civil, diplomatic, and miscellaneous, $17,265,929 and 50 cents. 2. The naval service (without the pensions and "reserved" list), $15,012,091 and 53 cents. 3. The army, fortifications, military academy (without the pensions), $12,571,496 and 64 cents. These three branches of expenditure alone

would amount to about forty-five millions of dollars—to which twenty-six millions more are to be added. The dormant spirit of economy—hoped to be only dormant, not dead—should wake up at this exhibition of the public expenditure: and it is with that view—with the view of engaging the attention of some economical members of Congress, that the exhibit is now made—that this chapter is written—and some regard invoked for the subject of which it treats. The evils of extravagance in the government are great. Besides the burden upon the people, it leads to corruption in the government, and to a janissary horde of office holders to live upon the people while polluting their elections and legislation, and poisoning the fountains of public information in moulding public opinion to their own purposes. More than that. It is the true source of the just discontent of the Southern States, and must aggravate more and more the deep-seated complaint against the unnecessary levy of revenue upon the industry of one half of the Union to be chiefly expended in the other. That complaint was great enough to endanger the Union twenty-five years ago, when the levy and expenditure was thirty odd millions: it is now seventy odd! At the same time it is the opinion of this writer, that a practical man, acquainted with the objects for which the federal government was created, and familiar with its financial working from the time its fathers put it into operation, could take his pen and cross out nearly the one half of these seventy odd millions, and leave the government in full vigor for all its proper objects, and more pure, by reducing the number of those who live upon the substance of the people. To complete the effect of this chapter, some extracts are given in the ensuing one, from the speech made in 1840, upon the expenditures of the government, as presenting practical views upon a subject of permanent interest, and more worthy of examination now than then.

56. Expenses Of The Government, Comparative And Progressive, And Separated From Extraordinaries

Mr. Benton moved to print an extra number of these tabular statements received from the Secretary of the Treasury, and proposed to give his reasons for the motion, and for that purpose, asked that the papers should be sent to him (which was done); and Mr. B. went on to say that his object was to spread before the country, in an authentic form, the full view of all the government expenses for a series of years past, going back as far as Mr. Monroe's administration; and thereby enabling every citizen, in every part of the country, to see the actual, the comparative, and the classified expenditures of the government for the whole period. This proceeding had become necessary, Mr. B. said, from the systematic efforts made for some years past, to impress the country with the belief that the expenditures had increased threefold in the last twelve years—that they had risen from thirteen to thirty-nine millions of dollars; and that this enormous increase was the effect of the extravagance, of the corruption, and of the incompetency of the administrations which had succeeded those of Mr. Adams and Mr. Monroe. These two latter administrations were held up as the models of economy; those of Mr. Van Buren and General Jackson were stigmatized as monsters of extravagance; and tables of figures were so arranged as to give color to the characters attributed to each. These systematic efforts—this reiterated assertion, made on this floor, of *thirteen* millions increased to *thirty-nine*—and the effect which such statements must have upon the minds of those who cannot see the purposes for which the money was expended, appeared to him (Mr. B.), to require some more formal and authentic refutation than any one individual could give—something more imposing than the speech of a solitary member could afford. Familiar with the action of the government for twenty years past—coming into the Senate in the time of Mr. Monroe—remaining in it ever since—a friend to economy in public and in private life—and closely scrutinizing the expenditures of the government during the whole time—he (Mr. B.) felt himself to be very able at any time to have risen in his place, and to have exposed the delusion of this *thirteen* and *thirty-nine* million bugbear; and, if he did not do so, it was because, in the first place, he was disinclined to bandy contradictions on the floor of the Senate; and, in the second place, because he relied upon the intelligence of the country to set all right whenever they obtained a view of the facts. This view he had made himself the instrument of procuring, and the Secretary of the Treasury had now presented it. It was ready for the contemplation of the American people; and he could wish every citizen to have the picture in his own hands, that he might contemplate it at his own fireside, and at his full leisure. He could wish every citizen to possess a copy of this report, now received from the Secretary of the Treasury, under the call of the Senate, and printed by its order; he could wish every citizen to possess one of these authentic copies, bearing the *imprimatur* of the American Senate; but that was impossible; and, limiting his action to what was possible, he would propose to print such number of extra copies as would enable some to reach every quarter of the Union.

Mr. B. then opened the tables, and explained their character and contents. The first one (marked A) consisted of three columns, and exhibited the aggregate, and the classified expenditures of the government from the year 1824 to 1839, inclusive; the second one (marked B) contained the detailed statement of the payments annually made on account of all temporary or extraordinary objects, including the public debt, for the same period. The second table was explanatory of the third column of the first one; and the two, taken together,

would enable every citizen to see the actual expenditures, and the comparative expenditures, of the government for the whole period which he had mentioned.

Mr. B. then examined the actual and the comparative expenses of two of the years, taken from the two contrasted periods referred to, and invoked the attention of the Senate to the results which the comparison would exhibit. He took the first and the last of the years mentioned in the tables—the years 1824 and 1839—and began with the first item in the first column. This showed the aggregate expenditures for every object for the year 1824, to have been $31,898,538 47—very near thirty-two millions of dollars, said Mr. B., and if stated alone, and without explanation, very capable of astonishing the public, of imposing upon the ignorant, and of raising a cry against the dreadful extravagance, the corruption, and the wickedness of Mr. Monroe's administration. Taken by itself (and indisputably true it is in itself), and this aggregate of near thirty-two millions is very sufficient to effect all this surprise and indignation in the public mind; but, passing on to the second column to see what were the expenditures, independent of the public debt, and this large aggregate will be found to be reduced more than one half; it sinks to $15,330,144 71. This is a heavy deduction; but it is not all. Passing on to the third column, and it is seen that the actual expenses of the government for permanent and ordinary objects, independent of the temporary and extraordinary ones, for this same year, were only $7,107,892 05; being less than the one-fourth part of the aggregate of near thirty-two millions. This looks quite reasonable, and goes far towards relieving Mr. Monroe's administration from the imputation to which a view of the aggregate expenditure for the year would have subjected it. But, to make it entirely satisfactory, and to enable every citizen to understand the important point of the government expenditures—a point on which the citizens of a free and representative government should be always well informed—to attain this full satisfaction, let us pass on to the second table (marked B), and fix our eyes on its first column, under the year 1824. We shall there find every temporary and extraordinary object, and the amount paid on account of it, the deduction of which reduced an aggregate of near thirty-two millions to a fraction over seven millions. We shall there find the explanation of the difference between the first and third columns. The first item is the sum of $16,568,393 76, paid on account of the principal and interest of the public debt. The second is the sum of $4,891,386 56, paid to merchants for indemnities under the treaty with Spain of 1819, by which we acquired Florida. And so on through nine minor items, amounting in the whole, exclusive of the public debt, to about eight millions and a quarter. This total added to the sum paid on account of the public debt, makes close upon twenty-five millions of dollars; and this, deducted from the aggregate of near thirty-two millions, leaves a fraction over seven millions for the real expenses of the government—the ordinary and permanent expenses—during the last year of Mr. Monroe's administration.

This is certainly a satisfactory result. It exempts the administration of that period from the imputation of extravagance, which the unexplained exhibition of the aggregate expenditures might have drawn upon it in the minds of uninformed persons. It clears that administration from all blame. It must be satisfactory to every candid mind. And now let us apply the test of the same examination to some year of the present administration, now so incontinently charged with ruinous extravagance. Let us see how the same rule will work when applied to the present period; and, for that purpose, let us take the last year in the table, that of 1839. Let others take any year that they please, or as many as they please: I take one, because I only propose to give an example; and I take the last one in the table, because it is the last. Let us proceed with this examination, and see what the results, actual and comparative, will be.

Commencing with the aggregate payments from the Treasury for all objects, Mr. B. said it would be seen at the foot of the first column in the first table, that they amounted to

$37,129,396 80; passing to the second column, and it would be seen that this sum was reduced to $25,982,797 75; and passing to the third, and it would be seen that this latter sum was itself reduced to $13,525,800 18; and, referring to the second table, under the year 1839, and it would be seen how this aggregate of thirty-seven millions was reduced to thirteen and a half. It was a great reduction; a reduction of nearly two-thirds from the aggregate amount paid out; and left for the proper expenses of the government—its ordinary and permanent expenses—an inconceivably small sum for a great nation of seventeen millions of souls, covering an immense extent of territory, and acting a part among the great powers of the world. To trace this reduction—to show the reasons of the difference between the first and the third columns, Mr. B. would follow the same process which he had pursued in explaining the expenditures of the year 1824, and ask for nothing in one case which had not been granted in the other.

1. The first item to be deducted from the thirty-seven million aggregate, was the sum of $11,146,599 05, paid on account of the public debt. He repeated, on account of the public debt; for it was paid in redemption of Treasury notes; and these Treasury notes were so much debt incurred to supply the place of the revenue deposited with the States, in 1836, or shut up in banks during the suspension of 1837, or due from merchants, to whom indulgence had been granted. To supply the place of these unattainable funds, the government went in debt by issuing Treasury notes; but faithful to the sentiment which abhorred a national debt, it paid off the debt almost as fast as it contracted it. Above eleven millions of this debt was paid in 1839, amounting to almost the one-third part of the aggregate expenditure of that year; and thus, nearly the one-third part of the sum which is charged upon the administration as extravagance and corruption, was a mere payment of debt!—a mere payment of Treasury notes which we had issued to supply the place of our misplaced and captured revenue—our three instalments of ten millions cash presented to the States under the false and fraudulent name of a deposit, and our revenue of 1837 captured by the banks when they shut their doors upon their creditors. The glorious administration of President Jackson left the country free from public debt: its worthy successor will do the same.

Removal of Indians from the Southern and Western States, and extinction of their titles, and numerous smaller items, all specified in the third column of the table, amount to about twelve millions and a half more; and these added to the payments on the public debt, the remainder is the expense of the government, and is but about the one-third of the aggregate expenditure—to be precise, about thirteen millions and a half.

With this view of the tabular statements Mr. B. closed the examination of the items of expenditure, and stated the results to be a reduction of the thirty-seven million aggregate in 1839, like that of the thirty-two million aggregate in 1824, to about one-third of its amount. The very first item, that of the payment of public debt in the redemption of Treasury notes, reduced it eleven millions of dollars: it sunk it from thirty-seven millions to twenty-six. The other eighteen items amounted to $12,656,977, and reduced the twenty-six millions to thirteen and a half. Here then is a result which is attained by the same process which applies to the year 1824, and to every other year, and which is right in itself; and which must put to flight and to shame all the attempts to excite the country with this bugbear story of extravagance. In the first place the aggregate expenditures have not increased threefold in fifteen years; they have not risen from thirteen to thirty-nine millions, as incontinently asserted by the opposition; but from thirty-two millions to thirty-seven or thirty-nine. And how have they risen? By paying last year eleven millions for Treasury notes, and more than twelve millions for Indian lands, and wars, removals of Indians, and increase of the army and navy, and other items as enumerated. The result is a residuum of thirteen and a half millions for the real expenses of the government; a sum one and a half millions short of what

gentlemen proclaim would be an economical expenditure. They all say that fifteen millions would be an economical expenditure; very well! here is thirteen and a half! which is a million and a half short of that mark.

57. Death Of Mr. Justice Barbour Of The Supreme Court, And Appointment Of Peter V. Daniel, Esq., In His Place

Mr. Phillip P. Barbour was a representative in Congress from the State of Virginia when I was first elected to the Senate in 1820. I had the advantage—(for advantage I truly deemed it for a young member)—to be in habitual society with such a man—one of the same mess with him the first session of my service. Nor was it accidental, but sought for on my part. It was a talented mess—among others the brilliant orator, William Pinkney of Maryland; and the eloquent James Barbour, of the Senate, brother to the representative: their cousin the representative John S. Barbour, equal to either in the endowments of the mind: Floyd of Virginia: Trimble and Clay of Kentucky. I knew the advantage of such association—and cherished it. From that time I was intimate with Mr. Phillip P. Barbour during the twenty-one winters which his duties, either as representative in Congress, or justice of the Supreme Court, required him to be at Washington. He was a man worthy of the best days of the republic—modest, virtuous, pure: artless as a child: full of domestic affections: patriotic: filially devoted to Virginia as his mother State, and a friend to the Union from conviction and sentiment. He had a clear mind—a close, logical and effective method of speaking—copious without diffusion; and, always speaking to the subject, both with knowledge and sincerity, he was always listened to with favor. He was some time Speaker of the House, and was appointed to the bench of the Supreme Court by President Van Buren in 1837, in place of Mr. Justice Duval, resigned. He had the death which knows no pain, and which, to the body, is sleep without waking. He was in attendance upon the Supreme Court, in good health and spirits, and had done his part the night before in one of the conferences which the labors of the Supreme Bench impose almost nightly on the learned judges. In the morning he was supposed by his servant to be sleeping late, and, finally going to his bedside, found him dead—the face all serene and composed, not a feature or muscle disturbed, the body and limbs in their easy natural posture. It was evident that the machinery of life had stopped of itself, and without a shock. Ossification of the heart was supposed to be the cause. He was succeeded on the Supreme Bench by Peter V. Daniel, Esq., of the same State, also appointed by Mr. Van Buren—one in the first, the other in the last days of his administration.

A beautiful instance in Mr. Barbour of self-denial, and of fidelity to party and to personal friendship, and regard for honor and decorum, occurred while he was a member of the House. Mr. Randolph was in the Senate: the time for his re-election came round: he had some personal enemies in his own party, who, joined to the whig party, could defeat him: and it was a high object with the administration at Washington (that of Mr. Adams), to have him defeated. The disaffected and the opposition combined together, counted their numbers, ascertained their strength, and saw that they could dispose of the election; but only in favor of some one of the same party with Mr. Randolph. They offered the place to Mr. Barbour. It was the natural ascent in the gradation of his appointments; and he desired it; and, it may be said, the place desired him: for he was a man to adorn the chamber of the American Senate. But honor forbid; for with him Burns's line was a law of his nature: *Where you feel your honor grip, let that still be your border.* He was the personal and political friend of Mr. Randolph, and would not be used against him; and sent an answer to the combined parties which put an end to their solicitations. Mr. John Tyler, then governor of the State, and standing in the same relation with Mr. Barbour to Mr. Randolph, was then offered the place: and took it. It was his

first step in the road to the whig camp; where he arrived eventually—and lodged, until elected out of it into the vice-presidential chair.

Judge Barbour was a Virginia country gentleman, after the most perfect model of that most respectable class—living on his ample estate, baronially, with his family, his slaves, his flocks and herds—all well cared for by himself, and happy in his care. A farmer by position, a lawyer by profession, a politician of course—dividing his time between his estate, his library, his professional, and his public duties—scrupulously attentive to his duties in all: and strict in that school of politics of which Mr. Jefferson, Mr. Madison, John Taylor of Caroline, Mr. Monroe, Mr. Macon, and others, were the great exemplars. A friend to order and economy in his private life, he carried the same noble qualities into his public stations, and did his part to administer the government with the simplicity and purity which its founders intended for it.

58. Presidential Election

Mr. Van Buren was the democratic candidate. His administration had been so acceptable to his party, that his nomination in a convention was a matter of form, gone through according to custom, but the result commanded by the party in the different States in appointing their delegates. Mr. Richard M. Johnson, the actual Vice-President, was also nominated for re-election; and both nominations were made in conformity to the will of the people who sent the delegates. On the part of the whigs the same nominations were made as in the election of 1836—General William Henry Harrison of Ohio, for President; and Mr. John Tyler of Virginia, for Vice-President. The leading statesmen of the whig party were again passed by to make room for a candidate more sure of being elected. The success of General Jackson had turned the attention of those who managed the presidential nominations to military men, and an "odor of gunpowder" was considered a sufficient attraction to rally the masses, without the civil qualifications, or the actual military fame which General Jackson possessed. Availability, to use their own jargon, was the only ability which these managers asked—that is, available for the purposes of the election, and for their own advancement, relying on themselves to administer the government. Mr. Clay, the prominent man, and the undisputed head of the party, was not deemed available; and it was determined to set him aside. How to do it was the question. He was a man of too much power and spirit to be rudely thrust aside. Gentle, and respectful means were necessary to get him out of the way; and for that purpose he was concertedly importuned to withdraw from the canvass. He would not do so, but wrote a letter submitting himself to the will of the convention. When he did so he certainly expected an open decision—a vote in open convention—every delegate acting responsibly, and according to the will of his constituents. Not so the fact. He submitted himself to the convention: the convention delivered him to a committee: the committee disposed of him in a back chamber. It devised a process for getting at a result, which is a curiosity in the chapter of ingenious inventions—which is a study for the complication of its machinery—a model contrivance of the few to govern many—a secure way to produce an intended result without showing the design, and without leaving a trace behind to show what was done: and of which none but itself can be its own delineator: and, therefore, here it is:

"*Ordered*, That the delegates from each State be requested to assemble as a delegation, and appoint a committee, not exceeding three in number, to receive the views and opinions of such delegation, and communicate the same to the assembled committees of all the delegations, to be by them respectively reported to their principals; and that thereupon the delegates from each State be requested to assemble as a delegation, and ballot for candidates for the offices of President and Vice-President, and having done so, to commit the ballot designating the votes of each candidate, and by whom given, to its committee; and thereupon all the committees shall assemble and compare the several ballots, and report the result of the same to their several delegations, together with such facts as may bear upon the nomination; and said delegation shall forthwith re-assemble and ballot again for candidates for the above offices, and again commit the result to the above committees, and if it shall appear that a majority of the ballots are for any one man for candidate for President, said committee shall report the result to the convention for its consideration; but if there shall be no such majority, then the delegations shall repeat the balloting until such a majority shall be obtained, and then report the same to the convention for its consideration. That the vote of a majority of each delegation shall be reported as the vote of that State; and each State represented here shall vote its full electoral vote by such delegation in the committee."

As this View of the Thirty Years is intended to show the working of our political system, and how things *were* done still more than *what* was done; and as the election of chief magistrate is the highest part of that working; and as the party nomination of a presidential candidate is the election of that candidate so far as the party is concerned: in all these points of view, the device of this resolution becomes historical, and commends itself to the commentators upon our constitution. The people are to elect the President. Here is a process through multiplied filtrations by which the popular sentiment is to be deduced from the masses, collected in little streams, then united in one swelling current, and poured into the hall of the convention—no one seeing the source, or course of any one of the streams. Algebra and alchemy must have been laid under contribution to work out a quotient from such a combination of signs and symbols. But it was done. Those who set the sum could work it: and the quotient was political death to Mr. Clay. The result produced was—for General Scott, 16 votes: for Mr. Clay, 90 votes: for General Harrison, 148 votes. And as the law of these conventions swallows up all minorities in an ascertained majority, so the majority for General Harrison swallowed up the 106 votes given to Mr. Clay and General Scott, made them count for the victor, presenting him as the unanimity candidate of the convention, and the defeated candidate and all their friends bound to join in his support. And in this way the election of 1840 was effected! a process certainly not within the purview of those framers of the constitution, who supposed they were giving to a nation the choice of its own chief magistrate.

From the beginning it had been foreseen that there was to be an embittered contest—the severest ever known in our country. Two powers were in the field against Mr. Van Buren, each strong within itself, and truly formidable when united—the whole whig party, and the large league of suspended banks, headed by the Bank of the United States—now criminal as well as bankrupt, and making its last struggle for a new national charter in the effort to elect a President friendly to it. In elections as in war money is the sinew of the contest, and the broken and suspended banks were in a condition, and a temper, to furnish that sinew without stint. By mutual support they were able to make their notes pass as money; and, not being subject to redemption, it could be furnished without restraint, and with all the good will of a self-interest in putting down the democratic party, whose hard-money policy, and independent treasury scheme, presented it as an enemy to paper money and delinquent banks. The influence of this moneyed power over its debtors, over presses, over travelling agents, was enormous, and exerted to the uttermost, and in amounts of money almost fabulous; and in ways not dreamed of. The mode of operating divided itself into two general classes, one coercive—addressed to the business pursuits and personal interests of the community: the other seductive, and addressed to its passions. The phrases given out in Congress against the financial policy of the administration became texts to speak upon, and hints to act upon. Carrying out the idea that the re-election of Mr. Van Buren would be the signal for the downfall of all prices, the ruin of all industry, and the destruction of all labor, the newspapers in all the trading districts began to abound with such advertisements as these: "*The subscriber will pay six dollars a barrel for flour if Harrison is elected, and three dollars if Van Buren is.*" "*The subscriber will pay five dollars a hundred for pork if Harrison is elected, and two and a half if Van Buren is.*" And so on through the whole catalogue of marketable articles, and through the different kinds of labor: and these advertisements were signed by respectable men, large dealers in the articles mentioned, and well able to fix the market price for them. In this way the result of the election was brought to bear coercively upon the business, the property, and the pecuniary interest of the people. The class of inducements addressed to the passions and imaginations of the people were such as history blushes to record. Log-cabins, coonskins, and hard cider were taken as symbols of the party, and to show its identification with the poorest and humblest of the people: and these cabins were actually raised in the most

public parts of the richest cities, ornamented with coonskins after the fashion of frontier huts, and cider drank in them out of gourds in the public meetings which gathered about them: and the virtues of these cabins, these skins, and this cider were celebrated by travelling and stationary orators. The whole country was put into commotion by travelling parties and public gatherings. Steamboats and all public conveyances were crowded with parties singing doggerel ballads made for the occasion, accompanied with the music of drums, fifes, and fiddles; and incited by incessant speaking. A system of public gatherings was got up which pervaded every State, county and town—which took place by day and by night, accompanied by every preparation to excite; and many of which gatherings were truly enormous in their numbers—only to be estimated by the acre; attempts at counting or computing such masses being out of the question. The largest of these gatherings took place at Dayton, in the State of Ohio, the month before the election; and the description of it, as given by its enthusiastic friends, will give a vivid idea of that monster assemblage, and of the myriads of others of which it was only the greatest—differing in degree only, not in kind:

"Dayton, the whole body there assembled in convention covered *ten acres* by actual measurement! And at no time were there more than two-thirds of the people on the ground. Every house with a flag was a hotel without price—the strings of every door being out, and every latch unfastened! *One hundred thousand!* It were useless to attempt any thing like a detailed description of this *grand gathering of the people*. We *saw* it all—*felt* it all—and shall bear to our graves, live we yet half a century, the impression it made upon our hearts. But we cannot describe it. No eye that witnessed it, can convey to the mind of another, even a faint semblance of the things it there beheld. The bright and glorious day—the beautiful and hospitable city—the green-clad and heaven-blessed valley—the thousand flags, fluttering in every breeze and waving from every window—the ten thousand banners and badges, with their appropriate devices and patriotic inscriptions—and, more than all, the hundred thousand human hearts beating in that dense and seething mass of people—are things which those alone can properly feel and appreciate, who beheld this grandest spectacle of time. *The number of persons present* was, during the whole of the morning, variously estimated at from seventy-five to ninety thousand. Conjecture, however, was put to rest in the afternoon, at the speakers' stand. Here, while the crowd was compact, as we have elsewhere described it, and during the speech of General Harrison, the ground upon which it stood was measured by three different civil engineers, and allowing to the square yard four persons, the following results were arrived at: the first made it 77,600, the second 75,000, and the third 80,000. During the time of making three measurements, the number of square yards of surface covered was continually changing, by pressure without and resistance from within. Mr. Van Buren and his wiseacre assistants, have so managed currency matters, that we have very little to do business with. We can, therefore, be away from home, a portion of the time, as well as at home. And with respect to our families, *when we leave upon a rally, we take them with us*! Our wives and daughters, we are proud to say, have the blood of their revolutionary mothers and grandmothers coursing through their veins. There is no man among us whose heart is more filled and animated than theirs, by the spirit of seventy-six. Look at the three hundred and fifty at Nashville, who invited Henry Clay, the nation's pride, to be with them and their husbands and brothers on the 15th of August! Look at the four hundred at St. Louis, the nine hundred at the Tippecanoe battle-ground, the five thousand at Dayton! What now, but the spirit of seventy-six, does all this manifest? Ay, and *what tale does it all tell*? Does it not say, that the wicked charlatanry, and mad ambition, and selfish schemings, of the leading members of this administration of the general government, have made themselves felt in the very sanctum sanctorum of domestic life? Does it not speak of the cheerless hearth, where willing hands sit without employment? Does it not speak of the half-recompensed toil of the worn laborer, who finds, now and then, a week's hard work, upon the scant proceeds of

which he must subsist himself and his family for a month! Does it not speak of empty larders in the town, while the garners of the country are overflowing? Does it not speak of want here and abundance there, without any medium of exchange to equalize the disparity? Does it not speak of a general disorganization of conventional operations—of embarrassment, stagnation, idleness, and despondency—whose 'malign influences' have penetrated the inner temples of man's home, and aroused, to indignant speech and unusual action, her who is its peace, its gentleness, its love, its all but divinity? The truth is—and it should be told—the women are the very life and soul of these movements of the people. Look at their liberal preparations at Nashville. Look at their boundless hospitality at Dayton. Look at their ardor and activity every where. And last, though far from the least important, look at their presence, in hundreds and by thousands, wherever there is any good to be done, to animate and encourage, and urge on their fathers, husbands and brothers. Whence those six hundred and forty-four flags, whose stars and stripes wave in the morning breeze, from nearly every house-top, as we enter the beautiful little city of Dayton? From the hand of woman. Whence the decorations of these porticoes and balconies, that gleam in the rising sun, as we ride through the broad and crowded streets? From the hand of woman. Whence this handsome and proudly cherished banner, under which the Ohio delegation returned from Nashville, and which now marks the head-quarters of the Cincinnati delegation of one thousand to Dayton? From the hand of woman. Whence yon richly wrought and surpassingly beautiful standard, about which cluster the Tippecanoe hosts, and whose production has cost many weeks of incessant labor? From the hand of woman. And to come down to less poetical but more substantial things, whence all the wholesome viands prepared in the six hundred and forty-four flag-houses around us, for our refreshment, and all the pallets spread for our repose? From the hand of woman."

By arts like these the community was worked up into a delirium, and the election was carried by storm. Out of 294 electoral votes Mr. Van Buren received but 60: out of twenty-six States he received the votes of only seven. He seemed to have been abandoned by the people! On the contrary he had been unprecedentedly supported by them—had received a larger popular vote than ever had been given to any President before! and three hundred and sixty-four thousand votes more than he himself had received at the previous presidential election when he beat the same General Harrison fourteen thousand votes. Here was a startling fact, and one to excite inquiry in the public mind. How could there be such overwhelming defeat with such an enormous increase of strength on the defeated side? This question pressed itself upon every thinking mind; and it was impossible to give it a solution consistent with the honor and purity of the elective franchise. For, after making all allowance for the greater number of voters brought out on this occasion than at the previous election by the extraordinary exertions now made to bring them out, yet there would still be required a great number to make up the five hundred and sixty thousand votes which General Harrison received over and above his vote of four years before. The belief of false and fraudulent votes was deep-seated, and in fact susceptible of proof in many instances. Many thought it right, for the sake of vindicating the purity of elections, to institute a scrutiny into the votes; but nothing of the kind was attempted, and on the second Wednesday in February, 1841, all the electoral votes were counted without objection—General Harrison found to have a majority of the whole number of votes given—and Messrs. Wise and Cushing on the part of the House and Mr. Preston on the part of the Senate, were appointed to give him the formal notification of his election. Mr. Tyler received an equal number of votes with him, and became Vice-president: Mr. Richard M. Johnson fell twelve votes behind Mr. Van Buren, receiving but 48 electoral votes. It was a complete rout of the democratic party, but without a single moral effect of victory. The spirit of the party ran as high as ever, and Mr. Van Buren was immediately, and generally, proclaimed the democratic candidate for the election of 1844.

59. Conclusion Of Mr. Van Buren's Administration

The last session of the Twenty-sixth Congress was barren of measures, and necessarily so, as being the last of an administration superseded by the popular voice, and soon to expire; and therefore restricted by a sense of propriety, during the brief remainder of its existence, to the details of business and the routine of service. But his administration had not been barren of measures, nor inauspicious to the harmony of the Union. It had seen great measures adopted, and sectional harmony conciliated. The divorce of Bank and State, and the restoration of the constitutional currency, were illustrious measures, beneficial to the government and the people; and the benefits of which will continue to be felt as long as they shall be kept. One of them dissolved a meretricious connection, disadvantageous to both parties, and most so to the one that should have suffered least, and was made to suffer most. The other carried back the government to what it was intended to be—re-established it as it was in the first year of Washington's administration—made it in fact a hard-money government, giving solidity to the Treasury, and freeing the government and the people from the revulsions and vicissitudes of the paper system. No more complaints about the currency and the exchanges since that time. Unexampled prosperity has attended the people; and the government, besides excess of solid money in time of peace, has carried on a foreign war, three thousand miles from home, with its securities above par during the whole time: a felicitous distinction, never enjoyed by our country before, and seldom by any country of the world. These two measures constitute an era in the working of our government, entitled to a proud place in its history, on which the eye of posterity may look back with gratitude and admiration.

His administration was auspicious to the general harmony, and presents a period of remarkable exemption from the sectional bitterness which had so much afflicted the Union for some years before—and so much more sorely since. Faithful to the sentiments expressed in his inaugural address, he held a firm and even course between sections and parties, and passed through his term without offence to the North or the South on the subject of slavery. He reconciled South Carolina to the Union—received the support of her delegation in Congress—saw his administration receive the approving vote of her general assembly—and counted her vote among those which he received for the presidency—the first presidential vote which she had given in twelve years. No President ever had a more difficult time. Two general suspensions of the banks—one at the beginning, and the other towards the close of his administration—the delinquent institutions in both instances allying themselves with a great political party—were powerful enough to derange and distress the business of the country, and unscrupulous enough to charge upon his administration the mischiefs which themselves created. Meritorious at home, and in his internal policy, his administration was equally so in its foreign relations. The insurrection in Canada, contemporaneous with his accession to the presidency, made a crisis between the United States and Great Britain, in which he discharged his high duties with equal firmness, skill, and success. The border line of the United States, for a thousand miles, was in commotion to join the insurgent Canadians. The laws of neutrality, the duties of good neighborhood, our own peace (liable to be endangered by lawless expeditions from our shores), all required him to repress this commotion. And faithfully he did so, using all the means—judicial and military—which the laws put in his hands; and successfully for the maintenance of neutrality, but with some personal detriment, losing much popular favor in the border States from his strenuous repression of aid to a neighboring people, insurging for liberty, and militarily crushed in the attempt. He did his duty towards Great Britain by preventing succor from going to her revolted subjects; and when the scene was changed, and her authorities did an injury to us by

the murder of our citizens, and the destruction of a vessel on our own shore—the case of the Caroline at Schlosser—he did his duty to the United States by demanding redress; and when one of the alleged perpetrators was caught in the State where the outrage had been committed, he did his duty to that State by asserting her right to punish the infraction of her own laws. And although he did not obtain the redress for the outrage at Schlosser, yet it was never *refused* to him, nor the right to redress *denied*, nor the outrage itself *assumed* by the British government as long as his administration lasted. Respected at home, his administration was equally so abroad. Cordially supported by his friends in Congress, he was equally so by his cabinet, and his leading newspaper, the Washington Globe. Messrs. Forsyth, Secretary of State—Woodbury of the Treasury—Poinsett of War—Paulding of the Navy—Kendall and John M. Niles, Postmasters-general—and Butler, Grundy and Gilpin, successive Attorneys-general—were all harmonious and efficient co-operators. With every title to respect, and to public confidence, he was disappointed of a second election, but in a canvass which had had no precedent, and has had no imitation; and in which an increase of 364,000 votes on his previous election, attests an increase of strength which fair means could not have overcome.

60. Inauguration Of President Harrison: His Cabinet—Call Of Congress—And Death

March the 4th, at twelve o'clock, the Senate met in its chamber, as summoned to do by the retiring President, to be ready for the inauguration of the President elect, and the transaction of such executive business as he should bring before it. The body was quite full, and was called to order by the secretary, Mr. Asbury Dickens; and Mr. King, of Alabama, being elected temporary President of the Senate, administered the oath of office to the Vice-president elect, John Tyler, Esq., who immediately took the chair as President of the Senate. The scene in the chamber was simple and impressive. The senators were in their seats: members of the House in chairs. The justices of the Supreme Court, and the foreign diplomatic corps were in the front semicircle of chairs, on the floor of the Senate. Officers of the army and navy were present—many citizens—and some ladies. Every part of the chamber and galleries were crowded, and it required a vigilant police to prevent the entrance of more than the allotted number. After the Vice-president elect had taken his seat, and delivered to the Senate over which he was to preside a well-conceived, well-expressed, and well-delivered address, appropriately brief, a short pause and silence ensued. The President elect entered, and was conducted to the seat prepared for him in front of the secretary's table. The procession was formed and proceeded to the spacious eastern portico, where seats were placed, and the ceremony of the inauguration was to take place. An immense crowd, extending far and wide, stood closely wedged on the pavement and enclosed grounds in front of the portico. The President elect read his inaugural address, with animation and strong voice, and was well heard at a distance. As an inaugural address, it was confined to a declaration of general principles and sentiments; and it breathed a spirit of patriotism which adversaries, as well as friends, admitted to be sincere, and to come from the heart. After the conclusion of the address, the chief justice of the Supreme Court of the United States, Mr. Taney, administered the oath prescribed by the constitution: and the ceremony of inauguration was at an end.

The Senate returned to its chamber, and having received a message from the President with the nominations for his cabinet, immediately proceeded to their consideration; and unanimously confirmed the whole. They were: Daniel Webster, Secretary of State; Thomas Ewing, Secretary of the Treasury; John Bell, Secretary at War; George E. Badger, Secretary of the Navy; Francis Granger, Postmaster-general; John J. Crittenden, Attorney-general.

On the 17th of March, the President issued a proclamation, convoking the Congress in extraordinary session for the 31st day of May ensuing. The proclamation followed the usual form in not specifying the immediate, or direct, cause of the convocation. It merely stated, "That sundry and weighty matters, principally growing out of the condition of the revenue and finances of the country, appear to call for the convocation of Congress at an earlier day than its next annual session, and thus form an extraordinary occasion which, in the judgment of the President, rendered it necessary for the two Houses to convene as soon as practicable."

President Harrison did not live to meet the Congress which he had thus convoked. Short as the time was that he had fixed for its meeting, his own time upon earth was still shorter. In the last days of March he was taken ill: on the fourth day of April he was dead—at the age of 69; being one year under the limit which the psalmist fixed for the term of manly life. There was no failure of health or strength to indicate such an event, or to excite apprehension that he would not go through his term with the vigor with which he commenced it. His attack was

sudden, and evidently fatal from the beginning. A public funeral was given him, most numerously attended, and the body deposited in the Congress vault—to wait its removal to his late home at North Bend, Ohio;—whither it was removed in the summer. He was a man of infinite kindness of heart, affectionate to the human race,—of undoubted patriotism, irreproachable integrity both in public and private life; and of a hospitality of disposition which received with equal welcome in his house the humblest and the most exalted of the land.

The public manifestations of respect to the memory of the deceased President, were appropriate and impressive, and co-extensive with the bounds of the Union. But there was another kind of respect which his memory received, more felt than expressed, and more pervading than public ceremonies: it was the regret of the nation, without distinction of party: for it was a case in which the heart could have fair play, and in which political opponents could join with their adversaries in manifestations of respect and sorrow. Both the deceased President, and the Vice-president, were of the same party, elected by the same vote, and their administrations expected to be of the same character. It was a case in which no political calculation could interfere with private feeling; and the national regret was sincere, profound, and pervading. Gratifying was the spectacle to see a national union of feeling in behalf of one who had been so lately the object of so much political division. It was a proof that there can be political opposition without personal animosity.

General Harrison was a native of Virginia, son of a signer of the Declaration of Independence, and a descendant of the "regicide" Harrison who sat on the trial of Charles I.

In the course of the first session of Congress after the death of General Harrison—that session which convened under his call—the opportunity presented itself to the author of this View to express his personal sentiments with respect to him. President Tyler, in his message, recommended a grant of money to the family of the deceased President "in consideration of his expenses in removing to the seat of government, and the limited means which he had left behind;" and a bill had been brought into the Senate accordingly, taking one year's presidential salary ($25,000) as the amount of the grant. Deeming this proceeding entirely out of the limits of the constitution—against the policy of the government—and the commencement of the monarchical system of providing for families, Mr. Benton thus expressed himself at the conclusion of an argument against the grant:

"Personally I was friendly to General Harrison, and that at a time when his friends were not so numerous as in his last days; and if I had needed any fresh evidences of the kindness of his heart, I had them in his twice mentioning to me, during the short period of his presidency, that, which surely I should never have mentioned to him—the circumstance of my friendship to him when his friends were fewer. I would gladly now do what would be kind and respectful to his memory—what would be liberal and beneficial to his most respectable widow; but, to vote for this bill! that I cannot do. High considerations of constitutional law and public policy forbid me to do so, and command me to make this resistance to it, that a mark may be made—a stone set up—at the place where this new violence was done to the constitution—this new page opened in the book of our public expenditures; and this new departure taken, which leads into the bottomless gulf of civil pensions and family gratuities."

The deceased President had been closely preceded, and was rapidly followed, by the deaths of almost all his numerous family of sons and daughters. A worthy son survives (John Scott Harrison, Esq.), a most respectable member of Congress from the State of Ohio.

61. Accession Of The Vice-President To The Presidency

The Vice-president was not in Washington when the President died: he was at his residence in lower Virginia: some days would necessarily elapse before he could arrive. President Harrison had not been impressed with the probable fatal termination of his disease, and the consequent propriety of directing the Vice-president to be sent for. His cabinet could not feel themselves justified in taking such a step while the President lived. Mr. Tyler would feel it indelicate to repair to the seat of government, of his own will, on hearing the report of the President's illness. The attending physicians, from the most proper considerations, held out hopes of recovery to near the last; but, for four days before the event, there was a pervading feeling in the city that the President would not survive his attack. His death left the executive government for some days in a state of interregnum. There was no authority, or person present, legally empowered to take any step; and so vital an event as a change in the chief magistrate, required the fact to be formally and publicly verified. In the absence of Congress, and the Vice-president, the members of the late cabinet very properly united in announcing the event to the country, and in despatching a messenger of state to Mr. Tyler, to give him the authentic information which would show the necessity of his presence at the seat of government. He repaired to it immediately, took the oath of office, before the Chief Judge of the Circuit Court of the District of Columbia, William Cranch, Esquire; and appointed the late cabinet for his own. Each was retained in the place held under his predecessor, and with the strongest expressions of regard and confidence.

Four days after his accession to the presidency, Mr. Tyler issued an address, in the nature of an inaugural, to the people of the United States, the first paragraph of which was very appropriately devoted to his predecessor, and to the circumstances of his own elevation to the presidential chair. That paragraph was in these words:

"Before my arrival at the seat of government, the painful communication was made to you, by the officers presiding over the several departments, of the deeply regretted death of William Henry Harrison, late President of the United States. Upon him you had conferred your suffrages for the first office in your gift, and had selected him as your chosen instrument to correct and reform all such errors and abuses as had manifested themselves from time to time, in the practical operations of the government. While standing at the threshold of this great work, he has, by the dispensation of an all-wise Providence, been removed from amongst us, and by the provisions of the constitution, the efforts to be directed to the accomplishing of this vitally important task have devolved upon myself. This same occurrence has subjected the wisdom and sufficiency of our institutions to a new test. For the first time in our history, the person elected to the Vice-presidency of the United States, by the happening of a contingency provided for in the constitution, has had devolved upon him the presidential office. The spirit of faction, which is directly opposed to the spirit of a lofty patriotism, may find in this occasion for assaults upon my administration. And in succeeding, under circumstances so sudden and unexpected, and to responsibilities so greatly augmented, to the administration of public affairs, I shall place in the intelligence and patriotism of the people, my only sure reliance.—My earnest prayer shall be constantly addressed to the all-wise and all-powerful Being who made me, and by whose dispensation I am called to the high office of President of this confederacy, understandingly to carry out the principles of that constitution which I have sworn 'to protect, preserve, and defend.'"

Two blemishes were seen in this paragraph, the first being in that sentence which spoke of the "errors and abuses" of the government which his predecessor had been elected to "correct and reform;" and the correction and reformation of which now devolved upon himself. These imputed errors and abuses could only apply to the administrations of General Jackson and Mr. Van Buren, of both which Mr. Tyler had been a zealous opponent; and therefore might not be admitted to be an impartial judge. Leaving that out of view, the bad taste of such a reference was palpable and repulsive. The second blemish was in that sentence in which he contrasted the spirit of "faction" with the spirit of "lofty patriotism," and seemed to refer in advance all the "assaults" which should be made upon his administration, to this factious spirit, warring upon elevated patriotism. Little did he think when he wrote that sentence, that within three short months—within less time than a commercial bill of exchange usually has to run, the great party which had elected him, and the cabinet officers which he had just appointed with such warm expressions of respect and confidence, should be united in that assault! should all be in the lead and van of a public outcry against him! The third paragraph was also felt to be a fling at General Jackson and Mr. Van Buren, and therefore unfit for a place in a President's message, and especially in an inaugural address. It was the very periphrasis of the current party slang against General Jackson, plainly visible through the transparent hypothetical guise which it put on; and was in these words:

"In view of the fact, well avouched by history, that the tendency of all human institutions is to concentrate power in the hands of a single man, and that their ultimate downfall has proceeded from this cause, I deem it of the most essential importance that a complete separation should take place between the sword and the purse. No matter where or how the public moneys shall be deposited, so long as the President can exert the power of appointing and removing, at his pleasure, the agents selected for their custody, the commander-in-chief of the army and navy is in fact the treasurer. A permanent and radical change should therefore be decreed. The patronage incident to the presidential office, already great, is constantly increasing. Such increase is destined to keep pace with the growth of our population, until, without a figure of speech, an army of officeholders may be spread over the land. The unrestrained power exerted by a selfishly ambitious man, in order either to perpetuate his authority or to hand it over to some favorite as his successor, may lead to the employment of all the means within his control to accomplish his object. The right to remove from office, while subjected to no just restraint, is inevitably destined to produce a spirit of crouching servility with the official corps, which in order to uphold the hand which feeds them, would lead to direct and active interference in the elections, both State and federal, thereby subjecting the course of State legislation to the dictation of the chief executive officer, and making the will of that officer absolute and supreme."

This phrase of "purse and sword," once so appropriately used by Patrick Henry, in describing the powers of the federal government, and since so often applied to General Jackson, for the removal of the deposits, could have no other aim than a fling at him; and the abuse of patronage in removals and appointments to perpetuate power, or hand it over to a favorite, was the mere repetition of the slang of the presidential canvass, in relation to General Jackson and Mr. Van Buren.

Departing from the usual reserve and generalization of an inaugural, this address went into a detail which indicated the establishment of a national bank, or the re-charter of the defunct one, masked and vitalized under a Pennsylvania State charter. That paragraph ran thus:

"The public interest also demands that, if any war has existed between the government and the currency, it shall cease. Measures of a financial character, now having the sanction of legal enactment, shall be faithfully enforced until repealed by the legislative authority. But I

owe it to myself to declare that I regard existing enactments as unwise and impolitic, and in a high degree oppressive. I shall promptly give my sanction to any constitutional measure which, originating in Congress, shall have for its object the restoration of a sound circulating medium, so essentially necessary to give confidence in all the transactions of life, to secure to industry its just and adequate rewards, and to re-establish the public prosperity. In deciding upon the adaptation of any such measure to the end proposed, as well as its conformity to the constitution, I shall resort to the fathers of the great republican school for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever glorious example."

The concluding part of this paragraph, in which the new President declares that, in looking to the constitutionality and expediency of a national bank, he should look for advice and instruction to the example of the fathers of the Republic, he was understood as declaring that he would not be governed by his own former opinions against a national bank, but by the example of Washington, a signer of the constitution (who signed the charter of the first national bank); and by the example of Mr. Madison, another signer of the constitution, who, yielding to precedent and the authority of judicial decisions, had signed the charter for the second bank, notwithstanding his early constitutional objections to it. In other parts of the paragraph he was considered as declaring in favor of the late United States Bank, as in the previous part of the paragraph where he used the phrases which had become catch-words in the long contest with that bank—"war upon the currency"—"sound circulating medium"—"restoration of national prosperity;" &c., &c. He was understood to express a preference for the re-charter of that institution. And this impression was well confirmed by other circumstances—his zealous report in favor of that bank when acting as volunteer chairman to the Senate's committee which was sent to examine it—his standing a canvass in a presidential election in which the re-charter of that bank, though concertedly blinked in some parts of the Union, was the understood vital issue every where—his publicly avowed preference for its notes over gold, at Wheeling, Virginia—the retention of a cabinet, pledged to that bank, with expressions of confidence in them, and in terms that promised a four years' service together—and his utter condemnation in other parts of his inaugural and in all his public speeches, of every other plan (sub-treasury, state banks, revival of the gold currency), which had been presented as remedies for the financial and currency disorders. All these circumstances and declarations left no doubt that he was not only in favor of a national bank, but of re-chartering the late one; and that he looked to it, and to it alone, for the "sound circulating medium" which he preferred to the constitutional currency—for the keeping of those deposits which he had condemned Jackson for removing from it—and for the restoration of that national prosperity, which the imputed war upon the bank had destroyed.

62. Twenty-Seventh Congress: First Session: List Of Members, And Organization Of The House

Members of the Senate.

Maine.—Reuel Williams, George Evans.

New Hampshire.—Franklin Pierce, Levi Woodbury.

Vermont.—Samuel Prentis, Samuel Phelps.

Massachusetts.—Rufus Choate, Isaac C. Bates.

Rhode Island.—Nathan F. Dixon, James F. Simmons.

Connecticut.—Perry Smith, Jaz. W. Huntington.

New York.—Silas Wright, N. P. Tallmadge.

New Jersey.—Sam. L. Southard, Jacob W. Miller.

Pennsylvania.—James Buchanan, D. W. Sturgeon.

Delaware.—Richard H. Bayard, Thomas Clayton.

Maryland.—John Leeds Kerr, Wm. D. Merrick.

Virginia.—Wm. C. Rives, Wm. S. Archer.

North Carolina.—Wm. A. Graham, Willie P. Mangum.

South Carolina.—Wm. C. Preston, John C. Calhoun.

Georgia.—Alfred Cuthbert, John M. Berrien.

Alabama.—Clement C. Clay, William R. King.

Mississippi.—John Henderson, Robert J. Walker.

Louisiana.—Alexander Mouton, Alexander Barrow.

Tennessee.—A. O. P. Nicholson, Spencer Jarnagin, executive appointment. Ephraim H. Foster.

Kentucky.—Henry Clay, J. J. Morehead.

Ohio.—William Allen, Benjamin Tappan.

Indiana.—Oliver H. Smith, Albert S. White.

Illinois.—Richard M. Young, Sam'l McRoberts.

Missouri.—Lewis F. Linn, Thomas H. Benton.

Arkansas.—Ambrose H. Sevier, William S. Fulton.

Michigan.—Augustus S. Porter, William Woodbridge.

Members of the House.

Maine.—Nathaniel Clifford, Wm. P. Fessenden, Benj. Randall, David Bronson, Nathaniel Littlefield, Alfred Marshall, Joshua A. Lowell, Elisha H. Allen.

New Hampshire.—Tristram Shaw, Ira A. Eastman, Charles G. Atherton, Edmund Burke, John R. Reding.

Vermont.—Hiland Hall, William Slade, Horace Everett, Augustus Young, John Mattocks.

Massachusetts.—Robert C. Winthrop, Leverett Saltonstall, Caleb Cushing, Wm. Parmenter, Charles Hudson, Osmyn Baker, Geo. N. Briggs, William B. Calhoun, Wm. S. Hastings, Nathaniel B. Borden, Barker Burnell, John Quincy Adams.

Rhode Island.—Joseph L. Tillinghast, William B. Cranston.

Connecticut.—Joseph Trumbull, Wm. W. Boardman, Thomas W. Williams, Thos. B. Osborne, Truman Smith, John H. Brockway.

New York.—Chas. A. Floyd, Joseph Egbert, John McKeon, James J. Roosevelt, Fernando Wood, Chas. G. Ferris, Aaron Ward, Richard D. Davis, James G. Clinton, John Van Buren, R. McClellan, Jacob Hauck, jr., Hiram P. Hunt, Daniel D. Barnard, Archibald L. Lin, Bernard Blair, Thos. A. Tomlinson, H. Van Rensselaer, John Sanford, Andrew W. Doig, John G. Floyd, David P. Brewster, T. C. Chittenden, Sam. S. Bowne, Samuel Gordon, John C. Clark, Lewis Riggs, Sam. Partridge, Victory Birdseye, A. L. Foster, Christopher Morgan, John Maynard, John Greig, Wm. M. Oliver, Timothy Childs, Seth M. Gates, John Young, Stanley N. Clark, Millard Fillmore, —— Babcock.

New Jersey.—John B. Aycrigg, John P. B. Maxwell, William Halsted, Joseph F. Randolph, Joseph F. Stratton, Thos. Jones Yorke.

Pennsylvania.—Charles Brown, John Sergeant, George W. Tolland, Charles Ingersoll, John Edwards, Jeremiah Brown, Francis James, Joseph Fornance, Robert Ramsay, John Westbrook, Peter Newhard, George M. Keim, Wm. Simonton, James Gerry, James Cooper, Amos Gustine, James Irvine, Benj. Bidlack, John Snyder, Davis Dimock, Albert G. Marchand, Joseph Lawrence, Wm. W. Irwin, William Jack, Thomas Henry, Arnold Plumer.

Delaware.—George B. Rodney.

Maryland.—Isaac D. Jones, Jas. A. Pearce, James W. Williams, J. P. Kennedy, Alexander Randall, Wm. Cost Johnson, John T. Mason, Augustus R. Sollers.

Virginia.—Henry A. Wise, Francis Mallory, George B. Cary, John M. Botts, R. M. T. Hunter, John Taliaferro, Cuthbert Powell, Linn Banks, Wm. O. Goode, John W. Jones, E. W. Hubbard, Walter Coles, Thomas W. Gilmer, Wm. L. Goggin, R. B. Barton, Wm. A. Harris, A. H. H. Stuart, Geo. W. Hopkins, Geo. W. Summers, S. L. Hays, Lewis Steinrod.

North Carolina.—Kenneth Rayner, John R. J. Daniel, Edward Stanly, Wm. H. Washington, James J. McKay, Archibald Arrington, Edmund Deberry, R. M. Saunders, Aug'e H. Shepherd, Abraham Rencher, Green C. Caldwell, James Graham, Lewis Williams.

South Carolina.—Isaac E. Holmes, William Butler, F. W. Pickens, John Campbell, James Rogers, S. H. Butler, Thomas D. Sumter, R. Barnwell Rhett, C. P. Caldwell.

Georgia.—Rich'd W. Habersham, Wm. C. Dawson, Julius C. Alvord, Eugenius A. Nisbet, Lott Warren, Thomas Butler King, Roger L. Gamble, Jas. A. Merriwether, Thos. F. Foster.

Alabama.—Reuben Chapman, Geo. S. Houston, Dixon H. Lewis, Benj. G. Shields.

Mississippi.—A. L. Bingaman, W. R. Harley.

Louisiana.—Edward D. White, J. B. Dawson, John Moore.

Arkansas.—Edward Cross.

Tennessee.—Thomas D. Arnold, Abraham McClellan, Joseph L. Williams, Thomas J. Campbell, Hopkins L. Turney, Wm. B. Campbell, Robert L. Caruthers, Meredith P. Gentry, Harvey M. Watterson, Aaron V. Brown, Cave Johnson, Milton Brown, Christopher H. Williams.

Kentucky.—Linn Boyd, Philip Triplet, Joseph R. Underwood, Bryan W. Owsley, John B. Thompson, Willis Green, John Pope, James C. Sprigg, John White, Thomas F. Marshall, Landoff W. Andrews, Garret Davis, William O. Butler.

Ohio.—N. G. Pendleton, John B. Weller, Patrick G. Goode, Jeremiah Morrow, William Doane, Calvary Morris, Wm. Russell, Joseph Ridgeway, Wm. Medill, Samson Mason, B. S. Cowan, Joshua Matheot, James Matthews, Geo. Sweeney, S. J. Andrews, Joshua R. Giddings; John Hastings, Ezra Dean, Sam. Stockley.

Indiana.—George W. Proffit, Richard W. Thompson, Joseph L. White, James H. Cravens, Andrew Kennedy, David Wallace, Henry S. Lane.

Missouri.—John Miller, John C. Edwards.

Michigan.—Jacob M. Howard.

Mr. John White of Kentucky (whig), was elected Speaker of the House over Mr. John W. Jones of Virginia, democratic. Mr. Matthew St. Clair Clarke of Pennsylvania (whig), was elected clerk over Mr. Hugh A. Garland of Virginia, democratic. The whigs had a majority of near fifty in the House, and of seven in the Senate; so that all the legislative, and the executive department of the government—the two Houses of Congress and the President and cabinet—were of the same political party, presenting a harmony of aspect frequently wanting during the three previous administrations. Notwithstanding their large majority, the whig party proceeded slowly in the organization of the House in the adoption of rules for its proceeding. A fortnight had been consumed in vain when Mr. Cushing, urgently, and successfully exhorted his whig friends to action:

“I say (continued Mr. Cushing) that it is our fault if this House be disorganized. We are in the majority—we have a majority of forty—and we are responsible to our country, to the constitution, and to our God, for the discharge of our duty here. It is our duty to proceed to the organization of the House, to the transaction of the business for which the country sent us here. And I appeal to the whig party on this floor that they do their duty—that they act manfully and expeditiously, and *that*, howsoever the House may organize, under whatever rules, or under no rules at all; for I am prepared, if this resolution be not adopted, to call upon the Speaker for the second reading of a bill from the Senate, now upon the table, and to move that we proceed with it under the parliamentary law. We can go on under that. We are *a House*, with a speaker, clerk, and officers; and whether we have rules or not is immaterial. We can proceed as the Commons in England do. We can act upon bills by referring them to a Committee of the Whole on the state of the Union, or to select committees, if there are no standing committees. And I am prepared, if the House cannot be organized under the proposition now before us, for the purpose of testing the question and enabling the country to see whose fault it is that we do not go on with its business, to call at once for the action of the House upon that bill under the parliamentary law. Once more I appeal to the whig party, for party lines, I see, are now about to be drawn; I appeal to the whig party, to the friends of the administration—and I recognize but one, and that is the administration of John Tyler—that is the administration, and I recognize no other in the United States at this time; I appeal to the administration party, to the friends of the administration of John Tyler, that at this hour they come to the rescue of their country, and organize the House, under whatever rules: because, if

we do not, we shall become, as we are now becoming, the laughing-stock, the scorn, the contempt of the people of these United States."

The bill from the Senate, for action on which Mr. Cushing was so impatient, and so ready to act without rules, was the one for the repeal of the sub-treasury; whilom characterized by him as a serpent hatched of a fowl's egg, (cockatrice); which the people would trample into the dust. Under his urgent exhortation the House soon organized, and made the repeal. Passed so promptly, this repealing bill, with equal celerity, was approved and signed by the President—leaving him in the first quarter of his administration in full possession of that formidable sword and long purse, the imputed union of which in the hands of General Jackson had been his incontinent deprecation, even in his inaugural address. For this repeal of the sub-treasury provided no substitute for keeping the public moneys, and left them without law in the President's hands.

63. First Message Of Mr. Tyler To Congress, And Mr. Clay's Programme Of Business

The first paragraph in the message related to the death of President Harrison, and after a proper expression of respect and regret, it went on to recommend a grant of money to his family, grounded on the consideration of his expenses in removing to the seat of government, and the limited means of his private fortune:

"With this public bereavement are connected other considerations which will not escape the attention of Congress. The preparations necessary for his removal to the seat of government, in view of a residence of four years, must have devolved upon the late President heavy expenditures, which, if permitted to burden the limited resources of his private fortune, may tend to the serious embarrassment of his surviving family; and it is therefore respectfully submitted to Congress, whether the ordinary principles of justice would not dictate the propriety of its legislative interposition."

This recommendation was considered by many as being without the pale of the constitution, and of dangerous precedent. With respect to the limited means of which he spoke, the fact was alike true and honorable to the late President. In public employment from early life and during the greatest part of his life, no pecuniary benefit had resulted to him. In situations to afford opportunities for emolument, he availed himself of none. With immense amounts of public money passing through his hands, it all went, not only faithfully to its objects, but without leaving any profit behind from its use. He lived upon his salaries, liberally dispensing hospitality and charities, and with simplicity and economy in all his habits. He used all that he received, and came out of office as he entered it, and died poor. This, among the ancient Romans was a commendable issue of a public career, to be mentioned with honor at the funeral of an illustrious man: and should be so held by all republican people.

The message showed that President Tyler would not have convoked the Congress in extra session had it not been done by his predecessor; but being convoked he would not disturb the arrangement; and was most happy to find himself so soon surrounded by the national representation:

"In entering upon the duties of this office, I did not feel that it would be becoming in me to disturb what had been ordered by my lamented predecessor. Whatever, therefore, may have been my opinion originally as to the propriety of convening Congress at so early a day from that of its late adjournment, I found a new and controlling inducement not to interfere with the patriotic desires of the late President, in the novelty of the situation in which I was so unexpectedly placed. My first wish, under such circumstances, would necessarily have been to have called to my aid in the administration of public affairs, the combined wisdom of the two Houses of Congress, in order to take their counsel and advice as to the best mode of extricating the government and the country from the embarrassments weighing heavily on both. I am then most happy in finding myself so soon, after my accession to the presidency, surrounded by the immediate representatives of the States and people."

The state of our foreign relations claimed but a brief paragraph. The message stated that no important change had taken place in them since the last session of Congress, and that the President saw nothing to make him doubt the continuance of the peace with which the country was blessed. He passed to home affairs:

"In order to supply the wants of the government, an intelligent constituency, in view of their best interests, will without hesitation, submit to all necessary burdens. But it is, nevertheless, important so to impose them as to avoid defeating the just expectations of the country growing out of pre-existing laws. The act of the 2d March, 1833, commonly called the compromise act, should not be altered, except under urgent necessities, which are not believed at this time to exist. One year only remains to complete the series of reductions provided for by that law, at which time provisions made by the same, and which law then will be brought actively in aid of the manufacturing interest of the Union, will not fail to produce the most beneficial results."

This compromise act of 1833, was drawing towards the close of its career, and was proving itself to have been a complete illusion in all the good it had promised, and a sad reality in all the ill that had been predicted of it. It had been framed on the principle of helping manufactures for nine years, and then to be a free trade measure for ever after. The first part succeeded, and so well, in keeping up high duties as to raise far more revenue than the government needed: the second part left the government without revenue for its current uses, and under the necessity of giving up that uniform twenty per centum duty on the value of imports, which was to have been the permanent law of our tariff; and which never became law at all. In the meanwhile, the compromise having provided for periodical reductions in the duties on imported sugars and molasses, made no provision for proportionate reductions of the drawback upon these articles when exported in the changed shape of rum and refined sugars: and enormous sums were drawn from the treasury by this omission in the compromise act—the great refiners and rum distillers driving an immense capital into their business for the mere purpose of getting the gratuitous drawbacks. The author of this View endeavored to supply the omission at the time, and repeatedly afterwards; but these efforts were resisted by the advocates of the compromise until these gratuities becoming enormous, rising from $2,000 per annum, to hundreds of thousands per annum, and finally reaching five hundred thousand, they roused the alarm of the government, and sunk under the enormity of their abuse. Yet it was this compromise which was held too sacred to have its palpable defects corrected, and the inviolability of which was recommended to be preserved, that in addition to its other faults, was making an annual present of some hundreds of thousands of dollars to two classes of manufacturers.

A bank of some kind was recommended, under the name of fiscal agent, as necessary to facilitate the operations of the Treasury, to promote the collection and disbursement of the public revenue, and to supply a currency of uniform value. The message said:

"In intimate connection with the question of revenue, is that which makes provision for a suitable fiscal agent, capable of adding increased facilities in the collection and disbursement of the public revenues, rendering more secure their custody, and consulting a true economy in the great multiplied and delicate operations of the Treasury department. Upon such an agent depends in an eminent degree, the establishment of a currency of uniform value, which is of so great importance to all the essential interests of society; and on the wisdom to be manifested in its creation, much depends."

These are the reasons which General Hamilton gave for asking the establishment of the first national bank, in 1791, and which have been given ever since, no matter with what variation of phraseology, for the creation of a similar institution. This preference for a bank, under a new name, was confirmed by the rejection of the sub-treasury and hard-money currency, assumed by the message to have been condemned by the people in the result of the presidential election. Speaking of this system, it said: "*If carried through all the stages of its transmutation, from paper and specie to nothing but the precious metals, to say nothing of*

the insecurity of the public moneys its injurious effects have been anticipated by the country, in its unqualified condemnation." The justice and wisdom of this condemnation, thus inferred from the issue of the presidential election, and carried as that election was (and as has been described), has been tested by the experience of many years, without finding that insecurity of the public moneys, and those injurious effects which the message assumed. On the contrary those moneys have been safely kept, and the public prosperity never as great as under the Independent Treasury and the gold and silver currency of the federal government: and long has it been since any politician has allowed himself to be supposed to be against them. Up to the date of that message then—up to the first day of the extra session, 1841—Mr. Tyler may be considered as in favor of a national bank, with its paper currency, and opposed to the gold and silver currency, and the sub-treasury. A distribution of the proceeds of the sales of the public lands was recommended as a means of assisting the States in the payment of their debts, and raising the price of their stocks in foreign markets. Repudiating as unconstitutional, the federal assumption of the State debts, he still recommended a grant of money from the public funds to enable them to meet these debts. In this sense the message said:

"And while I must repudiate, as a measure founded in error, and wanting constitutional sanction, the slightest approach to an assumption by this government of the debts of the States, yet I can see in the distribution adverted to much to recommend it. The compacts between the proprietor States and this government expressly guarantee to the States all the benefits which may arise from the sales. The mode by which this is to be effected addresses itself to the discretion of Congress as the trustee for the States, and its exercise, after the most beneficial manner, is restrained by nothing in the grants or in the constitution so long as Congress shall consult that equality in the distribution which the compacts require. In the present condition of some of the States, the question of distribution may be regarded as substantially a question between direct and indirect taxation. If the distribution be not made in some form or other, the necessity will daily become more urgent with the debtor States for a resort to an oppressive system of direct taxation, or their credit, and necessarily their power and influence, will be greatly diminished. The payment of taxes, often the most inconvenient and oppressive mode, will be exacted in place of contributions for the most part voluntarily made, and therefore comparatively unoppressive. The States are emphatically the constituents of this government, and we should be entirely regardless of the objects held in view by them, in the creation of this government, if we could be indifferent to their good. The happy effects of such a measure upon all the States, would immediately be manifested. With the debtor States it would effect the relief to a great extent of the citizens from a heavy burden of direct taxation, which presses with severity on the laboring classes, and eminently assist in restoring the general prosperity. An immediate advance would take place in the price of the State securities, and the attitudes of the States would become once more, as it should ever be, lofty and erect. Whether such distribution should be made directly to the States in the proceeds of the sales, or in the form of profits by virtue of the operations of any fiscal agency having those proceeds as its basis, should such measure be contemplated by Congress, would well deserve its consideration."

Mr. Tyler, while a member of the democratic party, had been one of the most strict in the construction of the constitution, and one of the most vigilant and inflexible in bringing proposed measures to the test of that instrument—repulsing the most insignificant if they could not stand it. He had been one of the foremost against the constitutionality of a national bank, and voting for a *scire facias* to vacate the charter of the last one soon after it was established. Now, in recommending the grant of money to the family of General Harrison—in recommending a bank under the name of fiscal agent—in preferring a national paper

currency—in condemning the currency of the constitution—in proposing a distribution of the land revenue—in providing for the payment of the State debts: in all these recommendations he seemed to have gone far beyond any other President, however latitudinarian. Add to this, he had instituted an inquisition to sit upon the conduct of officers, to hear and adjudge in secret; to the encouragement of informers and debaters, and to the infringement of the liberty of speech, and the freedom of opinion in the subordinates of the government. In view of all this, the author of this work immediately exclaimed:

"What times we have fallen upon! what wonders we witness! how strange are the scenes of the day! We have a President, who has been the foremost in the defence of the constitution, and in support of the rights of the States—whose walk has been on the outward wall of the constitution—his post in the front line of its defenders—his seat on the topmost branches of the democratic tree. I will not disparage the President by saying that he fought side by side with me in defence of the constitution and the States, and against the latitudinarians. It would be to wrong him to place him by my side. His position, as guard of the constitution, was far ahead, and far above mine. He was always in the advance—on the look-out—listening and watching—snuffing danger in the first tainted breeze, and making anticipated battle against the still invisible invader. Hardly any thing was constitutional enough for him. This was but a few brief years ago. Now we see the measures brought forward in the very bud and first blossom of this administration, which leave all former unconstitutional measures far in the rear—which add subterfuge and evasion to open violence, and aim more deadly wounds at the constitution than the fifty previous years of its existence had brought upon it. I know not the sentiment of the President upon these measures, except as disclosed by himself, and say nothing to reach him; but I know the measures themselves—their desperate character, and fatal issues: and I am free to say, if such things can come to pass—if they can survive the double ordeal of the House and the Senate—then there is an end of all that our fathers contended for in the formation of the federal government. To be sure, the machinery of government would still stand. We should still have President, Congress, and a Judiciary—an army, a navy—a taxing power, the tax-payers, the tax-gatherers, and the tax-consumers. But, if such measures as these are to pass—a bill to lavish the public lands on the (indebted) States in order to pay their debts, supply their taxes, and raise the market price of their stock—a contrivance to defraud the constitution, and to smuggle and bribe a bank, though a national bank, through Congress, under the *alius dictus* of fiscal agent—the bill to commence the career of civil pensions and family gratuities—the inquisitorial committee, modelled on the plan of Sir Robert Walpole's committees of secrecy, now sitting in the custom-house of New York, the terror of the honest and the hope of the corrupt—the *ex post facto* edict for the creation of political offences, to be punished on suspicion in *exparte* trials—the schemes for the infringement of the liberty of speech, and for the suppression of freedom of opinion, and for the encouragement and reward of debaters and informers: if such schemes and measures as these are to come to pass, then do I say that all the guards and limitations upon our government are broken down! that our limited government is gone! and a new, wild, and boundless authority, substituted in its place. The new triumvirate—Bank, Congress, and President—will then be supreme. Fraud and corruption, more odious than arms and force, will rule the land. The constitution will be covered with a black veil: and that derided and violated instrument will never be referred to, except for the mock sanction of a fraudulent interpretation, or the insulting ceremony of a derisory adjuration."

Mr. Tyler had delivered a message: Mr. Clay virtually delivered another. In the first week of the session, he submitted a programme of measures, in the form of a resolve, to be adopted by the Senate, enumerating and declaring the particular subjects, to which he thought the

attention of Congress should be limited at this extra session. The following was his programme:

"*Resolved, as the opinion of the Senate*, That at the present session of Congress, no business ought to be transacted, but such as being of an important or urgent nature, may be supposed to have influenced the extraordinary convention of Congress, or such as that the postponement of it might be materially detrimental to the public interest.

"*Resolved, therefore, as the opinion of the Senate*, That the following subjects ought first, if not exclusively, to engage the deliberation of Congress, at the present session—

"1st. The repeal of the sub-treasury.

"2d. The incorporation of a bank adapted to the wants of the people and of the government.

"3d. The provision of an adequate revenue for the government by the imposition of duties, and including an authority to contract a temporary loan to cover the public debt created by the last administration.

"4th. The prospective distribution of the proceeds of the public lands.

"5th. The passage of necessary appropriation bills; and

"6th. Some modification of the banking system of the District of Columbia, for the benefit of the people of the District.

"*Resolved*, That it is expedient to distribute the business proper to be done this session, between the Senate and House of Representatives, so as to avoid both Houses acting on the same subject, and at the same time."

It was, probably, to this assumption over the business of Congress—this recommendation of measures which Mr. Clay thought ought to be adopted—that Mr. Cushing alluded in the House, when, in urging the instant repeal of the sub-treasury act, he made occasion to say that he recognized no administration but that of John Tyler. As for the "public debt," here mentioned as being "created by the last administration," it consisted of the treasury notes and loans resorted to to supply the place of the revenue lost under the descending scale of the compromise, and the amount taken from the Treasury to bestow upon the States, under the fraudulent name of a deposit.

64. Repeal Of The Independent Treasury Act

This was the first measure of the new dominant party, and pursued with a zeal that bespoke a resentment which required gratification, and indicated a criminal which required punishment. It seemed to be considered as a malefactor which had just fallen into the hands of justice, and whose instant death was necessary to expiate his offences. Mr. Clay took the measure into his own charge. It was No. 1, in his list of bills to be passed; and the bill brought in by himself, was No. 1, on the Senate's calendar; and it was rapidly pushed on to immediate decision. The provisions of the bill were as summary as the proceedings upon it were rapid. It provided for instant repeal—to take effect as soon as passed, although it was in full operation all over the United States, and the officers at a distance, charged with its execution, could not know of the repeal until ten or twelve days after the event, and during all which time they would be acting without authority; and, consequently, without official liability for accident or misconduct. No substitute was provided; and when passed, the public moneys were to remain without legal guardianship until a substitute should be provided—intended to be a national bank; but a substitute which would require time to pass it, whether a bank or some other measure. These considerations were presented, but presented in vain to an impatient majority. A respite of a few days, for the act to be known before it took effect, was in vain urged. In vain was it urged that promulgation was part of a law: that no statute was to take effect until it was promulgated; and that time must be allowed for that essential formality. The delay of passing a substitute was urged as certain: the possibility of not passing one at all, was suggested: and then the reality of that alarm of danger to the Treasury—the union of the purse and the sword—which had so haunted the minds of senators at the time of the removal of the deposits; and which alarm, groundless then, was now to have a real foundation. All in vain. The days of the devoted act were numbered: the sun was not to set upon it alive: and late in the evening of a long and hot day in June, the question was called, with a refusal upon yeas and nays by the majority, to allow a postponement until the next day for the purpose of debate. Thus, refused one night's postponement, Mr. Benton, irritated at such unparliamentary haste, and at the unmeasured terms of abuse which were lavished upon the doomed act, rose and delivered the speech, of which some extracts are given in the next chapter.

In the progress of this bill a clause was proposed by Mr. Benton to exclude the Bank of the United States from becoming a depository of public moneys, under the new order of things which the repeal of the Sub-treasury system would bring about; and he gave as a reason, her criminal and corrupt conduct, and her insolvent condition. The clause was rejected by a strict party vote, with the exception of Mr. Archer—who voted for the exclusion. The repeal bill was carried in the Senate by a strict party vote:

Yeas—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—29.

Nays—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, McRoberts, Nicholson, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—18.

In the House the repeal was carried by a decided vote—134 to 87. The negative voters were:

Messrs. Archibald H. Arrington, Charles G. Atherton, Linn Banks, Henry W. Beeson, Benjamin A. Bidlack, Samuel S. Bowne, Linn Boyd, Aaron V. Brown, Charles Brown, Edmund Burke, Sampson H. Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, George B. Cary, Reuben Chapman, Nathan Clifford, James G. Clinton, Walter Coles, Edward Cross, John R. J. Daniel, Richard D. Davis, John B. Dawson, Ezra Dean, William Doan, Andrew W. Doig, John C. Edwards, Joseph Egbert, Charles G. Ferris, John G. Floyd, Charles A. Floyd, Joseph Fornance, William O. Goode, Samuel Gordon, Amos Gustine, William A. Harris, John Hastings, Samuel L. Hays, Isaac E. Holmes, George W. Hopkins, Jacob Houck, jr., George S. Houston, Edmund W. Hubard, Robert M. T. Hunter, Charles J. Ingersoll, Wiliam Jack, Cave Johnson, John W. Jones, George M. Keim, Andrew Kennedy, Dixon H. Lewis, Nathaniel S. Littlefied, Joshua A. Lowell, Abraham McClellan, Robert McClellan, James J. McKay, Albert G. Marchand, Alfred Marshall, John Thompson Mason, James Mathews, William Medill, John Miller, William M. Oliver, William Parmenter, Samuel Patridge, William W. Payne, Francis W. Pickens, Arnold Plumer, John R. Reding, Lewis Riggs, James Rogers, James I. Roosevelt, John Sanford, Romulus M. Saunders, Tristram Shaw, Benjamin G. Shields, John Snyder, C. Sprigg, Lewis Steenrod, Hopkins L. Turney, John Van Buren, Aaron Ward, Harvey M. Watterson, John B. Weller, John Westbrook, James W. Williams, Fernando Wood.

65. Repeal Of The Independent Treasury Act: Mr. Benton's Speech

The lateness of the hour, the heat of the day, the impatience of the majority, and the determination evinced to suffer no delay in gratifying the feeling which demanded the sacrifice of the Independent Treasury system, shall not prevent me from discharging the duty which I owe to the friends and authors of that system, and to the country itself, by defending it from the unjust and odious character which clamor and faction have fastened upon it. A great and systematic effort has been made to cry down the sub-treasury by dint of clamor, and to render it odious by unfounded representations and distorted descriptions. It seems to have been selected as a subject for an experiment at political bamboozling; and nothing is too absurd, too preposterous, too foreign to the truth, to be urged against it, and to find a lodgment, as it is believed, in the minds of the uninformed and credulous part of the community. It is painted with every odious color, endowed with every mischievous attribute, and made the source and origin of every conceivable calamity. Not a vestige of the original appears; and, instead of the old and true system which it revives and enforces, nothing is seen but a new and hideous monster, come to devour the people, and to destroy at once their liberty, happiness and property. In all this the opponents of the system copy the conduct of the French jacobins of the year '89, in attacking the veto power reserved to the king. The enlightened historian, Thiers, has given us an account of these jacobinical experiments upon French credulity; and we are almost tempted to believe he was describing, with the spirit of prophecy, what we have seen taking place among ourselves. He says that, in some parts of the country, the people were taught to believe that the veto was a tax, which ought to be abolished; in others, that it was a criminal, which ought to be hung; in others again, that it was a monster, which ought to be killed; and in others, that it was a power in the king to prevent the people from eating or drinking. As a specimen of this latter species of imposition which was attempted upon the ignorant, the historian gives a dialogue which actually took place between a jacobin politician and a country peasant in one of the remote departments of France, and which ran in about these terms: "*My friend, do you know what the veto is?*" "*I do not.*" "*Then I will tell you what it is. It is this: You have some soup in your porringer; you are going to eat it; the king commands you to empty it on the ground, and you must instantly empty it on the ground: that is the veto!*" This, said Mr. B. is the account which an eminent historian gives us of the means used to bamboozle ignorant peasants and to excite them against a constitutional provision in France, made for their benefit, and which only arrested legislation till the people could speak; and I may say that means little short of such absurdity and nonsense have been used in our country to mislead and deceive the people, and to excite them against the sub-treasury here.

It is my intention, said Mr. B., to expose and to explode these artifices; to show the folly and absurdity of the inventions which were used to delude the people in the country, and which no senator of the opposite party will so far forget himself as to repeat here; and to exhibit the independent treasury as it is—not as a new and hurtful measure just conceived; but as an old and salutary law, fallen into disuse in evil times, and now revived and improved for the safety and advantage of the country.

What is it, Mr. President, which constitutes the system called and known by the name of the sub-treasury, or the independent treasury? It is two features, and two features alone, which constitute the system—all the rest is detail—and these two features are borrowed and taken from the two acts of Congress of September first, and September the second, 1789; the one

establishing a revenue system, and the other establishing a treasury department for the United States. By the first of these acts, and by its 30th section, gold and silver coin alone was made receivable in payments to the United States; and by the second of them, section four, the treasurer of the United States is made the receiver, the keeper, and the payer, of the moneys of the United States, to the exclusion of banks, of which only three then existed. By these two laws, the first and the original financial system of the United States was established; and they both now stand upon the statute book, unrepealed, and in full legal force, except in some details. By these laws, made in the first days of the first session of the first Congress, which sat under the constitution, gold and silver coin only was made the currency of the federal treasury, and the treasurer of the United States was made the fiscal agent to receive, to keep, and to pay out that gold and silver coin. This was the system of Washington's administration; and as such it went into effect. All payments to the federal government were made in gold and silver; all such money paid remained in the hands of the treasurer himself, until he paid it out; or in the hands of the collectors of the customs, or the receivers of the land offices, until he drew warrants upon them in favor of those to whom money was due from the government. Thus it was in the beginning—in the first and happy years of Washington's administration. The money of the government was hard money; and nobody touched that money but the treasurer of the United States, and the officers who collected it; and the whole of these were under bonds and penalties for their good behavior, subject to the lawful orders and general superintendence of the Secretary of the Treasury and the President of the United States, who was bound to see the laws faithfully executed. The government was then what it was made to be—a hard-money government. It was made by hard-money men, who had seen enough of the evils of paper money and wished to save their posterity from such evils in future. The money was hard, and it was in the hands of the officers of the government—those who were subject to the orders of the government—and not in the hands of those who were only subject to requisitions—who could refuse to pay, protest a warrant, tell the government to sue, and thus go to law with the government for its own money. The framers of the constitution, and the authors of the two acts of 1789, had seen enough of the evils of the system of requisitions under the confederation to warn them against it under the constitution. They determined that the new government should keep its own hard money, as well as collect it; and thus the constitution, the law, the practice under the law, and the intentions of the hard-money and independent treasury men, were all in harmony, and in full, perfect, and beautiful operation, under the first years of General Washington's administration. All was right, and all was happy and prosperous, at the commencement.

But the spoiler came! General Hamilton was Secretary of the Treasury. He was the advocate of the paper system, the banking system, and the funding system, which were fastened upon England by Sir Robert Walpole, in his long and baneful administration under the first and second George. General Hamilton was the advocate of these systems, and wished to transplant them to our America. He exerted his great abilities, rendered still more potent by his high personal character, and his glorious revolutionary services, to substitute paper money for the federal currency, and banks for the keepers of the public money; and he succeeded to the extent of his wishes. The hard-money currency prescribed by the act of September 1st, 1789, was abolished by construction, and by a Treasury order to receive bank notes; the fiscal agent for the reception, the keeping, and the disbursement of the public moneys, consisting of the treasurer, and his collectors and receivers, was superseded by the creation of a national bank, invested with the privilege of keeping the public moneys, paying them out, and furnishing supplies of paper money for the payment of dues to the government. Thus, the two acts of 1789 were avoided, or superseded; not repealed, but only avoided and superseded by a Treasury order to receive paper, and a bank to keep it and pay it out. From this time paper money became the federal currency, and a bank the keeper of the federal money. It is

needless to pursue this departure farther. The bank had its privileges for twenty years—was succeeded in them by local banks—they superseded by a second national bank—it again by local banks—and these finally by the independent treasury system—which was nothing but a return to the fundamental acts of 1789.

This is the brief history—the genealogy rather—of our fiscal agents; and from this it results, that after more than forty years of departure from the system of our forefathers—after more than forty years of wandering in the wilderness of banks, local and national—after more than forty years of wallowing in the slough of paper money, sometimes sound, sometimes rotten—we have returned to the point from which we sat out—hard money for our Federal Treasury; and our own officers to keep it. We returned to the acts of ‘89, not suddenly and crudely, but by degrees, and with details, to make the return safe and easy. The specie clause was restored, not by a sudden and single step, but gradually and progressively, to be accomplished in four years. The custody of the public moneys was restored to the treasurer and his officers; and as it was impossible for him to take manual possession of the moneys every where, a few receivers-general were given to him to act as his deputies, and the two mints in Philadelphia and New Orleans (proper places to keep money, and their keys in the hands of our officers), were added to his means of receiving and keeping them. This return to the old acts of ‘89 was accomplished in the summer of 1840. The old system, with a new name, and a little additional organization, has been in force near one year. It has worked well. It has worked both well and easy, and now the question is to repeal it, and to begin again where General Hamilton started us above forty years ago, and which involved us so long in the fate of banks and in the miseries and calamities of paper money. The gentlemen on the other side of the House go for the repeal; we against it; and this defines the position of the two great parties of the day—one standing on ground occupied by General Hamilton and the federalists in the year ‘91; the other standing on the ground occupied at the same time by Mr. Jefferson and the democracy.

The democracy oppose the repeal, because this system is proved by experience to be the safest, the cheapest, and the best mode of collecting the revenues, and keeping and disbursing the public moneys, which the wisdom of man has yet invented. It is the safest mode of collecting, because it receives nothing but gold and silver, and thereby saves the government from loss by paper money, preserves the standard of value, and causes a supply of specie to be kept in the country for the use of the people and for the support of the sound part of the banks. It is the cheapest mode of keeping the moneys; for the salaries of a few receivers are nothing compared to the cost of employing banks; for banks must be paid either by a per centum, or by a gross sum, or by allowing them the gratuitous use of the public money. This latter method has been tried, and has been found to be the dearest of all possible modes. The sub-treasury is the safest mode of keeping, for the receivers-general are our officers—subject to our orders—removable at our will—punishable criminally—suable civilly—and bound in heavy securities. It is the best mode; for it has no interest in increasing taxes in order to increase the deposits. Banks have this interest. A national bank has an interest in augmenting the revenue, because thereby it augmented the public deposits. The late bank had an average deposit for near twenty years of eleven millions and a half of public money in the name of the treasurer of the United States, and two millions and a half in the names of public officers. It had an annual average deposit of fourteen millions, and was notoriously in favor of all taxes, and of the highest tariffs, and was leagued with the party which promoted these taxes and tariffs. A sub-treasury has no interest of this kind, and in that particular alone presents an immense advantage over any bank depositories, whether a national institution or a selection of local banks. Every public interest requires the independent treasury to be continued. It is the old system of ‘89. The law for it has been on our statute-book for fifty-two years. Every

citizen who is under fifty-two years old has lived all his life under the sub-treasury law, although the law itself has been superseded or avoided during the greater part of the time. Like the country gentleman in Molière's comedy, who had talked prose all his life without knowing it, every citizen who is under fifty-two has lived his life under the sub-treasury law—under the two acts of '89 which constitute it, and which have not been repealed.

We are against the repeal; and although unable to resist it here, we hope to show to the American people that it ought not to be repealed, and that the time will come when its re-establishment will be demanded by the public voice.

Independent of our objections to the merits of this repeal, stands one of a preliminary character, which has been too often mentioned to need elucidation or enforcement, but which cannot be properly omitted in any general examination of the subject. We are about to repeal one system without having provided another, and without even knowing what may be substituted, or whether any substitute whatever shall be agreed upon. Shall we have any, and if any, what? Shall it be a national bank, after the experience we have just had of such institutions? Is it to be a nondescript invention—a fiscality—or fiscal agent—to be planted in this District because we have exclusive jurisdiction here, and which, upon the same argument, may be placed in all the forts and arsenals, in all the dock-yards and navy-yards, in all the lighthouses and powder magazines, and in all the territories which the United States now possess, or may hereafter acquire? We have exclusive jurisdiction over all these; and if, with this argument, we can avoid the constitution in these ten miles square, we can also avoid it in every State, and in every territory of the Union. Is it to be the pet bank system of 1836, which, besides being rejected by all parties, is an impossibility in itself? Is it to be the lawless condition of the public moneys, as gentlemen denounced it, which prevailed from October, 1833, when the deposits were removed from the Bank of the United States, till June, 1836, when the State bank deposit system was adopted; and during all which time we could hear of nothing but the union of the purse and the sword, and the danger to our liberties from the concentration of all power in the hands of one man? Is it to be any one of these, and which? And if neither, then are the two acts of '89, which have never been repealed—which have only been superseded by temporary enactments, which have ceased, or by treasury constructions which no one can now defend—are these two acts to recover their vitality and vigor, and again become the law of the land, as they were in the first years of General Washington's administration, and before General Hamilton overpowered them? If so, we are still to have the identical system which we now repeal, with no earthly difference but the absence of its name, and the want of a few of its details. Be all this as it may—let the substitute be any thing or nothing—we have still accomplished a great point by the objection we have taken to the repeal before the substitute was produced, and by the vote which we took upon that point yesterday. We have gained the advantage of cutting gentlemen off from all plea for adopting their baneful schemes, founded upon the necessity of adopting something, because we have nothing. By their own vote they refuse to produce the new system before they abolish the old one. By their own vote they create the necessity which they deprecate; and having been warned in time, and acting with their eyes open, they cannot make their own conduct a plea for adopting a bad measure rather than none. If Congress adjourns without any system, and the public moneys remain as they did from 1833 to 1836, the country will know whose fault it is; and gentlemen will know what epithets to apply to themselves, by recollecting what they applied to General Jackson from the day the deposits were removed until the deposit act of '36 was passed.

Who demands the repeal of this system? Not the people of the United States; for there is not a solitary petition from the farmers, the mechanics, the productive classes, and the business men, against it. Politicians who want a national bank, to rule the country, and millionary

speculators who want a bank to plunder it—these, to be sure, are clamorous for the repeal; and for the obvious reasons that the present system stands in the way of their great plans. But who else demands it? Who else objects to either feature of the sub-treasury—the hard-money feature, or the deposit of our own moneys with our own officers? Make the inquiry—pursue it through its details—examine the community by classes, and see who objects. The hard-money feature is in full force. It took full effect at once in the South and West, because there were no bank-notes in those quarters of the Union of the receivable description: it took full effect in New York and New England, because, having preserved specie payments, specie was just as plenty in that quarter as paper money; and all payments were either actually or virtually in hard money. It was specie, or its equivalent. The hard-money clause then went into operation at once, and who complained of it? The payers of the revenue? No, not one of them. The merchants who pay the duties have not complained; the farmers who buy the public lands have not complained. On the contrary, they rejoice; for hard-money payments keep off the speculator, with his bales of notes borrowed from banks, and enable the farmer to get his land at a fair price. The payers of the revenue then do not complain. How stands it with the next most interested class—the receivers of money from the United States? Are they dissatisfied at being paid in gold and silver? And do they wish to go back to the depreciated paper—the shinplasters—the compound of lampblack and rags—which they received a few years ago? Put this inquiry to the meritorious laborer who is working in stone, in wood, earth, and in iron for you at this moment. Ask him if he is tired of hard-money payments, and wishes the independent treasury system repealed, that he may get a chance to receive his hard-earned wages in broken bank-notes again. Ask the soldier and the mariner the same question. Ask the salaried officer and the contractor the same question. Ask ourselves here if we wish it—we who have seen ourselves paid in gold for years past, after having been for thirty years without a sight of that metal. No, sir, no. Neither the payers of money to the government, nor the receivers of money from the government, object to the hard-money clause in the sub-treasury act. How is it then with the body of the people—the great mass of the productive and business classes? Do they object to the clause? Not at all. They rejoice at it: for they receive, at second-hand, all that comes from the government. No officer, contractor, or laborer, eats the hard money which he receives from the government, but pays it out for the supplies which support his family: it all goes to the business and productive classes: and thus the payments from the government circulate from hand to hand, and go through the whole body of the people. Thus the whole body of the productive classes receive the benefit of the whole amount of the government hard-money payments. Who is it then that objects to it? Broken banks, and their political confederates, are the clamorers against it. Banks which wish to make their paper a public currency: politicians who wish a national bank as a machine to rule the country. These banks, and these politicians, are the sole clamorers against the hard-money clause in the sub-treasury system: they alone clamor for paper money. And how is it with the other clause—the one which gives the custody of the public money to the hands of our own officers, bound to fidelity by character, by official position, by responsibility, by ample securityship—and makes it felony in them to touch it for their own use? Here is a clear case of contention between the banks and the government, or between the clamorers for a national bank and the government. These banks want the custody of the public money. They struggle and strive for it as if it was their own. They fight for it: and if they get it, they will use it as their own—as we all well know; and refuse to render back when they choose to suspend. Thus, the whole struggle for the repeal resolves itself into a contest between the government, and all the productive and business classes on one side, and the federal politicians, the rotten part of the local banks, and the advocates of a national bank on the other.

Sir, the independent treasury has been organized: I say, organized! for the law creating it is fifty-two years old—has been organized in obedience to the will of the people, regularly expressed through their representatives after the question had been carried to them, and a general election had intervened. The sub-treasury system was proposed by President Van Buren in 1837, at the called session: it was adopted in 1840, after the question had been carried to the people, and the elections made to turn upon it. It was established, and clearly established, by the will of the people. Have the people condemned it? Have they expressed dissatisfaction? By no means. The presidential election was no test of this question; nor of any question. The election of General Harrison was effected by the combination of all parties to pull down one party, without any unity among the assailants on the question of measures. A candidate was agreed upon by the opposition for whom all could vote. Suppose a different selection had been made, and an eminent whig candidate taken, and he had been beaten two to one (as would probably have been the case): what then would have been the argument? Why, that the sub-treasury, and every other measure of the democracy, had been approved, two to one. The result of the election admits of no inference against this system; and could not, without imputing a heedless versatility to the people, which they do not possess. Their representatives, in obedience to their will, and on full three years' deliberation, established the system—established it in July, 1840: is it possible that, within four months afterwards—in the month of November following—the same people should condemn their own work?

But the system is to be abolished; and we are to take our chance for something, or nothing, in place of it. The abolition is to take place incontinently—incessantly—upon the instant of the passage of the bill! such is the spirit which pursues it! such the revengeful feeling which burns against it! And the system is still to be going on for a while after its death—for some days in the nearest parts, and some weeks in the remotest parts of the Union. The receiver-general in St. Louis will not know of his official death until ten days after he shall have been killed here. In the mean time, supposing himself to be alive, he is acting under the law; and all he does is without law, and void. So of the rest. Not only must the system be abolished before a substitute is presented, but before the knowledge of the abolition can reach the officers who carry it on; and who must continue to receive, and pay out public moneys for days and weeks after their functions have ceased, and when all their acts have become illegal and void.

Such is the spirit which pursues the measure—such the vengeance against a measure which has taken the money of the people from the moneyed corporations. It is the vengeance of the banking spirit against its enemy—against a system which deprives soulless corporations of their rich prey. Something must rise up in the place of the abolished system until Congress provides a substitute; and that something will be the nest of local banks which the Secretary of the Treasury may choose to select. Among these local banks stands that of the Bank of the United States. The repeal of the sub-treasury has restored that institution to its capacity to become a depository of the public moneys: and well, and largely has she prepared herself to receive them. The Merchants' Bank in New Orleans, her agent there; her branch in New York under the State law; and her branches and agencies in the South and in the West: all these subordinates, already prepared, enable her to take possession of the public moneys in all parts of the Union. That she expected to do so we learn from Mr. Biddle, who considered the attempted resumption in January last as unwise, because, in showing the broken condition of his bank, her claim to the deposits would become endangered. Mr. Biddle shows that the deposits were to have been restored; that, while in a state of suspension, his bank was as good as any. *De noche todas los gatos son pardos.* So says the Spanish proverb. In the dark, all the cats are grey—all of one color: the same of banks in a state of suspension. And in this darkness and assimilation of colors, the Bank of the United States has found her safety and

security—her equality with the rest, and her fair claim to recover the keeping of the long-lost deposits. The attempt at resumption exposed her emptiness, and her rottenness—showed her to be the whited sepulchre, filled with dead men's bones. Liquidation was her course—the only honest—the only justifiable course. Instead of that she accepts new terms (just completed) from the Pennsylvania legislatures—affects to continue to exist as a bank: and by treating Mr. Biddle as the Jonas of the ship, when the whole crew were Jonases, expects to save herself by throwing him overboard. That bank is now, on the repeal of the sub-treasury, on a level with the rest for the reception of the public moneys. She is legally in the category of a public depository, under the act of 1836, the moment she resumes: and when her notes are shaved in—a process now in rapid movement—she may assert and enforce her right. She may resume for a week, or a month, to get hold of the public moneys. By the repeal, the public deposits, so far as law is concerned, are restored to the Bank of the United States. When the Senate have this night voted the repeal, they have also voted the restoration of the deposits; and they will have done it wittingly and knowingly, with their eyes open, and with a full perception of what they were doing. When they voted down my proposition of yesterday—a vote in which the whole opposition concurred, except the senator from Virginia who sits nearest me (Mr. Archer)—when they voted down that proposition to exclude the Bank of the United States from the list of future deposit banks, they of course declared that she ought to remain upon the list, with the full right to avail herself of her privilege under the revived act of 1836. In voting down that proposition, they voted up the prostrate bank of Mr. Biddle, and accomplished the great object of the panic of 1833-'34—that of censuring General Jackson, and of restoring the deposits. The act of that great man—one of the most patriotic and noble of his life—the act by which he saved forty millions of dollars to the American people—is reversed. The stockholders and creditors of the institution lose above forty millions, which the people otherwise would have lost. They lose the whole stock, thirty-five millions—for it will not be worth a straw to those who keep it: and the vote of the bank refusing to show their list of debtors—suppressing, hiding and concealing—the rotten list of debts—(in which it is mortifying to see a Southern gentleman concurring)—is to enable the initiated jobbers and gamblers to shove off their stock at some price on ignorant and innocent purchasers. The stockholders lose the thirty-five millions capital: they lose the twenty per centum advance upon that capital, at which many of the later holders purchased it; and which is near seven millions more: they lose the six millions surplus profits which were reported on hand: but which, perhaps, was only a *bank* report: and the holders of the notes lose the twenty to thirty per centum, which is now the depreciation of the notes of the bank—soon to be much more. These losses make some fifty millions of dollars. They now fall on the stockholders, and note-holders: where would they have fallen if the deposits had not been removed? They would have fallen upon the public treasury—upon the people of the United States: for the public is always the goose that is to be first plucked. The public money would have been taken to sustain the bank: taxes would have been laid to uphold her: the high tariff would have been revived for her benefit. Whatever her condition required would have been done by Congress. The bank, with all its crimes and debts—with all its corruptions and plunderings—would have been saddled upon the country—its charter renewed—and the people pillaged of the more than forty millions of dollars which have been lost. Congress would have been enslaved: and a new career of crime, corruption, and plunder commenced. The heroic patriotism of President Jackson saved us from this shame and loss: but we have no Jackson to save us now; and millionary plunderers—devouring harpies—foul birds, and voracious as foul—are again to seize the prey which his brave and undaunted arm snatched from their insatiate throats.

The deposits are restored, so far as the vote of the Senate goes; and if not restored in fact, it will be because policy, and new schemes forbid it. And what new scheme can we have? A

nondescript, hermaphrodite, Janus-faced fiscality? or a third edition of General Hamilton's bank of 1791? or a bastard compound, the unclean progeny of both? Which will it be? Hardly the first named. It comes forth with the feeble and rickety symptoms which announce an unripe conception, and an untimely death. Will it be the second? It will be that, or worse. And where will the late flatterers—the present revilers of Mr. Biddle—the authors equally of the bank that is ruined, and of the one that is to be created: where will they find better men to manage the next than they had to manage the last? I remember the time when the vocabulary of praise was exhausted on Mr. Biddle—when in this chamber, and out of it, the censer, heaped with incense, was constantly kept burning under his nose: when to hint reproach of him was to make, if not a thousand chivalrous swords leap from their scabbards, at least to make a thousand tongues, and ten thousand pens, start up to defend him. I remember the time when a senator on this floor, and now on it (Mr. Preston of South Carolina), declared in his place that the bare annunciation of Mr. Biddle's name as Secretary of the Treasury, would raise the value of the people's property one hundred millions of dollars. My friend here on my right (pointing to Senator Woodbury) was the Secretary of the Treasury; and the mere transposition of names and places—the mere substitution of Biddle for Woodbury—was to be worth one hundred millions of dollars to the property of the country! What flattery could rise higher than that? Yet this man, once so lauded—once so followed, flattered, and courted—now lies condemned by all his former friends. They cannot now denounce sufficiently the man who, for ten years past, they could not praise enough: and, after this, what confidence are we to have in their judgments? What confidence are we to place in their new bank, and their new managers, after seeing such mistakes about the former?

Let it not be said that this bank went to ruin since it became a State institution. The State charter made no difference in its character, or in its management: and Mr. Biddle declared it to be stronger and safer without the United States for a partner than with it. The mortal wounds were all given while it was a national institution; and the late report of the stockholders shows not one species of offence, the cotton speculations alone excepted, which was not shown by Mr. Clayton's report of 1832; and being shown, was then defended by the whole power of those who are now cutting loose from the old bank, and clamoring for a new one. Not an act now brought to light, save and except the cotton operation, not even that for which Reuben M. Whitney was crushed to death, and his name constituted the synonyme of perjury and infamy for having told it; not an act now brought to light which was not shown to exist ten years ago, and which was not then defended by the whole federal party; so that the pretension that this institution did well as a national bank, and ill as a State one, is as unfounded in fact, as it is preposterous and absurd in idea. The bank was in the high road to ruin—in the gulf of insolvency—in the slough of crime and corruption—when the patriot Jackson signed the veto, and ordered the removal of the deposits; and nothing but these two great acts saved the people from the loss of the forty millions of dollars which have now fallen upon the stockholders and the note holders, and from the shame of seeing their government the slave and instrument of the bank. Jackson saved the people from this loss, and their government from this degradation; and for this he is now pursued with the undying vengeance of those whose schemes of plunder and ambition were balked by him.

Wise and prudent was the conduct of those who refused to recharter the second Bank of the United States. They profited by the error of their friends who refused to recharter the first one. These latter made no preparations for the event—did nothing to increase the constitutional currency—and did not even act until the last moment. The renewed charter was only refused a few days before the expiration of the existing charter, and the federal government fell back upon the State banks, which immediately sunk under its weight. The men of 1832 acted very differently. They decided the question of the renewal long before the

expiration of the existing charter. They revived the gold currency, which had been extinct for thirty years. They increased the silver currency by repealing the act of 1819 against the circulation of foreign silver. They branched the mints. In a word, they raised the specie currency from twenty millions to near one hundred millions of dollars; and thus supplied the country with a constitutional currency to take the place of the United States Bank notes. The supply was adequate, being nearly ten times the average circulation of the national bank. That average circulation was but eleven millions of dollars; the gold and silver was near one hundred millions. The success of our measures was complete. The country was happy and prosperous under it; but the architects of mischief—the political, gambling, and rotten part of the banks, headed by the Bank of the United States, and aided by a political party—set to work to make panic and distress, to make suspensions and revulsions, to destroy trade and business, to degrade and poison the currency; to harass the country until it would give them another national bank: and to charge all the mischief they created upon the democratic administration. This has been their conduct; and having succeeded in the last presidential election, they now come forward to seize the spoils of victory in creating another national bank, to devour the substance of the people, and to rule the government of their country. Sir, the suspension of 1837, on the part of the Bank of the United States and its confederate banks and politicians, was a conspiracy and a revolt against the government. The present suspension is a continuation of the same revolt by the same parties. Many good banks are overpowered by them, and forced into suspension; but with the Bank of the United States, its affiliated banks, and its confederate politicians, it is a revolt and a conspiracy against the government.

Sir, it is now nightfall. We are at the end of a long day when the sun is more than fourteen hours above the horizon, and when a suffocating heat oppresses and overpowers the Senate. My friends have moved adjournments: they have been refused. I have been compelled to speak now, or never, and from this commencement we may see the conclusion. Discussion is to be stifled; measures are to be driven through; and a mutilated Congress, hastily assembled, imperfectly formed, and representing the census of 1830, not of 1840, is to manacle posterity with institutions which are as abhorent to the constitution as they are dangerous to the liberties, the morals, and the property of the people. A national bank is to be established, not even a simple and strong bank like that of General Hamilton, but some monstrous compound, born of hell and chaos, more odious, dangerous, and terrible than any simple bank could be. Posterity is to be manacled, and delivered up in chains to this deformed monster; and by whom? By a rump Congress, representing an expired census of the people, in the absence of members from States which, if they had their members here, would still have but the one-third part of their proper weight in the councils of the Union. The census of 1840 gives many States, and Missouri among the rest, three times their present relative weight; and no permanent measure ought to be discussed until this new relative weight should appear in Congress. Why take the census every ten years, if an expiring representation at the end of the term may reach over, and bind the increased numbers by laws which claim immunity from repeal, and which are rushed through without debate? Am I to submit to such work? No, never! I will war against the bank you may establish, whether a simple or a compound monster; I will war against it by every means known to the constitution and the laws. I will vote for the repeal of its charter as General Harrison and others voted for the repeal of the late bank charter in 1819. I will promote *quo warranto's and sci. fa.'s* against it. I will oppose its friends and support its enemies, and work at its destruction in every legal and constitutional way. I will war upon it while I have breath; and if I incur political extinction in the contest, I shall consider my political life well sold—sold for a high price—when lost in such a cause.

But enough for the present. The question now before us is the death of the sub-treasury. The discussion of the substitute is a fair inquiry in this question. We have a right to see what is to

follow, and to compare it with what we have. But gentlemen withhold their schemes, and we strike in the dark. My present purpose is to vindicate the independent treasury system—to free it from a false character—to show it to be what it is, nothing but the revival of the two great acts of September the 1st and September the 2d, 1789, for the collection, safe keeping, and disbursement of the public moneys, under which this government went into operation; and under which it operated safely and successfully until General Hamilton overthrew it to substitute the bank and state system of Sir Robert Walpole, which has been the curse of England, and towards which we are now hurrying again with headlong steps and blindfold eyes.

66. The Bankrupt Act: What It Was: And How It Was Passed

It has been seen in Mr. Tyler's message that, as a measure of his own administration, he would not have convened Congress in extraordinary session; but this having been done by his predecessor, he would not revoke his act. It was known that the call had been made at the urgent instance of Mr. Clay. That ardent statesman had so long seen his favorite measures baffled by a majority opposition to them in one House or the other, and by the twelve years presidency of General Jackson and Mr. Van Buren, that he was naturally now impatient to avail himself of the advantage of having all the branches of the government in their favor. He did so without delay. Mr. Tyler had delivered his message recommending the measures which he deemed proper for the consideration of Congress: Mr. Clay did the same—that is to say, recommend his list of measures to Congress also, not in the shape of a message, but in the form of a resolve, submitted to the Senate; and which has been given. A bankrupt act was not in his programme, nor in the President's message; and it was well known, and that by evidence less equivocal than its designed exclusion from his list of measures, that Mr. Clay was opposed to such a bill. But parties were so nearly balanced in the Senate, a deduction of two or three from the one side and added to the other would operate the life or death of most important measures, in the event that a few members should make the passage of a favorite measure the indispensable condition of their vote for some others which could not be carried without it. This was the case with the bank bill, and the distribution bill. A bank was the leading measure of Mr. Clay's policy—the corner stone of his legislative edifice. It was number two in his list: it was number one in his affections and in his parliamentary movement. He obtained a select committee on the second day of the session, to take into consideration the part of the President's message which related to the currency and the fiscal agent for the management of the finances; but before that select committee could report a bill, Mr. Henderson, of Mississippi, taking the shortest road to get at his object, asked and obtained leave to bring in a bill to establish a system of bankruptcy. This measure, then, which had no place in the President's message, or in Mr. Clay's schedule, and to which he was averse, took precedence on the calendar of the vital measure for which the extra session was chiefly called; and Mr. Henderson being determinedly supported by his colleague, Mr. Walker, and a few other resolute senators with whom the bankrupt act was an overruling consideration, he was enabled to keep it ahead, and coerce support from as many averse to it as would turn the scale in its favor. It passed the Senate, July 24th, by a close vote, 26 to 23. The yeas were:

"Messrs. Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Henderson, Huntington, Kerr, Merrick, Miller, Morehead, Mouton, Phelps, Porter, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, Williams, Woodbridge, Young.

"Nays—Messrs. Allen, Archer, Bayard, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Nicholson, Pierce, Prentiss, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Woodbury, Wright."

The distribution bill was a leading measure in Mr. Clay's policy: it ranked next after the national bank. He had also taken it into his own care, and had introduced a bill on leave for the purpose at an early day. A similar bill was also introduced in the House of Representatives. There was no willing majority for the bankrupt bill in either House; but the

bank bill and the land bill were made to pass it. The ardent friends of the bankrupt bill embargoed both the others until their favorite measure was secure. They were able to defeat the other two, and determined to do so if they did not get their own measure; and they did get it—presenting the spectacle of a bill, which had no majority in either House, forcing its own passage, and controlling the fate of two others—all of them measures of great national concern.

The bankrupt bill had passed the Senate ahead of the bank bill, and also of the distribution bill, and went to the House of Representatives, where the majority was against it. It seemed doomed in that House. The same bill had originated in that body; but lay upon the table without consideration. The President, beset by a mass of debtors who had repaired to Washington to promote the passage of the bill, sent in a special message in its favor; but without effect. The House bill slept on the table: the Senate bill arrived there, and was soon put to rest upon the same table. Mr. Underwood, of Kentucky, a friend of Mr. Clay, had moved to lay it on the table; and the motion prevailed by a good majority—110 to 97. Information of this vote instantly flew to the Senate. One of the senators, intent upon the passage of the bill, left his seat and went down to the House; and when he returned he informed the writer of this View that the bill would pass—that it would be taken off the table, and put through immediately: and such was the fact. The next day the bill was taken up and passed—the meagre majority of only six for it. The way in which this was done was made known to the writer of this View by the senator who went down to attend to the case when the bill was laid on the table: it was simply to let the friends of the bank and distribution bills know that these measures would be defeated if the bankrupt bill was not passed—that there were enough determined on that point to make sure: and, for the security of the bankrupt bill, it was required to be passed first.

The bill had passed the House with an amendment, postponing the commencement of its operation from November to February; and this amendment required to be communicated to the Senate for its concurrence—which was immediately done. This amendment was a salvo to the consciences of members for their forced votes: it was intended to give Congress an opportunity of repealing the act before it took effect; but the friends of the bill were willing to take it that way—confident that they could baffle the repeal for some months, and until those most interested, had obtained the relief they wanted.

At the time that this amendment was coming up to the Senate that body was engaged on the distribution bill, the debate on the bank veto message having been postponed by the friends of the bank to make way for it. August the 18th had been fixed for that day—12 o'clock the hour. The day and the hour, had come; and with them an immense crowd, and an excited expectation. For it was known that Mr. Clay was to speak—and to speak according to his feelings—which were known to be highly excited against Mr. Tyler. In the midst of this expectation and crowd, and to the disappointment of every body, Mr. Berrien rose and said that—"Under a sense of duty, he was induced to move that the consideration of the executive veto message on the fiscal bank bill be postponed until to-morrow, 12 o'clock."—Mr. Calhoun objected to this postponement. "The day, he said, had been fixed by the friends of the bank bill. The President's message containing his objections to it had now been in possession of the Senate, and on the tables of members for two days. Surely there had been sufficient time to reflect upon it: yet now it was proposed still longer to defer action upon it. He asked the senator from Georgia, who had made the motion, to assign some reason for the proposed delay." The request of Mr. Calhoun for a reason, was entirely parliamentary and proper; and in fact should have been anticipated by giving the reason with the motion—as it was not deferential to the Senate to ask it to do a thing without a reason, especially when the thing to be done was contrary to an expressed resolve of the Senate, and took members by

surprise who came prepared to attend to the appointed business, and not prepared to attend to another subject. Mr. Berrien declined to give a reason, and said that—"When the senator from South Carolina expressed his personal conviction that time enough had been allowed for reflection on the message, he expressed what would no doubt regulate his personal conduct; but when he himself stated that, under a sense of duty, he had asked for further time, he had stated his own conviction in regard to the course which ought to be pursued. Senators would decide for themselves which opinion was to prevail."—Mr. Calhoun rejoined in a way to show his belief that there was a secret and sinister cause for this reserve, so novel and extraordinary in legislative proceedings. He said—"Were the motives such as could not be publicly looked at? were they founded on movements external to that chamber? It was certainly due to the Senate that a reason should be given. It was quite novel to refuse it. Some reason was always given for a postponement. He had never known it to be otherwise."—Mr. Berrien remained unmoved by this cogent appeal, and rejoined—"The senator from South Carolina was at liberty to suggest whatever he might think proper; but that he should not conclude him (Mr. Berrien), as having made a motion here for reasons which he could not disclose."—Mr. Calhoun then said that, "this was a very extraordinary motion, the votes of senators upon it ought to be recorded: he would therefore move for the yeas and nays,"—which were ordered, and stood thus: Yeas: Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton (Thomas of Delaware), Dixon, Evans, Graham, Henderson, Huntingdon, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge, 29—the supporters of the bank all voting for the postponement, their numbers swelled a little beyond their actual strength by the votes of Mr. Rives, and a few other whigs. The nays were: Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, A. O. P. Nicholson, Pierce, Sevier, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, and Young—21. It was now apparent that the postponement of the bank question was a concerted measure of the whig party—that Mr. Berrien was its organ in making the motion—and that the reason for it was a party secret which he was not at liberty to disclose. Events, however, were in progress to make the disclosure.

The distribution bill was next in order, and during its consideration Mr. White, of Indiana, made a remark which attracted the attention of Mr. Benton. Deprecating further debate, as a useless waste of time, Mr. White wished discussion to cease, and the vote be taken—"as he hoped, as well as believed, that the bill would pass, and not alone, but be accompanied by other measures." This remark from Mr. White gave Mr. Benton something to go upon; and he immediately let out what was on his mind.

He thanked the senator from Indiana for his avowal; it was a confirmation of what he well knew before—that measures, at this extraordinary session, were not passed or rejected upon their merits, but made to depend one upon another, and the whole upon a third! It was all bargain and sale. All was conglomerated into one mass, and must go together or fall together. This was the decree out of doors. When the sun dips below the horizon, a private Congress is held, the fate of the measure is decided; a bundle are tied together; and while one goes ahead as a bait, another is held back as a rod.

Mr. Linn, of Missouri, still more frank than his colleague, stigmatized the motive for postponement, and the means that were put in practice to pass momentous bills which could not pass on their own merits; and spoke out without disguise:

"These artifices grow out of the system adopted for carrying through measures that never could be carried through other than by trick and art. The majority which by force, not by argument, have to carry their measures, must meet in secret—concoct their measures in

conclave—and then hold every member of the party bound to support what is thus agreed upon—a master spirit leading all the while. There had been enough of falsehood, misrepresentation and delusion. The presidential election had contained enough of it, without adding to the mass at this session. The country was awake to these impositions, and required only to be informed of the movements of the wire-workers to know how to appreciate their measures. And the people should be informed. As far as it was possible for him and his friends to lay that information before the country, it should be done. Every man in the community must be told how this bank bill, which was intended to rule the country with a moneyed despotism for years to come, had been passed—how a national debt was entailed upon the country—how this bankrupt bill was forced through, as he (Mr. Linn) now understood it was, by a majority of five votes, in the other end of the Capitol, many of its whig opponents dodging behind the columns; and how this land distribution bill was now in the course of being passed, and the tricks resorted to to effect its passage. It was all part and parcel of the same system which was concocted in Harrisburg, wrought with such blind zeal at the presidential election, and perfected by being compressed into a congressional caucus, at an extraordinary called, but uncalled-for, session."

The distribution bill had been under debate for an hour, and Mr. King, of Alabama, was on the floor speaking to it, when the clerk of the House of Representatives appeared at the door of the Senate Chamber with the bankrupt bill, and the amendments made by the House—and asking the concurrence of the Senate. Still standing on his feet, but dropping the line of his argument, Mr. King exclaimed:

"That, sir, is the bill. There it is sir. That is the bill which is to hurry this land distribution bill to its final passage, without either amendments or debate. Did not the senator know that yesterday, when the bankrupt bill was laid on the table by a decided vote in the other House, the distribution bill could not, by any possibility then existing, be passed in this House? But now the case was altered. A reconsideration of the vote of yesterday had taken place in the other House, and the bankrupt bill was now returned to the Senate for concurrence; after which it would want but the signature of the Executive to become a law. But how had this change been so suddenly brought about? How, but by putting on the screws? Gentlemen whose States cried aloud for the relief of a bankrupt law, were told they could not have it unless they would pay the price—they must pass the distribution bill, or they should have no bankrupt bill. One part of the bargain was already fulfilled: the bankrupt bill was passed. The other part of the bargain is now to be consummated: the distribution bill can pass now without further delay. He (Mr. King) had had the honor of a seat in this chamber for many years, but never during that time had he seen legislation so openly and shamefully disgraced by a system of bargain and sale. This extra session of Congress would be long remembered for the open and undisguised extent to which this system had been carried."

Incontinently the distribution bill was laid upon the table, and the bankrupt bill was taken up. This was done upon the motion of Mr. Walker, who gave his reasons, thus:

"He rose not to prolong the debate on the distribution bill, but to ask that it might be laid on the table, that the bill to establish a general bankrupt law, which had just been received from the House, might be taken up, and the amendment, which was unimportant, might be concurred in by the Senate. He expressed his ardent joy at the passage of this bill by this House, which was so imperiously demanded as a measure of great relief to a suffering community, which he desired should not be held in suspense another night; but that they should immediately take up the amendments, and act on them. For this purpose he moved to lay the distribution bill on the table."

Mr. Linn asked for the yeas and nays, that it might be seen how senators voted in this rigadoon legislation, in which movements were so rapid, so complicated, and so perfectly performed. They were ordered, and stood: Yeas—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Dixon, Evans, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, and Woodbridge—26. Nays—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Clayton, Cuthbert, Fulton, Graham, King, Linn, McRoberts, Mouton, Pierce, Sevier, Sturgeon, Tappan, Williams, Woodbury, Wright, and Young—21. So that the whole body of the friends to the distribution bill, voted to lay it down to take up the bankrupt bill, as they had just voted to lay down the bank bill to take up the distribution. The three measures thus travelled in company, but bankrupt in the lead—for the reason, as one of its supporters told Mr. Benton, that they were afraid it would not get through at all if the other measures got through before it. The bankrupt bill having thus superseded the distribution bill, as itself had superseded the bank bill, Mr. Walker moved a concurrence in the amendment. Mr. Buchanan intimated to Mr. Walker that he was taken in—that the postponement was to enable Congress to repeal the bill before it took effect; and, speaking in this sense, said:

"From the tone of the letters he had received from politicians differing with him, he should advise his friend from Mississippi [Mr. Walker], not to be quite so soft as, in his eagerness to pass this bill, to agree to this amendment, postponing the time for it to take effect to February, as it would be repealed before its operation commenced; although it was now made a price of the passage of the distribution bill. He felt not a particle of doubt but there would be a violent attempt to repeal it next session."

Mr. Walker did not defend the amendment, but took it rather than, by a non-concurrence, to send the bill back to the House, where its friends could not trust it again. He said—"When his friend from Pennsylvania spoke of his being 'soft,' he did not know whether he referred to his head or his heart; but he could assure him he was not soft enough to run the chance of defeating the bill by sending it back to the House."—Mr. Calhoun did not concur with his friend from Pennsylvania, that there would be any effort to repeal this bill. It would be exceedingly popular at its first "go off," and if this bill passed, he hoped that none of his friends would attempt to repeal it. It would, if permitted to work, produce its legitimate effects; and was enough to destroy any administration. He saw that this was a doomed administration. It would not only destroy them, but blow them "sky high."

This was the only instance in which Mr. Calhoun was known to express a willingness that a bad measure should stand because it would be the destruction of its authors; and on this occasion it was merely the ebullition of an excited feeling, as proved when the question of repeal came on at the next session—in which he cordially gave his assistance. The amendment was concurred in without a division, the adversaries of the bill being for the postponement in good faith, and its friends agreeing to it for fear of something worse. There had been an agreement that the three measures were to pass, and upon that agreement the bank bill was allowed to go down to the House before the bankrupt bill was out of it; but the laying that bill on the table raised an alarm, and the friends of the bankrupt required the others to be stopped until their cherished measure was finished: and that was *one* of the reasons for postponing the debate on the bank veto message which could not be disclosed to the Senate. The amendment of the House being agreed to, there was no further vote to be taken on the bill; but a motion was made to suppress it by laying it on the table. That motion brought out a clean vote for and against the bill—23 to 26. The next day it received the approval of the President, and became a law.

The act was not a bankrupt law, but practically an insolvent law for the abolition of debts at the will of the debtor. It applied to all persons in debt—allowed them to commence their proceedings in the district of their own residence, no matter how lately removed to it—allowed constructive notice to creditors in newspapers—declared the abolition of the debt where effects were surrendered and fraud not proved. It broke down the line between the jurisdiction of the federal courts and the State courts in the whole department of debtors and creditors; and bringing all local debts and dealings into the federal courts, at the will of the debtor, to be settled by a federal jurisdiction, with every advantage on the side of the debtor. It took away from the State courts the trials between debtor and creditor in the same State—a thing which under the constitution can only be done between citizens of different States. Jurisdiction over bankruptcies did not include the mass of debtors, but only that class known to legislative and judicial proceedings as bankrupts. To go beyond, and take in all debtors who could not pay their debts, and bring them into the federal courts, was to break down the line between federal and State jurisdictions, and subject all persons—all neighbors—to have their dealings settled in the federal courts. It violated the principle of all bankrupt systems—that of a proceeding on the part of the creditors for their own benefit—and made it entirely a proceeding for the benefit of the debtor, at his own will. It was framed upon the model of the English insolvent debtor's act of George the Fourth; and after closely paraphrasing eighteen provisions out of that act, most flagrantly departed from its remedy in the conclusion, in substituting a release from the *debt* instead of a release from *imprisonment*. In that feature, and in applying to all debts, and in giving the initiative to the debtor, and subjecting the whole proceeding to be carried on at his will, it ceased to be a bankrupt act, and became an insolvent act; but with a remedy which no insolvent act, or bankrupt system, had ever contained before—that of a total abolition of the debt by the act of the debtor alone, unless the creditor could prove fraud; which the sort of trial allowed would render impossible, even where it actually existed. It was the same bill which had been introduced at the previous session, and supported by Mr. Webster in an argument which confounded insolvency with bankruptcy, and assumed every failure to pay a debt to be a bankruptcy. The pressure for the passing of the act was immense. The long disorders of the currency, with the expansions, contractions, suspensions, and breaking of banks had filled the country with men of ruined fortunes, who looked to the extinction of their debts by law as the only means of getting rid of their incumbrances, and commencing business anew. This unfortunate class was estimated by the most moderate observers at an hundred thousand men. They had become a power in the State. Their numbers and zeal gave them weight: their common interest gave them unity: the stake at issue gave them energy. They worked in a body in the presidential election, and on the side of the whigs: and now attended Congress, and looked to that party for the legislative relief for which they had assisted in the election. Nor did they look in vain. They got all they asked—but most unwillingly, and under a moral duresse—and as the price of passing two other momentous bills. Such is legislation in high party times! selfish and sinistrous, when the people believe it to be honest and patriotic! people at home, whose eyes should be opened to the truth, if they wish to preserve the purity of their government. Here was a measure which, of itself, could not have got through either House of Congress: combined with others, it carried itself, and licensed the passing of two more! And all this was done—so nicely were parties balanced—by the zeal and activity (more than the numbers) of a single State, and that a small one, and among the most indebted. In brief, the bankrupt act was passed, and the passage of the bank and distribution bills were licensed by the State of Mississippi, dominated by the condition of its population.

Mr. Buchanan, Mr. Wright, Mr. Woodbury, were the principal speakers against the bill in the Senate. Mr. Benton addressed himself mainly to Mr. Webster's position, confounding insolvency and bankruptcy, as taken at the previous session; and delivered a speech of some

research in opposition to that assumption—of which some extracts are given in the next chapter.

67. Bankrupt Bill: Mr. Benton's Speech: Extracts

The great ground which we occupy in relation to the character of this bill (said Mr. B.) is this: that it is not a bankrupt system, but an insolvent law, perverted to a discharge from debts, instead of a discharge from imprisonment. As such, it was denounced from the moment it made its appearance in this chamber, at the last session, and I am now ready to prove it to be such. I have discovered its origin, and hold the evidence in my hand. It is framed upon the English insolvent debtor's act of the 1st of George IV., improved and extended by the act of the 7th of George IV., and by the 1st of Victoria. From these three insolvent acts our famous bankrupt system of 1841 is compiled; and it follows its originals with great fidelity, except in a few particulars, until it arrives at the conclusion, where a vast and terrible alteration is introduced! Instead of discharging the debtor from imprisonment, as the English acts do, our American copy discharges him from his debts! But this is a thing rather to be proved than told; and here is the proof. I have a copy of the British statutes on my table, containing the three acts which I have mentioned, and shall quote from the first one, in the first year of the reign of George IV., and is entitled "*An act for the relief of insolvent debtors in England*." The preamble recites that it is expedient to make permanent provision for the relief of insolvent debtors in England confined in jail, and who shall be willing to surrender their property to their creditors, and thereby obtain a discharge from imprisonment. For this purpose the act creates a new court, to be called the *insolvent debtor's court*, which was to sit in London, and send commissioners into the counties. The first sections are taken up with the organization of the court. Then come its powers and duties, its modes of proceeding, and the rights of insolvents in it: and in these enactments, as in a mirror, and with a few exceptions (the effect of design, of accident, or of necessity, from the difference of the two forms of government), we perceive the original of our bankrupt act. I quote partly from the body of the statute, but chiefly from the marginal notes, as being a sufficient index to the contents of the sections. (Here the speaker quoted eighteen separate clauses in which the bill followed the English act, constituting the whole essence of the bill, and its mode of proceeding.)

This is the bill which we call bankrupt—a mere parody and perversion of the English insolvent debtor's act. And now, how came such a bill to be introduced? Sir, it grew out of the contentions of party; was brought forward, as a party measure; and was one of the bitter fruits of the election of 1840. The bill was brought forward in the spring of that year, passed in the Senate, and lost in the House. It was contested in both Houses as a party measure, and was taken up as a party topic in the presidential canvass. The debtor class—those irretrievably in debt, and estimated by the most moderate at a hundred thousand men—entered most zealously into the canvass, and on the side of the party which favored the act. The elections were carried by that party—the Congress as well as the presidential. All power is in the hands of that party; and an extra session of the legislature was impatiently called to realize the benefits of the victory. But the opening of the session did not appear to be auspicious to the wishes of the bankrupts. The President's message recommended no bankrupt bill; and the list of subjects enumerated for the action of Congress, and designated in a paper drawn by Mr. Clay, and placed on our journal for our guidance, was equally silent upon that subject. To all appearance, the bankrupt bill was not to come before us at the extra session. It was evidently a deferred subject. The friends and expectants of the measure took the alarm—flocked to Congress—beset the President and the members—obtained from him a special message recommending a bankrupt law; and prevailed on members to bring in the bill. It was brought into the Senate—the same which had been defeated in 1840—and it was

soon seen that its passage was not to depend upon its own merits; that its fate was indissolubly connected with another bill; and that one must carry the other.

This is an insolvent bill: it is so proved, and so admitted: and to defend it the argument is, that insolvency and bankruptcy are the same—a mere inability or failure to pay debts. This is the corner stone of the argument for the bill, and has been firmly planted as such, by its ablest supporter (Mr. Webster). He says:

"Bankruptcies, in the general use and acceptation of the term, mean no more than failures. A bankruptcy is a fact. It is an occurrence in the life and fortunes of an individual. When a man cannot pay his debts, we say that he has become bankrupt, or has failed. Bankruptcy is not merely the condition of a man who is insolvent, and on whom a bankrupt law is already acting. This would be quite too technical an interpretation. According to this, there never could be bankrupt laws; because every law, if this were the meaning, would suppose the existence of a previous law. Whenever a man's means are insufficient to meet his engagements and pay his debts, the fact of bankruptcy has taken place—a case of bankruptcy has arisen, whether there be a law providing for it or not. A learned judge has said, that a law on the subject of bankruptcies is a law making provision for cases of persons failing to pay their debts. Over the whole subject of these failures, or these bankruptcies, the power of Congress, as it stands on the face of the constitution, is full and complete."

This is an entire mistake. There is no foundation for confounding bankruptcy and insolvency. A debtor may be rich, and yet be a bankrupt. Inability to pay does not even enter as an ingredient into bankruptcy. The whole system is founded on ability and fraud. The bankrupt is defined in Blackstone's commentaries—a work just issued and known to all our statesmen at the time of our Revolution—"*to be a trader, who secretes himself, or does certain other acts to defraud his creditors*." So far from making insolvency a test of bankruptcy the whole system supposes ability and fraud—ability to pay part or all, and a fraudulent intent to evade payment. And every British act upon the subject directs the surplus to be restored to the debtor if his effects sell for more than pays the debts—a proof that insolvency was no ingredient in the acts.

The eminent advocate of the bill, in confounding insolvency and bankruptcy, has gone to the continent of Europe, and to Scotland, to quote the *cessio bonorum* of the civil law, and to confound it with bankruptcy. He says: "*That bankrupt laws, properly so called, or laws providing for the cessio bonorum, on the continent of Europe and Scotland, were never confined to traders.*" That is true. This *cessio* was never confined to traders: it applied to debtors who could not pay. It was the cession, or surrender of his property by the debtor for the purpose of obtaining freedom for his person—leaving the debt in full force—and all future acquisitions bound for it. I deal in authority, and read from Professor Bell's Commentaries upon the Laws of Scotland—an elegant an instructive work, which has made the reading of Scottish law almost as agreeable to the law reader as the writings of Scott have made Scottish history and manners to the general reader. Mr. Bell treats of the *cessio* and of bankruptcy, and treats of them under distinct heads; and here is what he says of them:

"The law of *cessio bonorum* had its origin in Rome. It was introduced by Julius Cæsar, as a remedy against the severity of the old Roman laws of imprisonment; and his law—which included only Rome and Italy—was, before the time of Diocletian, extended to the provinces. The first law of the code respecting the *cessio bonorum* expresses, in a single sentence, the whole doctrine upon the subject: '*Qui bonis cesserint*,' says the Emperor Alexander Severus, *'nisi solidum creditor receperit, non sunt liberati. In eo enim tantummodo hoc beneficium eis prodest, ne judicati detrahantur in carcerem.*' This institution, having been greatly improved in the civil law, was adopted by those of the European nations who

followed that system of jurisprudence. In France, the institution was adopted very nearly as it was received with us. Perhaps, indeed, it was from France that our system received its distinguishing features. The law in that country was, during the seventeenth century, extremely severe—not only against bankrupts (which name they applied to fraudulent debtors alone), but against debtors innocently insolvent. * * * The short digest of the law of *cessio* in Scotland, then, is:

"1. That a debtor who has been a month in prison, for a civil debt, may apply to the court of session—calling all his creditors before that court, by a summons in the king's name; and concluding that he should be freed from prison on surrendering to his creditors all his funds and effects.

"2. That he is entitled to this benefit without any mark of disgrace, if (proving his insolvency) he can satisfy the court, in the face of his creditors, that his insolvency has arisen from innocent misfortune, and is willing to surrender all his property and effects to his creditors.

"3. That, though he may clear himself from any imputation of fraud, still, if he has been extravagant, and guilty of sporting with the money of his creditors, he is, in strict law, not entitled to the *cessio*, but on the condition of wearing the habit (mark of disgrace); but which is now exchanged for a prolongation of his imprisonment.

"4. That, if his creditors can establish a charge of fraud against him, he is not entitled to the *cessio* at all; but must lie in prison, at the mercy of his creditors, till the length of his imprisonment may seem to have sufficiently punished his crime; when, on a petition, the court may admit him to the benefit.

"5. That, if he has not given a fair account of his funds, and shall still be liable to the suspicion of concealment, the court will, in the meanwhile, refuse the benefit of the *cessio*—leaving it to him to apply again, when he is able to present a clearer justification, or willing to make a full discovery."

This is the *cessio*, and its nature and origin are both given. Its nature is that of an insolvent law, precisely as it exists at this day in the United States and in England. Its origin is Roman, dating from the dictatorship of Julius Cæsar. That great man had seen the evils of the severity of the Roman law against debtors. He had seen the iniquity of the law itself, in the cruel condemnation of the helpless debtor to slavery and death at the will of the creditor; and he had seen its impolicy, in the disturbances to which it subjected the republic—the seditions, commotions, and conspiracies, which, from the time of the secession of the people to the *Mons Sacer* to the terrible conspiracy of Catiline, were all built upon the calamities of the debtor class, and had for their object an abolition of debts. Cæsar saw this, and determined to free the commonwealth from a deep-seated cause of commotion, while doing a work of individual justice. He freed the person of the debtor upon the surrender of his property; and this equitable principle, becoming ingrafted in the civil law, spread over all the provinces of the Roman world—has descended to our times, and penetrated the new world—and now forms the principle of the insolvent laws of Europe and America. The English made it permanent by their insolvent law of the first of George the Fourth—that act from which our bankrupt system is compiled; and in two thousand years, and among all nations, there has been no departure from the wise and just principles of Cæsar's edict, until our base act of Congress has undertaken to pervert it into an abolition debt law, by substituting a release from the debt for a release from jail!

This is the *cessio omnium bonorum* of Scotland, to which we are referred as being the same thing with bankruptcy (properly so called), and which is quoted as an example for our act of 1841. And, now, what says Professor Bell of bankruptcy? Does he mention that subject?

Does he treat of it under a separate head—as a different thing from the *cessio*—and as requiring a separate consideration? In fact, he does. He happens to do so; and gives it about 300 pages of his second volume, under the title of "System of the Bankrupt Laws;" which system runs on all-fours with that of the English system, and in the main point—that of discharge from his debts—it is identical with the English; requiring the concurrence of four-fifths of the creditors to the discharge; and that bottomed on the judicial attestation of the bankrupt's integrity. Here it is, at page 441 of the second volume:

"The concurrence of the creditors, without which the bankrupt cannot apply to the court for a discharge, must be not that of a mere majority, but a majority of four-fifths in number and value. * * * * The creditors are subject to no control in respect to their concurrence. Against their decision there is no appeal, nor are they bound to account for or explain the grounds of it. They are left to proceed upon the whole train of the bankrupt's conduct, as they may have seen occasion to judge of him; and the refusal of their concurrence is an absolute bar until the opposition be overcome. * * * * The statute requires the concurrence of the trustee, as well as of the creditors. There appears, however, to be this difference between them: that the creditors are entirely uncontrolled in giving or withholding their concurrence; while, on the part of the trustee, it is *debitum justiliæ* either to the bankrupt or to the creditors to give or withhold his concurrence. He acts not as a creditor, but as a judge. To his jurisdiction the bankrupt is subjected by the choice of his creditors; and, on deciding on the bankrupt's conduct, he is not entitled to proceed on the same undisclosed motives or evidence on which a creditor may act, but on the ground of legal objection alone—as fraud, concealment, nonconformity with the statute. In England, the commissioners are public officers—not the mere creatures of the creditors. They are by statute invested with a judicial discretion, which they exercise under the sanction of an oath. Their refusal is taken as if they swore they could not grant the certificate; and no mandamus lies to force them to sign."

So much for bankruptcy and *cessio*—two things very different in their nature, though attempted to be confounded; and each of them still more different from our act, for which they are quoted as precedents. But the author of our act says that bankrupt laws in Scotland are not confined to traders, but take in all persons whatsoever; and he might have added—though, perhaps, it did not suit his purpose at the moment—that those laws, in Scotland, were not confined to natural persons, but also included corporations and corporate bodies. Bell expressly says:

"Corporate bodies are, in law, considered as persons, when associated by royal authority or act of Parliament. When a community is thus established by public authority, it has a legal existence as a person, with power to hold funds, to sue and to defend. It is, of consequence, subject to diligence; and although personal execution cannot proceed against this ideal-legal person, and so the requisites of imprisonment, &c., cannot be complied with, there seems to be no reason to doubt that a corporation may now be made bankrupt by the means recently provided for those cases in which imprisonment is incompetent."—vol. 2, p. 167.

The gentleman might have quoted this passage from the Scottish law; and then what would have become of his argument against including corporations in the bankrupt act? But he acts the advocate, and quotes what suits him; and which, even if it were applicable, would answer but a small part of his purpose. The Scottish system differs from the English in its application to persons not traders; but agrees with it in the great essentials of perfect security for creditors, by giving them the initiative in the proceedings, discriminating between innocent and culpable bankruptcy, and making the discharge from debt depend upon their consent, bottomed upon an attestation of integrity from the officer that tries the case. It answers no purpose to the gentleman, then, to carry us to Scotland for the meaning of a term in our

constitution. It is to no purpose that he suggests that the framers of the constitution might have been looking to Scotland for an example of a bankrupt system. They were no more looking to it in that case, than they were in speaking of juries, and in guarantying the right of jury trials—a jury of twelve, with unanimity, as in England; and not of fifteen, with a majority of eight to give the verdict, as in Scotland. In all its employment of technical, legal, and political phrases, the constitution used them as used in England—the country from which we received our birth, our language, our manners, and customs, and all our systems of law and politics. We got all from England; and, this being the case, there is no use in following the gentleman to the continent of Europe, after dislodging him from Scotland; but as he has quoted the continent for the effect of the *cessio* in abolishing debts, and for its identity with bankruptcy, I must be indulged with giving him a few citations from the Code Napoleon, which embodies the principles of the civil law, and exemplifies the systems of Europe on the subject of bankruptcies and insolvencies. Here they are:

Mr. B. here read copiously from the Code Napoleon, on the subjects of bankruptcies and cession of property; the former contained in the commercial division of the code, the latter in the civil. Bankruptcy was divided into two classes—innocent and fraudulent; both confined to traders (*commercants*); the former were treated with lenity, the latter with criminal severity. The innocent bankrupt was the *trader* who became unable to pay his debts by the casualties of trade, and who had not lived beyond his means, nor gambled, nor engaged in speculations of pure hazard; who kept fair books, and satisfied his creditors and the judge of his integrity. The fraudulent bankrupt was the *trader* who had lived prodigally, or gambled, or engaged in speculations of pure hazard, or who had not kept books, or not kept them fairly, or misapplied deposits, or violated trusts, or been guilty of any fraudulent practice. He was punished by imprisonment and hard labor for a term of years, and could not be discharged from his debts by any majority of his creditors whatever. Cession of property—in French, *la cession de biens*—was precisely the *cessio omnium bonorum* of the Romans, as established by Julius Cæsar. It applied to all persons, and obtained for them freedom from imprisonment, and from suits, on the surrender of all their present property to their creditors; leaving their future acquisitions liable for the remainder of the debt. It was the insolvent law of the civil law; and thus bankruptcy and insolvency were as distinct on the continent of Europe as in England and Scotland, and governed by the same principles.

Having read these extracts from the civil law, Mr. B. resumed his speech, and went on to say that the gentleman was as unfortunate in his visit to the continent as in his visit to Scotland. In the first place he had no right to go there for exemplification of the terms used in our constitution. The framers of the constitution did not look to other countries for examples. They looked to England alone. In the second place, if we sought them elsewhere, we found precisely the same thing that we found in England: we found bankruptcy and insolvency everywhere distinct and inconvertible. They were, and are, distinct everywhere; here and elsewhere—at home and abroad—in England, Scotland, France, and all over Europe. They have never been confounded anywhere, and cannot be confounded here, without committing a double offence: *first*, violating our own constitution; *secondly*, invading the States. And with this, I dismiss the gentleman's first fundamental position, affirming that he has utterly failed in his attempt to confound bankruptcy with insolvency; and, therefore, has utterly failed to gain jurisdiction for Congress over the general debts of the community, by the pretext of the bankrupt power.

I have said that this so-called bankrupt bill of ours is copied from the insolvent law of the first year of George IV., and its amendments, and so it is, all except section 13 of that act, which is omitted, and for the purpose of keeping out the distinction between bankrupts and insolvents. That section makes the distinction. The act permits all debtors to petition for the benefit of

the insolvent law, that is to say, discharge from imprisonment on surrendering their property; yet, in every case in which traders, merchants, &c. petition, the proceedings stop until taken up, and proceeded upon by the creditors. The filing the petition by a person subject to the bankrupt law, is simply held to be an act of bankruptcy, on which the creditors may proceed, or not, as on any other act of bankruptcy, precisely as they please. And thus insolvency and bankruptcy are kept distinct; double provisions on the same subject are prevented; and consistency is preserved in the administration of the laws. Not so under our bill. The omission to copy this 13th section has nullified all that relates to involuntary bankruptcy; puts it into the power of those who are subject to that proceeding to avoid it, at their pleasure, by the simple and obvious process of availing themselves of their absolute right to proceed voluntarily. And now a word upon volunteer bankruptcy. It is an invention and a crudity in our bill, growing out of the confounding of bankruptcy and insolvency. There is no such thing in England, or in any bankrupt system in the world; and cannot be, without reversing all the rules of right, and subjecting the creditor to the mercy of his debtor. The English bankrupt act of the 6th George IV., and the insolvent debtors' act of the 1st of the same reign, admit the bankrupt, as an insolvent, to file his declaration of insolvency, and petition for relief; but there it stops. His voluntary action goes no further than the declaration and petition. Upon that, his creditors, if they please, may proceed against him as a bankrupt, taking the declaration as an act of bankruptcy. If they do not choose to proceed, the case stops. The bankrupt cannot bring his creditors into court, and prosecute his claim to bankruptcy, whether they will or not. This is clear from the 6th section of the bankrupt act of George IV., and the 13th section of the insolvent debtors' act of the 1st year of the same reign; and thus our act of 1841 has the honor of inventing volunteer bankruptcy, and thus putting the abolition of debts in the hands of every person! for these volunteers have a right to be discharged from their debts, without the consent of their creditors!

Mr. Benton then read the two sections of the two acts of George IV. to which he had referred, and commented upon them to sustain his positions. And first the 6th section of the act of George IV. (1826) for the amendment of the bankrupt laws:

"Sec. 6. That if any such trader shall file in the office of the Lord Chancellor's secretary of bankrupts, a declaration in writing, signed by such trader, and attested by an attorney or solicitor, that he is insolvent or unable to meet his engagements, the said secretary of bankrupts, or his deputy, shall sign a memorandum that such declaration hath been filed; which memorandum shall be authority for the London Gazette to insert an advertisement of such declaration therein; and every such declaration shall, after such advertisement inserted as aforesaid, *be an act of bankruptcy committed by such* TRADER *at the time when such declaration was filed*: but *no* commission shall issue thereupon, *unless* it be sued out within two calendar months next after the insertion of such advertisement, and *unless* such advertisement shall have been inserted in the London Gazette within eight days after such declaration filed. And no docket shall be struck upon such act of bankruptcy before the expiration of four days next after such insertion of such advertisement, in case such commission is to be executed in London; or before the expiration of eight days next after such insertion, in case such commission is to be executed in the country; and the Gazette containing such advertisement shall be evidence to be received of such declaration having been filed."

Having read this section, Mr. B. said it was explicit, and precluded argument. The voluntary action of the debtor, which it authorized, was limited to the mere filing of the declaration of insolvency. It went no further; and it was confined to traders—to the trading classes—who, alone, were subject to the laws of bankruptcy.

Mr. B. said that the English had, as we all know, an insolvent system, as well as a bankrupt system. They had an insolvent debtors' court, as well as a bankrupt court; and both these were kept separate, although there were no States in England to be trodden under foot by treading down the insolvent laws. Not so with us. Our insolvent laws, though belonging to States called sovereign, are all trampled under foot! There would be a time to go into this. At present, Mr. B. would only say that, in England, bankruptcy and insolvency were still kept distinct; and no insolvent trader was allowed to proceed as a bankrupt. On the contrary, an insolvent, applying in the insolvent debtors' court for the release of his person, could not proceed one step beyond filing his declaration. At that point the creditors took up the declaration, if they pleased, transferred the case to the bankrupt court, and prosecuted the case in that court. This is done by virtue of the 13th section of the insolvent debtors' act of 7th George IV. (1827). Mr. B. read the section, as follows:

"*Insolvent debtors' act of 7th year of George IV.* (1827).

"Sec. 13. *And be it further enacted*, That the filing of the petition of every *person* in actual custody, who shall be subject to the laws concerning bankrupts, and who shall apply by petition to the said court for his or her discharge from custody, according to this act, shall be accounted and adjudged *an act of bankruptcy from the time of filing such petition*; and that any *commission* issuing against such person, and under which he or she shall be declared bankrupt before the time appointed by the said court, and advertised in the *London Gazette*, for hearing the matters of such petition, or at any time within two calendar months from the time of filing such petition, shall have effect to avoid any conveyance and assignment of the estate and effects of such person, which shall have been made in pursuance of the provisions of this act: *Provided, always*, That the filing of such petition shall not be deemed an act of bankruptcy, *unless* such person be so declared bankrupt before the time so advertised as aforesaid, or within such two calendar months as aforesaid; but that every such conveyance and assignment shall be good and valid, notwithstanding any commission of bankruptcy under which such person shall be declared bankrupt after the time so advertised as aforesaid, and after the expiration of such two calendar months as aforesaid."

This (said Mr. B.) accords with the section of the year before in the bankrupt act. The two sections are accordant, and identical in their provisions. They keep up the great distinction between insolvency and bankruptcy, which some of our judges have undertaken to abrogate; they keep up, also, the great distinction between the proper subjects of bankruptcy—to wit: traders, and those who are not traders; and they keep up the distinction between the release of the person (which is the object of insolvent laws) and the extinction of the debt with the consent of creditors, which is the object of bankrupt systems. By this section, if the "*person*" in custody who files a declaration of insolvency shall be a trader, subject to the laws of bankruptcy, it only operates as an act of bankruptcy—upon which the creditors may proceed, or not, as they please. If they proceed, it is done by suing out a commission of bankruptcy; which carries the case to the bankrupt court. If the creditors do not proceed, the petition of the insolvent trader only releases his person. Being subject to bankruptcy, his creditors may call him into the bankrupt court, if they please; if they do not, he cannot take it there, nor claim the benefit of bankruptcy in the insolvent court: he can only get his person released. This is clear from the section; and our bill of 1841 committed something worse than a folly in not copying this section. That bill creates two sorts of bankruptcy—voluntary and involuntary—and, by a singular folly, makes them convertible! so that all may be volunteers, if they please. It makes merchants, traders, bankers, and some others of the *trading* classes, subject to involuntary bankruptcy: then it gives all *persons* whatever the right to proceed voluntarily.

Thus the involuntary subjects of bankruptcy may become volunteers; and the distinction becomes ridiculous and null. Our bill, which is compiled from the English Insolvent Debtors' Act, and is itself nothing but an insolvent law perverted to the abolition of debts at the will of the debtor, should have copied the 13th section of the English insolvent law: for want of copying this, it annihilated involuntary bankruptcy—made all persons, traders or not, volunteers who chose to be so—released all debts, at the will of the debtor, without the consent of a single creditor; and committed the most daring legislative outrage upon the rights of property, which the world ever beheld!

68. Distribution Of The Public Land Revenue And Assumption Of The State Debts

About two hundred millions of dollars were due from States and corporations to creditors in Europe. These debts were in stocks, much depreciated by the failure in many instances to pay the accruing interest—in some instances, failure to provide for the principal. These creditors became uneasy, and wished the federal government to assume their debts. As early as the year 1838 this wish began to be manifested: in the year 1839 it was openly expressed: in the year 1840, it became a regular question, mixing itself up in our presidential election; and openly engaging the active exertions of foreigners. Direct assumption was not urged: indirect, by giving the public land revenue to the States, was the mode pursued, and the one recommended by Mr. Tyler. In his first regular message, he recommended this disposition of the public lands, and with the expressed view of enabling the States to pay their debts, and also to raise the value of the stock. It was a vicious recommendation, and a flagrant and pernicious violation of the constitution. It was the duty of Congress to provide for the payment of the federal debts: that was declared in the constitution. There was no prohibition upon the payment of the State debts: that was a departure from the objects of the Union too gross to require prohibition: and the absence of any authority to do so was a prohibition as absolute as if expressed in the eyes of all those who held to the limitations of the constitution, and considered a power, not granted, as a power denied. Mr. Calhoun spoke with force and clearness, and with more than usual animation, against this proposed breach in the constitution. He said:

“If the bill should become a law, it would make a wider breach in the constitution, and be followed by changes more disastrous, than any other measure which has ever been adopted. It would, in its violation of the constitution, go far beyond the general welfare doctrine of former days, which stretched the power of the government as far as it was then supposed was possible by construction, however bold. But as wide as were the limits which it assigned to the powers of the government, it admitted by implication that there were limits; while this bill, as I shall show, rests on principles which, if admitted, would supersede all limits. According to the general welfare doctrine, Congress had power to raise money and appropriate it to all objects which might seem calculated to promote the general welfare—that is, the prosperity of the States, regarded in their aggregate character as members of the Union: or, to express it more briefly, and in language once so common, to national objects: thus excluding, by necessary implication, all that were not national, as falling within the sphere of the separate States. It takes in what is excluded under the general welfare doctrine, and assumes for Congress the right to raise money, to give by distribution to the States: that is, to be applied by them to those very local State objects to which that doctrine, by necessary implication, denied that Congress had a right to appropriate money; and thus superseding all the limits of the constitution—as far, at least, as the money power is concerned. Such, and so overwhelming, are the constitutional difficulties which beset this measure. No one who can overcome them—who can bring himself to vote for this bill—need trouble himself about constitutional scruples hereafter. He may swallow without hesitation bank, tariff, and every other unconstitutional measure which has ever been adopted or proposed. Yes; it would be easier to make a plausible argument for the constitutionality of the measures proposed by the abolitionists—for abolition itself—than for this detestable bill. And yet we find senators from slaveholding States, the very safety of whose constituents depends upon a strict construction of the constitution, recording their names in favor of a measure from which they have nothing

to hope, and every thing to fear. To what is a course so blind to be attributed, but to that fanaticism of party zeal, openly avowed on this floor, which regards the preservation of the power of the whig party as the paramount consideration? It has staked its existence on the passage of this, and the other measures for which this extraordinary session was called; and when it is brought to the alternative of their defeat or success, in their anxiety to avoid the one and secure the other, constituents, constitution, duty, country,—all are forgotten."

Clearly unconstitutional, the measure itself was brought forward at the most inauspicious time—when the Treasury was empty, a loan bill, and a tax bill actually depending; and measures going on to raise money from the customs, not only to support the government, but to supply the place of this very land money proposed to be given to the States. Mr. Benton exposed this aggravation in some pointed remarks:

What a time to choose for squandering this patrimony! We are just in the midst of loans, and taxes, and new and extravagant expenditures, and scraping high and low to find money to support the government. Congress was called together to provide revenue; and we begin with throwing away what we have. We have just passed a bill to borrow twelve millions, which will cost the people sixteen millions to pay. We have a bill on the calendar—the next one in order—to tax every thing now free, and to raise every tax now low, to raise eight or ten millions for the government, at the cost of eighteen or twenty to the people. Sixteen millions of deficit salute the commencement of the ensuing year. A new loan of twelve millions is announced for the next session. All the articles of consumption which escape taxation now, are to be caught and taxed then. Such are the revelations of the chairman of the Finance Committee; and they correspond with our own calculations of their conduct. In addition to all this, we have just commenced the national defences—neglected when we had forty millions of surplus, now obliged to be attended to when we have nothing: these defences are to cost above a hundred millions to create them, and above ten millions annually to sustain them. A new and frightful extravagance has broken out in the Indian Department. Treaties which cannot be named, are to cost millions upon millions. Wild savages, who cannot count a hundred except by counting their fingers ten times over, are to have millions; and the customs to pay all; for the lands are no longer to pay for themselves, or to discharge the heavy annuities which have grown out of their acquisition. The chances of a war ahead: the ordinary expenses of the government, under the new administration, not thirteen millions as was promised, but above thirty, as this session proves. To crown all, the federal party in power! that party whose instinct is debt and tax—whose passion is waste and squander—whose cry is that of the horse-leech, give! give! give!—whose call is that of the grave, more! more! more! In such circumstances, and with such prospects ahead, we are called upon to throw away the land revenue, and turn our whole attention to taxing and borrowing. The custom-house duties—that is to say, foreign commerce, founded upon the labor of the South and West, is to pay all. The farmers and planters of the South and West are to take the chief load, and to carry it. Well may the senator from Kentucky [Mr. Clay] announce the forthcoming of new loans and taxes—the recapture of the tea and coffee tax, if they escape us now—and the increase and perpetuity of the salt tax. All this must come, and more too, if federalism rules a few years longer. A few years more under federal sway, at the rate things have gone on at this session—this sweet little session called to relieve the people—and our poor America would be ripe for the picture for which England now sits, and which has been so powerfully drawn in the Edinburgh Review. Listen to it, and hear what federalism would soon bring us to, if not stopped in its mad career:

"Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot. Taxes upon every thing which it is pleasant to see, hear, feel, smell, or taste. Taxes upon warmth, light, and locomotion. Taxes on every thing on earth, and the waters under the

earth; on every thing that comes from abroad, or is grown at home. Taxes on the raw material; taxes on every fresh value that is added to it by the industry of man. Taxes on the sauce which pampers a man's appetite, and the drug that restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the brass nails of the coffin, and the ribbons of the bride. At bed or board, couchant or levant, we must pay. The schoolboy whips his taxed top; the beardless youth manages his taxed horse with a taxed bridle, on a taxed road. The dying Englishman pours his medicine, which has paid seven per cent., into a spoon that has paid fifteen per cent.; flings himself back upon his chintz bed, which has paid twenty-two per cent.; makes his will on an eight-pound stamp, and expires in the arms of an apothecary, who has paid a license of a hundred pounds for the privilege of putting him to death. His whole property is then immediately taxed from two to ten per cent. Besides the probate, large fees are demanded for burying him in the chancel; his virtues handed down to posterity on taxed marble, and he is then gathered to his fathers, to be taxed no more."

This is the way the English are now taxed, and so it would be with us if the federalists should remain a few years in power.

Execrable as this bill is in itself, and for its objects, and for the consequences which it draws after it, it is still more abominable for the time and manner in which it is driven through Congress, and the contingencies on which its passage is to depend. What is the time?—when the new States are just ready to double their representation, and to present a front which would command respect for their rights, and secure the grant of all their just demands. They are pounced upon in this nick of time, before the arrival of their full representation under the new census, to be manacled and fettered by a law which assumes to be a perpetual settlement of the land question, and to bind their interests for ever. This is the time! what is the manner?—gagged through the House of Representatives by the previous question, and by new rules fabricated from day to day, to stifle discussion, prevent amendments, suppress yeas and nays, and hide the deeds which shunned the light. This was the manner! What was the contingency on which its passage was to depend?—the passage of the bankrupt bill! So that this execrable bill, baited as it was with *douceurs* to old States, and bribes to the new ones, and pressed under the gag, and in the absence of the new representation, was still unable to get through without a bargain for passing the bankrupt bill at the same time. Can such legislation stand? Can God, or man, respect such work?

But a circumstance which distinguished the passage of this bill from all others—which up to that day was without a precedent—was the open exertion of a foreign interest to influence our legislation. This interest had already exerted itself in our presidential election: it now appeared in our legislation. Victorious in the election, they attended Congress to see that their expectations were not disappointed. The lobbies of the House contained them: the boarding-houses of the whig members were their resort: the democracy kept aloof, though under other circumstances they would have been glad to have paid honor to respectable strangers, only avoided now on account of interest and exertions in our elections and legislation. Mr. Fernando Wood of New York brought this scandal to the full notice of the House. "In connection with this point I will add that, at the time this cheat was in preparation—the merchants' petition being drawn up by the brokers and speculators for the congressional market—there were conspicuous bankers in Wall street, anxious observers, if not co-laborers in the movement. Among them might be named Mr. Bates, partner of the celebrated house of Baring, Brothers & Company; Mr. Cryder, of the equally celebrated house of Morrison, Cryder & Company; Mr. Palmer, junior, son of Mr. Horsley Palmer, now, or lately, the governor of the Bank of England. Nor were these 'allies' seen only in Wall street. Their visits were extended to the capitol; and since the commencement of the debate upon this bill in the

other House, they have been in the lobbies, attentive, and apparently interested listeners. I make no comment. Comment is unnecessary. I state facts—undeniable facts: and it is with feelings akin to humiliation and shame that I stand up here and state them." These respectable visitors had a twofold object in their attention to our legislation—the getting a national bank established, as well as the State debts provided for. Mr. Benton also pointed out this outrage upon our legislation:

He then took a rapid view of the bill—its origin, character, and effects; and showed it to be federal in its origin, associated with all the federal measures of the present and past sessions; with bank, tariff, assumption of State debts, dependent upon the bankrupt bill for its passage; violative of the constitution and the compacts with the new States; and crowning all its titles to infamy by drawing capitalists from London to attend this extra session of Congress, to promote the passage of this bill for their own benefit. He read a paragraph from the money article in a New York paper, reciting the names and attendance, on account of this bill, of the foreign capitalists at Washington. The passage was in these words:

"At the commencement of the session, almost every foreign house had a representative here. Wilson, Palmer, Cryder, Bates, Willinck, Hope, Jaudon, and a host of others, came over on various pretences; all were in attendance at Washington, and all seeking to forward the proposed measures. The land bill was to give them three millions per annum from the public Treasury, or thirty millions in ten years, and to raise the value of the stock at least thirty millions more. The revenue bill was to have supplied the deficiency in the Treasury. The loan bill was to have been the basis of an increase of importations and of exchange operations; and the new bank was the instrument of putting the whole in operation."

This Mr. Benton accompanied by an article from a London paper, showing that the capitalists in that city were counting upon the success of their emissaries at Washington, and that the passage of this land bill was the first and most anxious wish of their hearts—that they considered it equivalent to the assumption of the State debts—and that the benefit of the bill would go to themselves. This established the character of the bill, and showed that it had been the means of bringing upon the national legislation the degrading and corrupting influences of a foreign interference. For the first time in the history of our government, foreigners have attended our Congress, to promote the passage of laws for their own benefit. For the first time we have had London capitalists for lobby members; and, mortifying to be told, instead of being repulsed by defeat, they have been encouraged by success; and their future attendance may now be looked for as a matter of course, at our future sessions of Congress, when they have debts to secure, stocks to enhance, or a national bank to establish.

Mr. Benton also denounced the bill for its unconstitutionality, its demagogue character, its demoralizing tendencies, its bid for popularity, and its undaunted attempt to debauch the people with their own money.

The gentleman from Virginia [Mr. Archer], to whose speech I am now replying, in allusion to the frequent cry of breach of the constitution, when there is no breach, says he is sick and weary of the cry, wolf! wolf! when there is no wolf. I say so too. The constitution should not be trifled with—should not be invoked on every petty occasion—should not be proclaimed in danger when there is no danger. Granting that this has been done sometimes—that too often, and with too little consideration, the grave question of constitutionality has been pressed into trivial discussions, and violation proclaimed where there was none: granting this, I must yet be permitted to say that such is not the case now. It is not now a cry of wolf! when there is no wolf. It is no false or sham cry now. The boy cries in earnest this time. The wolf has come! Long, lank, gaunt, hungry, voracious, and ferocious, the beast is here! howling, for its prey, and determined to have it at the expense of the life of the shepherd. The political stockjobbers

and gamblers raven for the public lands, and tear the constitution to pieces to get at them. They seize, pillage, and plunder the lands. It is not a case of misconstruction, but of violation. It is not a case of misunderstanding the constitution, but of assault and battery—of maim and murder—of homicide and assassination—committed upon it. Never has such a daring outrage been perpetrated—never such a contravention of the object of a confederation—never such a total perversion, and barefaced departure, from all the purposes for which a community of States bound themselves together for the defence, and not for the plunder of each other. No, sir! no! The constitution was not made to divide money. This confederacy was not framed for a distribution among its members of lands, money, property, or effects of any kind. It contains rules and directions for raising money—for levying duties equally, which the new tariff will violate; and for raising direct taxes in proportion to federal population; but it contains no rule for dividing money; and the distributors have to make one as they go, and the rule they make is precisely the one that is necessary to carry the bill; and that varies with the varying strength of the distributing party. In 1836, in the deposit act, it was the federal representation in the two Houses of Congress: in this bill, as it came from the House of Representatives, it was the federal numbers. We have put in representation: it will come back to us with numbers; and numbers will prevail; for it is a mere case of plunder—the plunder of the young States by the old ones—of the weak by the strong. Sir, it is sixteen years since these schemes of distribution were brought into this chamber, and I have viewed them all in the same light, and given them all the same indignant opposition. I have opposed all these schemes as unconstitutional, immoral, fatal to the Union, degrading to the people, debauching to the States; and inevitably tending to centralism on one hand or to disruption on the other. I have opposed the whole, beginning with the first proposition of a senator from New Jersey [Mr. Dickerson], to divide five millions of the sinking fund, and following the baneful scheme through all its modifications for the distribution of surplus revenue, and finally of land revenue. I have opposed the whole, adhering to the constitution, and to the objects of the confederacy, and scorning the ephemeral popularity which a venal system of plunder could purchase from the victims, or the dupes of a false and sordid policy.

I scorn the bill: I scout its vaunted popularity: I detest it. Nor can I conceive of an object more pitiable and contemptible than that of the demagogue haranguing for votes, and exhibiting his tables of dollars and acres, in order to show each voter, or each State, how much money they will be able to obtain from the Treasury if the land bill passes. Such haranguing, and such exhibition, is the address of impudence and knavery to supposed ignorance, meanness, and folly. It is treating the people as if they were penny wise and pound foolish; and still more mean than foolish. Why, the land revenue, after deducting the expenses, if fairly divided among the people, would not exceed ninepence a head per annum; if fairly divided among the States, and applied to their debts, it would not supersede above ninepence per annum of taxation upon the units of the population. The day for land sales have gone by. The sales of this year do not exceed a million and a half of dollars, which would not leave more than a million for distribution; which, among sixteen millions of people would be exactly fourpence half penny, Virginia money, per head! a *fip* in New York, and a *picaillon* in Louisiana. At two millions, it would be ninepence a head in Virginia, equivalent to a *levy* in New York, and a *bit* in Louisiana! precisely the amount which, in specie times, a gentleman gives to a negro boy for holding his horse a minute at the door. And for this miserable doit—this insignificant subdivision of a shilling—a York shilling—can the demagogue suppose that the people are base enough to violate their constitution, mean enough to surrender the defence of their country, and stupid enough to be taxed in their coffee, tea, salt, sugar, coats, hats, blankets, shoes, shirts; and every article of comfort, decency, or necessity, which they eat, drink, or wear; or on which they stand, sit, sleep, or lie?

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The bill was bound to pass. Besides being in the same boat with the other cardinal whig measures—bank, bankrupt, repeal of independent treasury—and all arranged to pass together; and besides being pushed along and supported by the London bankers—it contained within itself the means of success. It was richly freighted with inducements to conciliate every interest. To every new State it made a preliminary distribution of ten per centum (in addition to the five per centum allowed by compact), on the amount of the sales within the State: then it came in for a full share of all the rest in proportion to its population. To the same new States it gave also five hundred thousand acres of land; or a quantity sufficient to make up that amount where less had been granted. To the settlers in the new States, including foreigners who had made the declaration of their intentions to become naturalized citizens, it gave a pre-emption right in the public lands, to the amount of one quarter section: 160 acres. Then it distributed the whole amount of the land revenue, after deduction of the ten and the five per centum to the new States, to all the old States and new States together, in proportion to their population: and included all the States yet to be created in this scheme of distribution. And that no part of the people should go without their share in these largesses, the Territories, though not States, and the District of Columbia, though not a Territory, were also embraced in the plan—each to receive in proportion to its numbers. So many inducements to all sections of the country to desire the bill, and such a chance for popularity to its authors, made sure, not only of its passage, but of its claim to the national gratitude. To the eye of patriotism, it was all a venal proceeding—an attempt to buy up the people with their own money—having the money to borrow first. For it so happened that while the distribution bill was passing in one House, to divide out money among the States and the people, there was a loan bill depending in the other House, to borrow twelve millions of dollars for three years; and also, a tax bill to produce eighteen millions a year to reimburse that loan, and to defray the current expenses of the government. To make a gratuitous distribution of the land revenue (equal to several millions per annum), looked like fatuity; and was so in a financial or governmental point of view. But it was supposed that the distribution scheme would be irresistibly popular—that it would chain the people and the States to the party which passed it—and insure them success in the ensuing presidential elections. Baseless calculation, as it applied to the people! Vain hope, as it applied to themselves! The very men that passed the bill had to repeal it, under the sneaking term of suspension, before their terms of service were out—within less than one year from the time it was passed! to be precise, within eleven calendar months and twelve days, from the day of its passage—counting from the days, inclusive of both, on which John Tyler, President, approved and disapproved it—whereof, hereafter. But it passed! and was obliged to pass. It was a case of mutual assurance with the other whig measures, and passed the Senate by a party vote—Mr. Preston excepted—who "broke ranks," and voted with the democracy, making the negative vote 23. The yeas and nays were:

Yeas—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, Woodbridge.

Nays—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Preston, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, Young.

In the House the vote was close—almost even—116 to 108. The yeas and nays were:

Yeas—Messrs. John Quincy Adams, Elisha H. Allen, Landaff W. Andrews, Sherlock J. Andrews, Thomas D. Arnold, John B. Aycrigg, Alfred Babcock, Osmyn Baker, Daniel D. Barnard, Victory Birdseye, Henry Black, Bernard Blair, William W. Boardman, Nathaniel B. Borden, John M. Botts, George N. Briggs, John H. Brockway, David Bronson, Jeremiah Brown, Barker Burnell, William B. Calhoun, Thomas J. Campbell, Robert L. Caruthers, Thomas C. Chittenden, John C. Clark, Staley N. Clarke, James Cooper, Benjamin S. Cowen, Robert B. Cranston, James H. Cravens, Caleb Cushing, Edmund Deberry, John Edwards, Horace Everett, William P. Fessenden, Millard Fillmore, A. Lawrence Foster, Seth M. Gates, Meredith P. Gentry, Joshua R. Giddings, William L. Goggin, Patrick G. Goode, Willis Green, John Greig, Hiland Hall, William Halstead, William S. Hastings, Thomas Henry, Charles Hudson, Hiram P. Hunt, James Irvin, William W. Irvin, Francis James, William Cost Johnson, Isaac D. Jones, John P. Kennedy, Henry S. Lane, Joseph Lawrence, Archibald L. Linn, Thomas F. Marshall, Samson Mason, Joshua Mathiot, John Mattocks, John P. B. Maxwell, John Maynard, John Moore, Christopher Morgan, Calvary Morris, Jeremiah Morrow, Thomas B. Osborne, Bryan Y. Owsley, James A. Pearce, Nathaniel G. Pendleton, John Pope, Cuthbert Powell, George H. Proffit, Robert Ramsey, Benjamin Randall, Alexander Randall, Joseph F. Randolph, Kenneth Rayner, Joseph Ridgway, George B. Rodney, William Russel, Leverett Saltonstall, John Sergeant, William Simonton, William Slade, Truman Smith, Augustus R. Sollers, James C. Sprigg, Edward Stanly, Samuel Stokely, Charles C. Stratton, Alexander H. H. Stuart, George W. Summers, John Taliaferro, John B. Thompson, Richard W. Thompson, Joseph L. Tillinghast, George W. Toland, Thomas A. Tomlinson, Philip Triplett, Joseph Trumbull, Joseph R. Underwood, Henry Van Rensselaer, David Wallace, William H. Washington, Edward D. White, Joseph L. White, Thomas W. Williams, Lewis Williams, Joseph L. Williams, Robert C. Winthrop, Thomas Jones Yorke, Augustus Young, John Young.

Those who voted in the negative, are:

Nays—Messrs. Julius C. Alford, Archibald H. Arrington, Charles G. Atherton, Linn Banks, Henry W. Beeson, Benjamin A. Bidlack, Samuel S. Bowne, Linn Boyd, David P. Brewster, Aaron V. Brown, Milton Brown, Joseph Egbert, Charles G. Ferris, John G. Floyd, Joseph Fornance, Thomas F. Foster, Roger L. Gamble, Thomas W. Gilmer, William O. Goode, Samuel Gordon, James Graham, Amos Gustine, Richard W. Habersham, William A. Harris, John Hastings, Samuel L. Hays, Isaac E. Holmes, George W. Hopkins, Jacob Houck, jr., George S. Houston, Edmund W. Hubard, Robert M. T. Hunter, William Jack, Cave Johnson, John W. Jones, George M. Keim, Edmund Burke, Sampson H. Butler, William Butler, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, William B. Campbell, George B. Cary, Reuben Chapman, Nathan Clifford, Andrew Kennedy, Thomas Butler King, Dixon H. Lewis, Nathaniel S. Littlefield, Joshua A. Lowell, Abraham McClellan, Robert McClellan, James J. McKay, John McKeon, Francis Mallory, Albert G. Marchand, Alfred Marshall, John Thompson Mason, James Mathews, William Medill, James A. Meriwether, John Miller, Peter Newhard, Eugenius A. Nisbet, William M. Oliver, William Parmenter, Samuel Patridge, William W. Payne, Francis W. Pickens, Arnold Plumer, James G. Clinton, Walter Coles, John R. J. Daniel, Richard D. Davis, John B. Dawson, Ezra Dean, Davis Dimock, jr., William Doan, Andrew W. Doig, Ira A. Eastman, John C. Edwards, John R. Reding, Abraham Rencher, R. Barnwell Rhett, Lewis Riggs, James Rogers, James I. Roosevelt, John Sanford, Romulus M. Saunders, Tristram Shaw, Augustine H. Shepperd, Benjamin G. Shields, John Snyder, Lewis Steenrod, Thomas D. Sumter, George Sweney, Hopkins L. Turney, John Van Buren, Aaron Ward, Lott Warren, Harvey M. Watterson, John B. Weller, John Westbrook, James W. Williams, Henry A. Wise, Fernando Wood.

The progress of the abuse inherent in a measure so vicious, was fully illustrated in the course of these distribution-bills. First, they were merely to relieve the distresses of the people: now they were to make payment of State debts, and to enhance the price of State stocks in the hands of London capitalists. In the beginning they were to divide a surplus on hand, for which the government had no use, and which ought to be returned to the people who had paid it, and who now needed it: afterwards it was to divide the land-money years ahead without knowing whether there would be any surplus or not: now they are for dividing money when there is none to divide—when there is a treasury deficit—and loans and taxes required to supply it. Originally, they were for short and limited terms—first, for one year—afterwards for five years: now for perpetuity. This bill provides for eternity. It is a curiosity in human legislation, and contained a clause which would be ridiculous if it had not been impious—an attempt to manacle future Congresses, and to bind posterity through unborn generations. The clause ran in these words: That if, at any time during the existence of this act, duties on imported goods should be raised above the rate of the twenty per centum on the value as provided in the compromise act of 1833, then the distribution of the land revenue should be suspended, and continue so until reduced to that rate; and then be resumed. Fallacious attempt to bind posterity! It did not even bind those who made it: for the same Congress disregarded it. But it shows to what length the distribution spirit had gone; and that even protective tariff—that former sovereign remedy for all the wants of the people—was sacrificed to it. Mr. Clay undertaking to bind all the Congresses for ever to uniform twenty per centum ad valorem duties. And while the distribution-bill thus undertook to protect and save the compromise of 1833, the new tariff-bill of this session, undertook to return the favor by assuming to protect and save the distribution-bill. Its second section contained this proviso: That if any duty exceeding twenty per centum on the value shall be levied before the 30th day of June, 1842, it should not stop the distribution of the land revenue, as provided for in the distribution act of the present session. Thus, the two acts were made mutual assurers, each stipulating for the life of the other, and connecting things which had no mutual relation except in the coalitions of politicians; but, like other assurers, not able to save the lives they assured. Both acts were gone in a year! And the marvel is how such flimsy absurdities could be put into a statute? And the answer, from the necessity of conciliating some one’s vote, without which the bills could not pass. Thus, some Southern anti-tariff men would not vote for the distribution bill unless the compromise of 1833 was protected; and some distribution men of the West would not vote for the anti-tariff act unless the distribution bill was protected. And hence the ridiculous, presumptuous, and idle expedient of mutually insuring each other.

69. Institution Of The Hour Rule In Debate In The House Of Representatives: Its Attempt, And Repulse In The Senate

This session is remarkable for the institution of the hour rule in the House of Representatives—the largest limitation upon the freedom of debate which any deliberative assembly ever imposed upon itself, and presents an eminent instance of permanent injury done to free institutions in order to get rid of a temporary annoyance. It was done at a time when the party, called whig, was in full predominance in both Houses of Congress, and in the impatience of delay in the enactment of their measures. It was essentially a whig measure—though with exceptions each way—the body of the whigs going for it; the body of the democracy against it—several eminent whigs voting with them: Mr. John Quincy Adams, William C. Dawson, James A. Pearce, Kenneth Rayner, Edward Stanly, Alexander H. H. Stuart, Edward D. White and others. Mr. Lott Warren moved the rule as an amendment to the body of the rules; and, in the same moment, moved the previous question: which was carried. The vote was immediately taken, and the rule established by a good majority—only seventy-five members voting against it. They were:

Messrs. John Quincy Adams, Archibald H. Arrington, Charles G. Atherton, Linn Banks, Daniel D. Barnard, John M. Botts, Samuel S. Bowne, Linn Boyd, David P. Brewster, Aaron V. Brown, Edmund Burke, Barker Burnell, Green W. Caldwell, John Campbell, Robert L. Caruthers, George B. Cary, Reuben Chapman, James G. Clinton, Walter Coles, John R. J. Daniel, Wm. C. Dawson, Ezra Dean, Andrew W. Doig, Ira A. Eastman, Horace Everett, Charles G. Ferris, John G. Floyd, Charles A. Floyd, William O. Goode, Samuel Gordon, Samuel L. Hays, George W. Hopkins, Jacob Houck, jr., Edmund W. Hubard, Charles Hudson, Hiram P. Hunt, William W. Irwin, William Jack, Cave Johnson, John W. Jones, George M. Keim, Andrew Kennedy, Thomas Butler King, Dixon H. Lewis, Nathaniel S. Littlefield, Joshua A. Lowell, Abraham McClellan, Robert McClellan, James J. McKay, Francis Mallory, Alfred Marshall, Samson Mason, John Thompson Mason, John Miller, Peter Newhard, William Parmenter, William W. Payne, James A. Pearce, Francis W. Pickens, Kenneth Rayner, John R. Reding, Lewis Riggs, Romulus M. Saunders, William Slade, John Snyder, Augustus R. Sollers, James C. Sprigg, Edward Stanly, Lewis Steenrod, Alexander H. H. Stuart, Hopkins L. Turney, Aaron Ward, John Westbrook, Edward D. White, Joseph L. Williams.

The Roman republic had existed four hundred and fifty years, and was verging towards its fall under the first triumvirate—(Cæsar, Pompey, and Crassus)—before pleadings were limited to two hours before the Judices Selecti. In the Senate the speeches of senators were never limited at all; but even the partial limitation then placed upon judicial pleadings, but which were, in fact, popular orations, drew from Cicero an affecting deprecation of its effect upon the cause of freedom, as well as upon the field of eloquence. The reader of the admired treatise on oratory, and notices of celebrated orators, will remember his lamentation—as wise in its foresight of evil consequences to free institutions, as mournful and affecting in its lamentation over the decline of oratory. Little could he have supposed that a popular assembly should ever exist, and in a country where his writings were read, which would voluntarily impose upon itself a far more rigorous limitation than the one over which he grieved. Certain it is, that with our incessant use of the previous question, which cuts off all debate, and the hour rule which limits a speech to sixty minutes (constantly reduced by

interruptions); and the habit of fixing an hour at which the question shall be taken, usually brief, and the intermediate little time not secure for that question: with all these limitations upon the freedom of debate in the House, certain it is that such an anomaly was never seen in a deliberative assembly, and the business of a people never transacted in the midst of such ignorance of what they are about by those who are doing it.

No doubt the license of debate has been greatly abused in our halls of Congress—as in those of the British parliament: but this suppression of debate is not the correction of the abuse, but the destruction of the liberty of speech: and that, not as a personal privilege, but as a representative right, essential to the welfare of the people. For fifty years of our government there was no such suppression: in no other country is there the parallel to it. Yet in all popular assemblies there is an abuse in the liberty of speech, inherent in the right of speech, which gives to faction and folly the same latitude as to wisdom and patriotism. The English have found the best corrective: it is in the House itself—its irregular power: its refusal to hear a member further when they are tired of him. A significant scraping and coughing warns the annoying speaker when he should cease: if the warning is not taken, a tempest drowns his voice: when he appeals to the chair, the chair recommends him to yield to the temper of the House. A few examples reduce the practice to a rule—insures its observance; and works the correction of the abuse without the destruction of debate. No man speaking to the subject, and giving information to the House, was ever scraped and coughed down, in the British House of Commons. No matter how plain his language, how awkward his manner, how confused his delivery, so long as he gives information he is heard attentively; while the practice falls with just, and relentless effect upon the loquacious members, who mistake volubility for eloquence, who delight themselves while annoying the House—who are insensible to the proprieties of time and place, take the subject for a point to stand on: and then speak off from it in all directions, and equally without continuity of ideas or disconnection of words. The practice of the British House of Commons puts an end to all such annoyance, while saving every thing profitable that any member can utter.

The first instance of enforcing this new rule stands thus recorded in the Register of Debates:

“Mr. Pickens proceeded, in the next place to point out the items of expenditure which might, without the least injury to the interests of the government or to the public service, suffer retrenchment. He quoted the report of the Secretary of the Treasury of December 9, 1840; from it he took the several items, and then stated how much, in his opinion, each might be reduced. The result of the first branch of this reduction of particulars was a sum to be retrenched amounting to $852,000. He next went into the items of pensions, the Florida war, and the expenditures of Congress; on these, with a few minor ones in addition, he estimated that there might, without injury, be a saving of four millions. Mr. P. had gotten thus far in his subject, and was just about to enter into a comparison of the relative advantages of a loan and of Treasury notes, when

“The Chair here reminded Mr. Pickens that his hour had expired.

“Mr. Pickens. The hour out?

“The Chair. Yes, sir.

“Mr. Pickens. [Looking at his watch.] Bless my soul! Have I run my race?

“Mr. Holmes asked whether his colleague had not taken ten minutes for explanations?

“Mr. Warren desired that the rule be enforced.

“Mr. Pickens denied that the House had any constitutional right to pass such a rule.

“The Chair again reminded Mr. Pickens that he had spoken an hour.

“Mr. Pickens would, then, conclude by saying it was the most infamous rule ever passed by any legislative body.

“Mr. J. G. Floyd of New York, said the gentleman had been frequently interrupted, and had, therefore, a right to continue his remarks.

“The Chair delivered a contrary opinion.

“Mr. Floyd appealed from his decision.

“The Chair then rose to put the question, whether the decision of the Chair should stand as the judgment of the House? when

“Mr. Floyd withdrew his appeal.

“Mr. Dawson suggested whether the Chair had not possibly made a mistake with respect to the time.

“The Chair said there was no mistake.

“Mr. Pickens then gave notice that he would offer an amendment.

“The Chair remarked that the gentleman was not in order.

“Mr. Pickens said that if the motion to strike out the enacting clause should prevail, he would move to amend the bill by introducing a substitute, giving ample means to the Treasury, but avoiding the evils of which he complained in the bill now under consideration.”

The measure having succeeded in the House which made the majority master of the body, and enabled them to pass their bills without resistance or exposure, Mr. Clay undertook to do the same thing in the Senate. He was impatient to pass his bills, annoyed at the resistance they met, and dreadfully harassed by the species of warfare to which they were subjected; and for which he had no turn. The democratic senators acted upon a system, and with a thorough organization, and a perfect understanding. Being a minority, and able to do nothing, they became assailants, and attacked incessantly; not by formal orations against the whole body of a measure, but by sudden, short, and pungent speeches, directed against the vulnerable parts; and pointed by proffered amendments. Amendments were continually offered—a great number being prepared every night, and placed in suitable hands for use the next day—always commendably calculated to expose an evil, and to present a remedy. Near forty propositions of amendment were offered to the first fiscal agent bill alone—the yeas and nays taken upon them seven and thirty times. All the other prominent bills—distribution, bankrupt, fiscal corporation—new tariff act, called revenue—were served the same way. Every proposed amendment made an issue, which fixed public attention, and would work out in our favor—end as it might. If we carried it, which was seldom, there was a good point gained: if we lost it, there was a bad point exposed. In either event we had the advantage of discussion, which placed our adversaries in the wrong; and the speaking fact of the yeas and nays—which told how every man was upon every point. We had in our ranks every variety of speaking talent, from plain and calm up to fiery and brilliant—and all matter-of-fact men—their heads well stored with knowledge. There were but twenty-two of us; but every one a speaker, and effective. We kept their measures upon the anvil, and hammered them continually: we impaled them against the wall, and stabbed them incessantly. The Globe newspaper was a powerful ally (Messrs. Blair and Rives); setting off all we did to the best advantage in strong editorials—and carrying out our speeches, fresh and hot, to the people: and we felt victorious in the midst of unbroken defeats. Mr. Clay’s temperament could not stand it, and he was determined to silence the troublesome minority, and got the acquiescence

of his party, and the promise of their support: and boldly commenced his operations—avowing his design, at the same time, in open Senate.

It was on the 12th day of July—just four days after the new rule had been enforced in the House, and thereby established (for up to that day, it was doubtful whether it could be enforced)—that Mr. Clay made his first movement towards its introduction in the Senate; and in reply to Mr. Wright of New York—one of the last men in the world to waste time in the Senate, or to speak without edification to those who would listen. It was on the famous fiscal bank bill, and on a motion of Mr. Wright to strike out the large subscription reserved for the government, so as to keep the government unconnected with the business of the bank. The mover made some remarks in favor of his motion—to which Mr. Clay replied: and then went on to say:

"He could not help regarding the opposition to this measure as one eminently calculated to delay the public business, with no other object that he could see than that of protracting to the last moment the measures for which this session had been expressly called to give to the people. This too was at a time when the whole country was crying out in an agony of distress for relief."

These remarks, conveying a general imputation upon the minority senators of factious conduct in delaying the public business, and thwarting the will of the people, justified an answer from any one of them to whom it was applicable: and first received it from Mr. Calhoun.

Mr. Calhoun was not surprised at the impatience of the senator from Kentucky, though he was at his attributing to this side of the chamber the delays and obstacles thrown in the way of his favorite measure. How many days did the senator himself spend in amending his own bill? The bill had been twelve days before the Senate, and eight of those had been occupied by the friends of the bill. That delay did not originate on this side of the House; but now that the time which was cheerfully accorded to him and his friends is to be reciprocated, before half of it is over, the charge of factious delay is raised. Surely the urgency and impatience of the senator and his friends cannot be so very great that the minority must not be allowed to employ as many days in amending their bill as they took themselves to alter it. The senator from Kentucky says he is afraid, if we go on in this way, we will not get through the measures of this session till the last of autumn. Is not the fault in himself, and in the nature of the measures he urges so impatiently? These measures are such as the senators in the minority are wholly opposed to on principle—such as they conscientiously believe are unconstitutional—and is it not then right to resist them, and prevent, if they can, all invasions of the constitution? Why does he build upon such unreasonable expectations as to calculate on carrying measures of this magnitude and importance with a few days of hasty legislation on each? What are the measures proposed by the senator? They comprise the whole federal system, which it took forty years, from 1789 to 1829, to establish—but which are now, happily for the country, prostrate in the dust. And it is these measures, fraught with such important results that are now sought to be hurried through in one extra session; measures which, without consuming one particle of useless time to discuss fully, would require, instead of an extra session of Congress, four or five regular sessions. The senator said the country was in agony, crying for "action," "action." He understood whence that cry came—it came from the holders of State stocks, the men who expected another expansion, to relieve themselves at the expense of government. "Action"—"action," meant nothing but "plunder," "plunder," "plunder;" and he assured the gentleman, that he could not be more anxious in urging on a system of plunder than he (Mr. Calhoun) would be in opposing it. He so

understood the senator, and he inquired of him, whether he called this an insidious amendment?

This was a sharp reply, just in its retort, spirited in its tone, judicious in expanding the basis of the new debate that was to come on; and greatly irritated Mr. Clay. He immediately felt that he had no right to impeach the motives of senators, and catching up Mr. Calhoun on that point, and strongly contesting it, brought on a rapid succession of contradictory asseverations: Thus:

"Mr. Clay. I said no such thing, sir; I did not say any thing about the *motives* of senators.

"Mr. Calhoun said he understood the senator's meaning to be that the motives of the opposition were factious and frivolous.

"Mr. Clay. I said no such thing, sir.

"Mr. Calhoun. It was so understood.

"Mr. Clay. No, sir; no, sir.

"Mr. Calhoun. Yes, sir, yes; it could be understood in no other way.

"Mr. Clay. What I did say, was, that the *effect* of such amendments, and of consuming time in debating them, would be a waste of that time from the business of the session; and, consequently, would produce unnecessary delay and embarrassment. I said nothing of *motives*—I only spoke of the practical *effect* and result.

"Mr. Calhoun said he understood it had been repeated for the second time that there could be no other motive or object entertained by the senators in the opposition, in making amendments and speeches on this bill, than to embarrass the majority by frivolous and vexatious delay.

"Mr. Clay insisted that he made use of no assertions as to *motives*.

"Mr. Calhoun. If the senator means to say that he does not accuse this side of the House of bringing forward propositions for the sake of delay, he wished to understand him.

"Mr. Clay. I intended that.

"Mr. Calhoun repeated that he understood the senator to mean that the senators in the opposition were spinning out the time for no other purpose but that of delaying and embarrassing the majority.

"Mr. Clay admitted that was his meaning, though not thus expressed."

So ended this keen colloquy in which the pertinacity, and clear perceptions of Mr. Calhoun brought out the admission that the impeachment of motives was intended, but not expressed. Having got this admission Mr. Calhoun went on to defy the accusation of faction and frivolity, and to declare a determination in the minority to continue in their course; and put a peremptory question to Mr. Clay.

"Mr. Calhoun observed that to attempt, by such charges of factious and frivolous motives, to silence the opposition, was wholly useless. He and his friends had principles to contend for that were neither new nor frivolous, and they would here now, and at all times, and in all places, maintain them against those measures, in whatever way they thought most efficient. Did the senator from Kentucky mean to apply to the Senate the gag law passed in the other branch of Congress? If he did, it was time he should know that he (Mr. Calhoun), and his friends were ready to meet him on that point."

This question, and the avowed readiness to meet the gagging attempt, were not spoken without warrant. The democratic senators having got wind of what was to come, had consulted together and taken their resolve to defy and to dare it—to resist its introduction, and trample upon the rule, if voted: and in the mean time to gain an advantage with the public by rendering odious their attempt. Mr. Clay answered argumentatively for the rule, and that the people were for it:

"Let those senators go into the country, and they will find the whole body of the people complaining of the delay and interruption of the national business, by their long speeches in Congress; and if they will be but admonished by the people, they will come back with a lesson to cut short their debating, and give their attention more to action than to words. Who ever heard that the people would be dissatisfied with the abridgment of speeches in Congress? He had never heard the shortness of speeches complained of. Indeed, he should not be surprised if the people would got up remonstrances against lengthy speeches in Congress."

With respect to the defiance, Mr. Clay returned it, and declared his determination to bring forward the measure.

"With regard to the intimation of the gentleman from South Carolina [Mr. Calhoun], he understood him and his course perfectly well, and told him and his friends that, for himself, he knew not how his friends would act; he was ready at any moment to bring forward and support a measure which should give to the majority the control of the business of the Senate of the United States. Let them denounce it as much as they pleased in advance: unmoved by any of their denunciations and threats, standing firm in the support of the interests which he believed the country demands, for one, he was ready for the adoption of a rule which would place the business of the Senate under the control of a majority of the Senate."

Mr. Clay was now committed to bring forward the measure; and was instantly and defyingly invited to do so.

"Mr. Calhoun said there was no doubt of the senator's predilection for a gag law. Let him bring on that measure as soon as ever he pleases.

"Mr. Benton. Come on with it."

Without waiting for any thing further from Mr. Clay, Mr. Calhoun proceeded to show him, still further, how little his threat was heeded and taunted him with wishing to revive the spirit of the alien and sedition laws:

"Mr. Calhoun said it must be admitted that if the senator was not acting on the federal side, he would find it hard to persuade the American people of the fact, by showing them his love of gag laws, and strong disposition to silence both the national councils and the press. Did he not remember something about an alien and sedition law, and can he fail to perceive the relationship with the measure he contemplates to put down debate here? What is the difference, in principle, between his gag law and the alien and sedition law? We are gravely told that the speaking of the representatives of the people, which is to convey to them full information on the subjects of legislation in their councils, is worse than useless, and must be abated. Who consumed the time of last Congress in long speeches, vexatious and frivolous attempts to embarrass and thwart the business of the country, and useless opposition, tending to no end but that out of doors, the presidential election? Who but the senator and his party, then in the minority? But now, when they are in the majority, and the most important measures ever pressed forward together in one session, he is the first to threaten a gag law, to choke off debate, and deprive the minority even of the poor privilege of entering their protest."

Of all the members of the Senate, one of the mildest and most amicable—one of the gentlest language, and firmest purpose—was Dr. Linn, of Missouri. The temper of the minority senators may be judged by the tone and tenor of his remarks.

"He (Mr. Linn) would for his part, make a few remarks here, and in doing so he intended to be as pointed as possible, for he had now, he found, to contend for liberty of speech; and while any of that liberty was left, he would give his remarks the utmost bounds consistent with his own sense of what was due to himself, his constituents, and the country. The whigs, during the late administration, had brought to bear a system of assault against the majority in power, which might justly be characterized as frivolous and vexatious, and nothing else; yet they had always been treated by the majority with courtesy and forbearance; and the utmost latitude of debate had been allowed them without interruption. In a session of six months, they consumed the greater part of the time in speeches for electioneering effect, so that only twenty-eight bills were passed. These electioneering speeches, on all occasions that could be started, whether the presentation of a petition, motion, or a resolution, or discussion of a bill, were uniformly and studiously of the most insulting character to the majority, whose mildest form of designation was "collar men;" and other epithets equally degrading. How often had it been said of the other branch of Congress, "What could be expected from a House so constituted?" Trace back the course of that party, step by step, to 1834, and it may be tracked in blood. The outrages in New York in that year are not forgotten. The fierce and fiendish spirit of strife and usurpation which prompted the seizure of public arms, to turn them against those who were their fellow-citizens, is yet fresh as ever, and ready to win its way to what it aims at. What was done then, under the influence and shadow of the great money power, may be done again. He (Mr. Linn) had marked them, and nothing should restrain him from doing his duty and standing up in the front rank of opposition to keep them from the innovations they meditated. Neither the frown nor menace of any leader of that party—no lofty bearing, or shaking of the mane—would deter him from the fearless and honest discharge of those obligations which were due to his constituents and to the country. He next adverted to the conduct of the whig party when the sub-treasury was under discussion, and reminded the present party in power of the forbearance with which they had been treated, contrasting that treatment with the manifestations now made to the minority. We are now, said Mr. Linn in conclusion, to be checked; but I tell the senator from Kentucky, and any other senator who chooses to tread in his steps, that he is about to deal a double handed game at which two can play. He is welcome to try his skill. But I would expect that some on that side are not prepared to go quite so far; and that there is yet among them sufficient liberality to counterbalance political feeling, and induce them not to object to our right of spending as much time in trying to improve their bill as they have taken themselves to clip and pare and shape it to their own fancies."

Here this irritating point rested for the day—and for three days, when it was revived by the reproaches and threats of Mr. Clay against the minority.

"The House (he said) had been treading on the heels of the Senate, and at last had got the start of it a long way in advance of the business of this session. The reason was obvious. The majority there is for action, and has secured it. Some change was called for in this chamber. The truth is that the minority here control the action of the Senate, and cause all the delay of the public business. They obstruct the majority in the dispatch of all business of importance to the country, and particularly those measures which the majority is bound to give to the country without further delay. Did not this reduce the majority to the necessity of adopting some measure which would place the control of the business of the session in their hands? It was impossible to do without it: it must be resorted to."

To this Mr. Calhoun replied:

“The senator from Kentucky tells the Senate the other House has got before it. How has the other House got before the Senate? By a despotic exercise of the power of a majority. By destroying the liberties of the people in gagging their representatives. By preventing the minority from its free exercise of its right of remonstrance. This is the way the House has got before the Senate. And now there was too much evidence to doubt that the Senate was to be made to keep up with the House by the same means.”

Mr. Clay, finding such undaunted opposition to the hour rule, replied in a way to let it be seen that the threat of that rule was given up, and that a measure of a different kind, but equally effective, was to be proposed; and would be certainly adopted. He said:

“If he did not adopt the same means which had proved so beneficial in the other House, he would have something equally efficient to offer. He had no doubt of the cheerful adoption of such a measure when it should come before the Senate. So far from the rule being condemned, he would venture to say that it would be generally approved. It was the means of controlling the business, abridging long and unnecessary speeches, and would be every way hailed as one of the greatest improvements of the age.”

This glimpse of another measure, confirmed the minority in the belief of what they had heard—that several whig senators had refused to go with Mr. Clay for the hour rule, and forced him to give it up; but they had agreed to go for the previous question, which he held to be equally effective; and was, in fact, more so—as it cut off debate at any moment. It was just as offensive as the other. Mr. King, of Alabama, was the first to meet the threat, under this new form, and the Register of Debates shows this scene:

“Mr. King said the senator from Kentucky complained of three weeks and a half having been lost in amendments to his bill. Was not the senator aware that it was himself and his friends had consumed most of that time? But now that the minority had to take it up, the Senate is told there must be a gag law. Did he understand that it was the intention of the senator to introduce that measure?

“Mr. Clay. I will, sir; I will!

“Mr. King. I tell the senator, then, that he may make his arrangements at his boarding-house for the winter.

“Mr. Clay. Very well, sir.

“Mr. King was truly sorry to see the honorable senator so far forgetting what is due to the Senate, as to talk of coercing it by any possible abridgment of its free action. The freedom of debate had never yet been abridged in that body, since the foundation of this government. Was it fit or becoming, after fifty years of unrestrained liberty, to threaten it with a gag law? He could tell the senator that, peaceable a man as he (Mr. King) was, whenever it was attempted to violate that sanctuary, he, for one, would resist that attempt even unto the death.”

The issue was now made up, and the determination on both sides declared—on the part of Mr. Clay, speaking in the name of his party, to introduce the previous question in the Senate, for the purpose of cutting off debate and amendments; on the part of the minority, to resist the rule—not only its establishment, but its execution. This was a delicate step, and required justification before the public, before a scene of resistance to the execution—involving disorder, and possibly violence—should come on. The scheme had been denounced, and defied; but the ample reasons against it had not been fully stated; and it was deemed best that a solid foundation of justification for whatever might happen, should be laid beforehand in a

reasoned and considered speech. The author of this View, was required to make that speech; and for that purpose followed Mr. King.

“Mr. Benton would take this opportunity to say a word on this menace, so often thrown out, of a design to stifle debate, and stop amendments to bills in this chamber. He should consider such an attempt as much a violation of the constitution, and of the privileges of the chamber, as it would be for a military usurper to enter upon us, at the head of his soldiery, and expel us from our seats.

“It is not in order, continued Mr. B.—it is not in order, and would be a breach of the privilege of the House of Representatives, to refer to any thing which may have taken place in that House. My business is with our own chamber, and with the threat which has so often been uttered on this floor, during this extra session, of stifling debate, and cutting off amendments, by the introduction of the previous question.

“With respect to debates, senators have a constitutional right to speak; and while they speak to the subject before the House, there is no power any where to stop them. It is a constitutional right. When a member departs from the question, he is to be stopped: it is the duty of the Chair—your duty, Mr. President, to stop him—and it is the duty of the Senate to sustain you in the discharge of this duty. We have rules for conducting the debates, and these rules only require to be enforced in order to make debates decent and instructive in their import, and brief and reasonable in their duration. The government has been in operation above fifty years, and the freedom of debate has been sometimes abused, especially during the last twelve years, when those out of power made the two houses of Congress the arena of political and electioneering combat against the democratic administration in power. The liberty of debate was abused during this time; but the democratic majority would not impose gags and muzzles on the mouths of the minority; they would not stop their speeches; considering, and justly considering, that the privilege of speech was inestimable and inattackable—that some abuse of it was inseparable from its enjoyment—and that it was better to endure a temporary abuse than to incur a total extinction of this great privilege.

“But, sir, debate is one thing, and amendments another. A long speech, wandering off from the bill, is a very different thing from a short amendment, directed to the texture of the bill itself, and intended to increase its beneficial, or to diminish its prejudicial action. These amendments are the point to which I now speak, and to the nature of which I particularly invoke the attention of the Senate.

“By the constitution of the United States, each bill is to receive three readings, and each reading represents a different stage of proceeding, and a different mode of action under it. The first reading is for information only; it is to let the House know what the bill is for, what its contents are; and then neither debate nor amendment is expected, and never occurs, except in extraordinary cases. The second reading is for amendments and debate, and this reading usually takes place in Committee of the Whole in the House of Representatives, and in *quasi* committee in the Senate. The third reading, after the bill is engrossed, is for passage; and then it cannot be amended, and is usually voted upon with little or no debate. Now, it is apparent that the second reading of the bill is the important one—that it is the legislative—the law-making—reading; the one at which the collective wisdom of the House is concentrated upon it, to free it from defects, and to improve it to the utmost—to illustrate its nature, and trace its consequences. The bill is drawn up in a committee; or it is received from a department in the form of a *projet de loi*, and reported by a committee; or it is the work of a single member, and introduced on leave. The bill, before perfected by amendments, is the work of a committee, or of a head of a department, or of a single member; and if amendments are prevented, then the legislative power of the House is annihilated; the edict of a secretary,

of a committee, or of a member, becomes the law; and the collected and concentrated wisdom and experience of the House has never been brought to bear upon it.

"The previous question cuts off amendments; and, therefore, neither in England nor in the United States, until now, in the House of Representatives, has that question ever been applied to bills in Committee of the Whole, on the second reading. This question annihilates legislation, sets at nought the wisdom of the House, and expunges the minority. It is always an invidious question, but seldom enforced in England, and but little used in the earlier periods of our own government. It has never been used in the Senate at all, never at any stage of the bill; in the House of Representatives it has never been used on the second reading of a bill, in Committee of the Whole, until the present session—this session, so ominous in its call and commencement, and which gives daily proof of its alarming tendencies, and of its unconstitutional, dangerous, and corrupting measures. The previous question has never yet been applied in this chamber; and to apply it now, at this ominous session, when all the old federal measures of fifty years ago are to be conglomerated into one huge and frightful mass, and rushed through by one convulsive effort; to apply it now, under such circumstances, is to muzzle the mouths, to gag the jaws, and tie up the tongues of those whose speeches would expose the enormities which cannot endure the light, and present to the people these ruinous measures in the colors in which they ought to be seen.

"The opinion of the people is invoked—they are said to be opposed to long speeches, and in favor of action. But, do they want action without deliberation, without consideration, without knowing what we are doing? Do they want bills without amendments—without examination of details—without a knowledge of their effect and operation when they are passed? Certainly the people wish no such thing. They want nothing which will not bear discussion. The people are in favor of discussion, and never read our debates with more avidity than at this ominous and critical extraordinary session. But I can well conceive of those who are against those debates, and want them stifled. Old sedition law federalism is against them: the cormorants who are whetting their bills for the prey which the acts of this session are to give them, are against them: and the advocates of these acts, who cannot answer these arguments, and who shelter weakness under *dignified* silence, they are all weary, sick and tired of a contest which rages on one side only, and which exposes at once the badness of their cause and the defeat of its defenders. Sir, this call for action! action! action! (as it was well said yesterday), comes from those whose cry is, plunder! plunder! plunder!

"The previous question, and the old sedition law, are measures of the same character, and children of the same parents, and intended for the same purposes. They are to hide light—to enable those in power to work in darkness—to enable them to proceed unmolested—and to permit them to establish ruinous measures without stint, and without detection. The introduction of this previous question into this body, I shall resist as I would resist its conversion into a bed of justice—*Lit de Justice*—of the old French monarchy, for the registration of royal edicts. In these beds of justice—the Parliament formed into a bed of justice—the kings before the revolution, caused their edicts to be registered without debate, and without amendment. The king ordered it, and it was done—his word became law. On one occasion, when the Parliament was refractory, Louis XIV. entered the chamber, booted and spurred—a whip in his hand—a horsewhip in his hand—and stood on his feet until the edict was registered. This is what has been done in the way of passing bills without debate or amendment, in France. But, in extenuation of this conduct of Louis the XIV., it must be remembered that he was a very young man when he committed this indiscretion, more derogatory to himself than to the Parliament which was the subject of the indignity. He never repeated it in his riper age, for he was a gentleman as well as a king, and in a fifty years' reign never repeated that indiscretion of his youth. True, no whips may be brought into our

legislative halls to enforce the gag and the muzzle, but I go against the things themselves—against the infringement of the right of speech—and against the annihilation of our legislative faculties by annihilating the right of making amendments. I go against these; and say that we shall be nothing but a bed of justice for the registration of presidential, or partisan, or civil chieftain edicts, when debates and amendments are suppressed in this body.

”Sir, when the previous question shall be brought into this chamber—when it shall be applied to our bills in our *quasi* committee—I am ready to see my legislative life terminated. I want no seat here when that shall be the case. As the Romans held their natural lives, so do I hold my political existence. The Roman carried his life on the point of his sword; and when that life ceased to be honorable to himself, or useful to his country, he fell upon his sword, and died. This made of that people the most warlike and heroic nation of the earth. What they did with their natural lives, I am willing to do with my legislative and political existence: I am willing to terminate it, either when it shall cease to be honorable to myself, or useful to my country; and that I feel would be the case when this chamber, stripped of its constitutional freedom, shall receive the gag and muzzle of the previous question.”

Mr. Clay again took the floor. He spoke mildly, and coaxingly—reminded the minority of their own course when in power—gave a hint about going into executive business—but still felt it his duty to give the majority the control of the public business, notwithstanding the threatened resistance of the minority.

“He (Mr. Clay) would, however, say that after all, he thought the gentlemen on the other side would find it was better to go on with the public business harmoniously and good humoredly together, and all would get along better. He would remind the gentlemen of their own course when in power, and the frequent occasions on which the minority then acted with courtesy in allowing their treasury note bills to pass, and on various other occasions. He thought it was understood that they were to go into executive session, and afterwards take up the loan bill. He should feel it his duty to take measures to give the majority the control of the business, maugre all the menaces that had been made.”

Here was a great change of tone, and the hint about going into executive business was a sign of hesitation, faintly counterbalanced by the reiteration of his purpose under a sense of duty. It was still the morning hour—the hour for motions, before the calendar was called: the hour for the motion he had been expected to make. That motion was evidently deferred. The intimation of going into executive business, was a surprise. Such business was regularly gone into towards the close of the day’s session—after the day’s legislative work was done; and this course was never departed from except in emergent cases—cases which would consume a whole day, or could not wait till evening: and no such cases were known to exist at present. This was a pause, and losing a day in the carrying along of those very measures, for hastening which the new rule was wanted. Mr. Calhoun, to take advantage of the hesitation which he perceived, and to increase it, by daring the threatened measure, instantly rose. He was saluted with cries that “the morning hour was out:” “not yet!” said he: “it lacks one minute of it; and I avail myself of that minute:” and then went on for several minutes.

“He thought this business closely analogous to the alien and sedition laws. Here was a palpable attempt to infringe the right of speech. He would tell the senator that the minority had rights under the constitution which they meant to exercise, and let the senator try when he pleased to abridge those rights, he would find it no easy job. When had that (our) side of the Senate ever sought to protract discussion unnecessarily? [Cries of ‘never! never!’] Where was there a body that had less abused its privileges? If the gag-law was attempted to be put in force, he would resist it to the last. As judgment had been pronounced, he supposed submission was expected. The unrestrained liberty of speech, and freedom of debate, had

been preserved in the Senate for fifty years. But now the warning was given that the yoke was to be put on it which had already been placed on the other branch of Congress. There never had been a body in this or any other country, in which, for such a length of time, so much dignity and decorum of debate had been maintained. It was remarkable for the fact, the range of discussion was less discursive than in any other similar body known. Speeches were uniformly confined to the subject under debate. There could be no pretext for interference. There was none but that of all despotisms. He would give the senator from Kentucky notice to bring on his gag measure as soon as he pleased. He would find it no such easy matter as he seemed to think."

Mr. Linn, of Missouri, rose the instant Mr. Calhoun stopped, and inquired of the Chair if the morning hour was out. The president *pro tempore* answered that it was. Mr. Linn said, he desired to say a few words. The chair referred him to the Senate, in whose discretion it was, to depart from the rule. Mr. Linn appealed to the Senate: it gave him leave: and he stood up and said:

"It was an old Scottish proverb, that threatened people live longest. He hoped the liberties of the Senate would yet outlive the threats of the senator from Kentucky. But, if the lash was to be applied, he would rather it was applied at once, than to be always threatened with it. There is great complaint of delay; but who was causing the delay now growing out of this threat? Had it not been made, there would be no necessity for repelling it. He knew of no disposition on the part of his friends to consume the time that ought to be given to the public business. He had never known his friends, while in the majority, to complain of discussion. He knew very well, and could make allowances, that the senator from Kentucky was placed in a very trying situation. He knew, also, that his political friends felt themselves to be in a very critical condition. If he brought forward measures that were questionable, he had to encounter resistance. But he was in the predicament that he had pledged himself to carry those measures, and, if he did not, it would be his political ruin. He had every thing on the issue, hence his impatience to pronounce judgment against the right of the minority to discuss his measures."

Mr. Clay interrupted Mr. Linn, to say that he had not offered to pronounce judgment. Mr. Linn gave his words "that if the Senate was disposed to do as he thought it ought to do, they would adopt the same rule as the other House." Mr. Clay admitted the words; and Mr. Linn claimed their meaning as pronouncing judgment on the duty of the Senate, and said:

"Very well; if the senator was in such a critical condition as to be obliged to say he cannot get his measures through without cutting off debates, why does he not accept the proposition of taking the vote on his bank bill on Monday? If he brings forward measures that have been battled against successfully for a quarter of a century, is it any wonder that they should be opposed, and time should be demanded to discuss them? The senator is aware that whiggery is dying off in the country, and that there is no time to be lost: unless he and his friends pass these measures they are ruined. All he should say to him was, pass them if he could. If, in order to do it, he is obliged to come on with his gag law, he (Mr. Linn) would say to his friends, let them meet him like men. He was not for threatening, but if he was obliged to meet the crisis, he would do it as became him."

Mr. Berrien, apparently acting on the hint of Mr. Clay, moved to go into the consideration of executive business. A question of order was raised upon that motion by Mr. Calhoun. The Chair decided in its favor. Mr. Calhoun demanded what was the necessity for going into executive business? Mr. Berrien did not think it proper to discuss that point: so the executive session was gone into: and when it was over, the Senate adjourned for the day.

Here, then, was a day lost for such pressing business—the bill, which was so urgent, and the motion, which was intended to expedite it. Neither of them touched: and the omission entirely the fault of the majority. There was evidently a balk. This was the 15th of July. The 16th came, and was occupied with the quiet transaction of business: not a word said about the new rules. The 17th came, and as soon as the Senate met, Mr. Calhoun took the floor; and after presenting some resolutions from a public meeting in Virginia, condemning the call of the extra session, and all its measures, he passed on to correct an erroneous idea that had got into the newspapers, that he himself, in 1812, at the declaration of war against Great Britain, being acting chairman of the committee of foreign relations, who had reported the war bill, had stifled discussion—had hurried the bill through, and virtually gagged the House. He gave a detail of circumstances, which showed the error of this report—that all the causes of war had been discussed before—that there was nothing new to be said, nor desire to speak: and that, for one hour before the vote was taken, there was a pause in the House, waiting for a paper from the department; and no one choosing to occupy any part of it with a speech, for or against the war, or on any subject. He then gave a history of the introduction of the previous question into the House of Representatives.

"It had been never used before the 11th Congress (1810-12). It was then adopted, as he always understood, in consequence of the abuse of the right of debate by Mr. Gardinier of New York, remarkable for his capacity for making long speeches. He could keep the floor for days. The abuse was considered so great, that the previous question was introduced to prevent it; but so little was it in favor with those who felt themselves forced to adopt it, that he would venture to say without having looked at the journals, that it was not used half a dozen times during the whole war, with a powerful and unscrupulous opposition, and that in a body nearly two-thirds the size of the present House. He believed he might go farther, and assert that it was never used but twice during that eventful period. And now, a measure introduced under such pressing circumstances, and so sparingly used, is to be made the pretext for introducing the gag-law into the Senate, a body so much smaller, and so distinguished for the closeness of its debate and the brevity of its discussion. He would add that from the first introduction of the previous question into the House of Representatives, his impression was that it was not used but four times in seventeen years, that is from 1811 to 1828, the last occasion on the passage of the tariff bill. He now trusted that he had repelled effectually the attempt to prepare the country for the effort to gag the Senate, by a reference to the early history of the previous question in the other House."

Mr. Calhoun then referred to a decision made by Mr. Clay when Speaker of the House, and the benefit of which he claimed argumentatively. Mr. Clay disputed his recollection: Mr. Calhoun reiterated. The senators became heated, Mr. Clay calling out from his seat—"No, sir, No!"—and Mr. Calhoun answering back as he stood—"Yes, sir, yes:" and each giving his own version of the circumstance without convincing the other. He then returned to the point of irritation—the threatened gag;—and said:

"The senator from Kentucky had endeavored to draw a distinction between the gag law and the old sedition law. He (Mr. Calhoun) admitted there was a distinction—the modern gag law was by far the most odious. The sedition law was an attempt to gag the people in their individual character, but the senator's gag was an attempt to gag the representatives of the people, selected as their agents to deliberate, discuss, and decide on the important subjects intrusted by them to this government."

This was a taunt, and senators looked to see what would follow. Mr. Clay rose, leisurely, and surveying the chamber with a pleasant expression of countenance, said:

“The morning had been spent so very agreeably, that he hoped the gentlemen were in a good humor to go on with the loan bill, and afford the necessary relief to the Treasury.”

The loan bill was then taken up, and proceeded with in a most business style, and quite amicably. And this was the last that was heard of the hour rule, and the previous question in the Senate: and the secret history of their silent abandonment was afterwards fully learnt. Several whig senators had yielded assent to Mr. Clay’s desire for the hour rule under the belief that it would only be resisted parliamentarily by the minority; but when they saw its introduction was to produce ill blood, and disagreeable scenes in the chamber, they withdrew their assent; and left him without the votes to carry it: and that put an end to the project of the hour rule. The previous question was then agreed to in its place, supposing the minority would take it as a “compromise;” but when they found this measure was to be resisted like the former, and was deemed still more odious, hurtful and degrading, they withdrew their assent again: and then Mr. Clay, brought to a stand again for want of voters, was compelled to forego his design; and to retreat from it in the manner which has been shown. He affected a pleasantry, but was deeply chagrined, and the more so for having failed in the House where he acted in person, after succeeding in the other where he acted vicariously. Many of his friends were much dissatisfied. One of them said to me: “He gives your party a great deal of trouble, and his own a great deal more.” Thus, the firmness of the minority in the Senate—it may be said, their courage, for their intended resistance contemplated any possible extremity—saved the body from degradation—constitutional legislation from suppression—the liberty of speech from extinction, and the honor of republican government from a disgrace to which the people’s representatives are not subjected in any monarchy in Europe. The previous question has not been called in the British House of Commons in one hundred years—and never in the House of Peers.

70. Bill For The Relief Of Mrs. Harrison, Widow Of The Late President Of The United States

Such was the title of the bill which was brought into the House of Representatives for an indemnity, as it was explained to be, to the family of the late President for his expenses in the presidential election, and in removing to the seat of government. The bill itself was in these words: “That the Secretary of the Treasury pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Harrison, widow of William Henry Harrison, late President of the United States, or in the event of her death before payment, to the legal representatives of the said William Henry Harrison, the sum of $25,000.” Mr. John Quincy Adams, as reporter of the bill from the select committee to which had been referred that portion of the President’s message relating to the family of his predecessor, explained the motives on which the bill had been founded; and said:

“That this sum ($25,000), as far as he understood, was in correspondence with the prevailing sentiment of the joint committee raised on this subject, and of which the gentleman now in the chair had been a member. There had been some difference of opinion among the members of the committee as to the sum which it would be proper to appropriate, and, also, on the part of one or two gentlemen as to the constitutionality of the act itself in any shape. There had been more objection to the constitutionality than there had been as to the sum proposed. So far as there had been any discussion in the committee, it seemed to be the general sense of those composing it, that some provision ought to be made for the family of the late President, not in the nature of a grant, but as an indemnity for actual expenses incurred by himself first, when a candidate for the presidency. It had been observed in the committee, and it must be known to all members of the House, that, in the situation in which General Harrison had been placed—far from the seat of government, and for eighteen months or two years, while a candidate for the presidency, exposed to a heavy burden of expense which he could not possibly avoid—it was no more than equitable that he should, to a reasonable degree, be indemnified. He had been thus burdened while in circumstances not opulent; but, on the contrary, it had been one ground on which he had received so decided proof of the people’s favor, that through a long course of public service he remained poor, which was in itself a demonstrative proof that he had remained pure also. Such had been his condition before leaving home to travel to the seat of government. After his arrival here, he had been exposed to another considerable burden of expense, far beyond any amount he had received from the public purse during the short month he had continued to be President. His decease had left his family in circumstances which would be much improved by this act of justice done to him by the people, through their representatives. The feeling was believed to be very general throughout the country, and without distinction of party, in favor of such a measure.”

This bill, on account of its principle, gave rise to a vehement opposition on the part of some members who believed they saw in it a departure from the constitution, and the establishment of a dangerous precedent. Mr. Payne, of Alabama, said:

“As he intended to vote against this proposition it was due to himself to state the reasons which would actuate him. In doing so he was not called to examine either the merits or demerits of General Harrison. They had nothing to do with the question. The question before the House was, not whether General Harrison was or was not a meritorious individual, but whether that House would make an appropriation to his widow and descendants. That being the question, the first inquiry was, had the House a right to vote this money, and, if they had,

was it proper to do so? Mr. P. was one of those who believed that Congress had no constitutional right to appropriate the public money for such an object. He quoted the language of the constitution, and then inquired whether this was an appropriation to pay the debts of the Union, to secure the common defence, or to promote the general welfare? He denied that precedents ever ought to be considered as settling a constitutional question. If they could, then the people had no remedy. It was not pretended that this money was to be given as a reward for General Harrison's public services, but to reimburse him for the expense of an electioneering campaign. This was infinitely worse."

Mr. Gilmer, of Virginia, said:

"When he had yesterday moved for the rising of the committee, he had not proposed to himself to occupy much of the time of the House in debate, nor was such his purpose at present. With every disposition to vote for this bill, he had then felt, and he still felt, himself unable to give it his sanction, and that for reasons which had been advanced by many of the advocates in its favor. This was not a place to indulge feeling and sympathy: if it were, he presumed there would be but one sentiment throughout that House and throughout the country, and that would be in favor of the bill. If this were an act of generosity, if the object were to vote a bounty, a gratuity, to the widow or relatives of the late President, it seemed to Mr. G. that they ought not to vote it in the representative capacity, out of the public funds, but privately from their own personal resources. They had no right to be generous with the money of the people. Gentlemen might bestow as much out of their own purses as they pleased; but they were here as trustees for the property of others, and no public agent was at liberty to disregard the trust confided to him under the theory of our government. It was quite needless here to attempt an eulogy on the character of the illustrious dead: history has done and would hereafter do ample justice to the civil and military character of William Henry Harrison. The result of the recent election, a result unparalleled in the annals of this country, spoke the sentiment of the nation in regard to his merits, while the drapery of death which shrouded the legislative halls, the general gloom which overspread the nation, spoke that sentiment in accents mournfully impressive. But those rhapsodies in which gentlemen had indulged, might, he thought, better be deferred for some Fourth of July oration, or at least reserved for other theatres than this. They had come up here not to be generous, but to be just. His object now was to inquire whether they could not place this bill on the basis of indisputable justice, so that it might not be carried by a mere partial vote, but might conciliate the support of gentlemen of all parties, and from every quarter of the Union. He wished, if possible, to see the whole House united, so as to give to their act the undivided weight of public sentiment. Mr. G. said he could not bow to the authority of precedent; he should ever act under the light of the circumstances which surrounded him. His wish was, not to furnish an evil precedent to others by his example. He thought the House in some danger of setting one of that character; a precedent which might hereafter be strained and tortured to apply to cases of a very different kind, and objects of a widely different character. He called upon the advocates of the bill to enable all the members of the House, or as nearly all as was practicable (for, after what had transpired yesterday, he confessed his despair of seeing the House entirely united), to agree in voting for the bill."

There was an impatient majority in the House in favor of the passage of the bill, and to that impatience Mr. Gilmer referred as making despair of any unanimity in the House, or of any considerate deliberation. The circumstances were entirely averse to any such deliberation—a victorious party, come into power after a most heated election, seeing their elected candidate dying on the threshold of his administration, poor, and beloved: it was a case for feeling more than of judgment, especially with the political friends of the deceased—but few of whom

could follow the counsels of the head against the impulsions of the heart. Amongst these few Mr. Gilmer was one, and Mr. Underwood of Kentucky, another; who said:

“His heart was on one side and his judgment upon the other. If this was a new case, he might be led away by his heart; but as he had heretofore, in his judgment, opposed all such claims he should do so now. He gave his reasons thus at large, because a gentleman from Indiana, on the other side of the House, denounced those who should vote against the bill. He objected, because it was retroactive in its provisions, and because it called into existence legislative discretion, and applied it to past cases—because it provided for the widow of a President for services rendered by her husband while in office, thus increasing the President’s compensation after his death. If it applied to the widow of the President, it applied to the widows of military officers. He considered if this bill passed, that Mr. Jefferson’s heirs might with equal propriety claim the same compensation.”

If the House had been in any condition for considerate legislation there was an amendment proposed by Mr. Gordon of New York, which might have brought it forth. He proposed an indemnity equal to the amount of one quarter’s salary, $6,250. He proposed it, but got but little support for his proposition, the majority calling for the question, and some declaring themselves for $50,000, and some for $100,000. The vote was taken, and showed 66 negatives, comprehending the members who were best known to the country as favorable to a strict construction of the constitution, and an economical administration of the government. The negatives were:

Archibald H. Arrington, Charles G. Atherton, Linn Banks, Henry W. Beeson, Linn Boyd, David P. Brewster, Aaron V. Brown, Charles Brown, Edmund Burke, William O. Butler, Green W. Caldwell, Patrick C. Caldwell, John Campbell, George B. Cary, Reuben Chapman, Nathan Clifford, James G. Clinton, Walter Coles, John R. J. Daniel, Richard D. Davis, William Doan, Andrew W. Doig, Ira A. Eastman, John C. Edwards, Joseph Egbert, John G. Floyd, Charles A. Floyd, James Gerry, William O. Goode, Samuel Gordon, Amos Gustine, William A. Harris, Samuel L. Hays, George W. Hopkins, Jacob Houck, jr., Edmund W. Hubard, Robert M. T. Hunter, Cave Johnson, John W. Jones, George M. Keim, Andrew Kennedy, Joshua A. Lowell, Abraham McClellan, Robert McClellan, James J. McKay, Albert G. Marchand, Alfred Marshall, John Thompson Mason, James Mathews, William Medill, John Miller, Peter Newhard, William W. Payne, Francis W. Pickens, Arnold Plumer, John R. Reding, James Rogers, Romulus M. Saunders, Tristram Shaw, John Snyder, Lewis Steenrod, Hopkins L. Turney, Joseph R. Underwood, Harvey M. Watterson, John B. Weller, James W. Williams.

Carried to the Senate for its concurrence, the bill continued to receive there a determined opposition from a considerable minority. Mr. Calhoun said:

”He believed no government on earth leaned more than ours towards all the corruptions of an enormous pension list. Not even the aristocratic government of Great Britain has a stronger tendency to it than this government. This is no new thing. It was foreseen from the beginning, and the great struggle then was, to keep out the entering wedge. He recollected very well, when he was at the head of the War Department, and the military pension bill passed, that while it was under debate, it was urged as a very small matter—only an appropriation of something like $150,000 to poor and meritorious soldiers of the Revolution, who would not long remain a burden on the Treasury. Small as the sum was, and indisputable as were the merits of the claimants, it was with great difficulty the bill passed. Why was this difficulty—this hesitation on such an apparently irresistible claim? Because it was wisely argued, and with a spirit of prophecy since fulfilled, that it would prove an entering wedge, which, once admitted, would soon rend the pillar of democracy. And what has been the result of that

trifling grant? It is to be found in the enormous pension list of this government at the present day.

"He asked to have any part of the Constitution pointed out in which there was authority for making such an appropriation as this. If the authority exists in the Constitution at all, it exists to a much greater extent than has yet been acted upon, and it is time to have the fact known. If the Constitution authorizes Congress to make such an appropriation as this for a President of the United States, it surely authorizes it to make an appropriation of like nature for a doorkeeper of the Senate of the United States, or for any other officer of the government. There can be no distinction drawn. Pass this act, and the precedent is established for the family of every civil officer in the government to be placed on the pension list. Is not this the consummation of the tendency so long combated? But the struggle is in vain—there is not, he would repeat, a government on the face of the earth, in which there is such a tendency to all the corruptions of an aristocratic pension list as there is in this."

Mr. Woodbury said:

"This was the first instance within his (Mr. W.'s) knowledge, of an application to pension a civil officer being likely to succeed; and a dangerous innovation, he felt convinced, it would prove. Any civil officer, by the mere act of taking possession of his office for a month, ought to get his salary for a year, on the reasoning adopted by the senator from Delaware, though only performing a month's service. If that can be shown to be right, he (Mr. W.) would go for this, and all bills of the kind. But it must first be shown satisfactorily. If this lady was really poor, there would be some plea for sympathy, at least. But he could point to hundreds who have that claim, and not on account of civil, but military service, who yet have obtained no such grant, and never will. He could point to others in the civil service, who had gone to great expense in taking possession of office and then died, but no claim of this kind was encouraged, though their widows were left in most abject poverty. All analogy in civil cases was against going beyond the death of the incumbent in allowing either salary or gratuity."

Mr. Pierce said:

"Without any feelings adverse to this claim, political or otherwise, he protested against any legislation based upon our *sympathies*—he protested against the power and dominion of that '*inward arbiter*,' which in private life was almost sure to lead us right; but, as public men, and as the dispensers of other men's means—other men's contributions—was quite as sure to lead us wrong. It made a vast difference whether we paid the money from our own pockets, or drew it from the pockets of our constituents. He knew his weakness on this point, *personally*, but it would be his steady purpose, in spite of taunts and unworthy imputations, to escape from it, as the representative of others. But he was departing from the object which induced him, for a moment, to trespass upon the patience of the Senate. This claim did not come from the family. No gentleman understood on what ground it was placed. The indigence of the family had not even been urged: he believed they were not only in easy circumstances, but affluent. It was not for loss of limb, property, or life, in the military service. If for any thing legitimate, in any sense, or by any construction, it was for the civil services of the husband; and, in this respect, was a broad and dangerous precedent."

In saying that the claim did not come from the family of General Harrison, Mr. Pierce spoke the words which all knew to be true. Where then did it come from? It came, as was well known at the time, from persons who had advanced moneys to the amount of about $22,000, for the purposes mentioned in the bill; and who had a claim upon the estate to that amount.

Mr. Benton moved to recommit the bill with instructions to prefix a preamble, or insert an amendment showing upon what ground the grant was motived. The bill itself showed no

grounds for the grant. It was, on its face, a simple legislative donation of money to a lady, describing her as the widow of the late President; but in no way connecting either herself, or her deceased husband, with any act or fact as the alleged ground of the grant. The grant is without consideration: the donee is merely described, to prevent the donation from going to a wrong person. It was to go to Mrs. Harrison. What Mrs. Harrison? Why, the widow of the late President Harrison. This was descriptive, and sufficiently descriptive; for it would carry the money to the right person. But why carry it? That was the question which the bill had not answered; for there is nothing in the mere fact of being the widow of a President which could entitle the widow to a sum of public money. This was felt by the reporter of the bill, and endeavored to be supplied by an explanation, that it was not a "grant" but an "indemnity;" and an indemnity for "actual expenses incurred when he was a candidate for the presidency;" and for expenses incurred after his "arrival at the seat of government;" and as "some provision for his family;" and because he was "poor." Now why not put these reasons into the bill? Was the omission oversight, or design? If oversight, it should be corrected; if design, it should be thwarted. The law should be complete in itself. It cannot be helped out by a member's speech. It was not oversight which caused the omission. The member who reported the bill is not a man to commit oversights. It was design! and because such reasons could not be put on the face of the bill! could not be voted upon by yeas and nays! and therefore must be left blank, that every member may vote upon what reasons he pleases, without being committed to any. This is not the way to legislate; and, therefore, the author of this View moved the re-commitment, with instructions to put a reason on the face of the bill itself, either in the shape of a preamble, or of an amendment—leaving the selection of the reasons to the friends of the bill, who constituted the committee to which it would be sent. Mr. Calhoun supported the motion for re-commitment, and said:

"Is it an unreasonable request to ask the committee for a specific report of the grounds on which they have recommended this appropriation? No; and the gentlemen know it is not unreasonable; but they will oppose it not on that account; they will oppose it because they know such a report would defeat their bill. It could not be sustained in the face of their own report. Not that there would be no ground assumed, but because those who now support the bill do so on grounds as different as any possibly can be; and, if the committee was fastened down to one ground, those who support the others would desert the standard."

The vote was taken on the question, and negatived. The yeas were: Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King of Alabama, Linn, McRoberts, Pierce, Sevier Smith of Connecticut, Tappan, Williams of Maine, Woodbury, Wright, Young of Illinois. To the argument founded on the alleged poverty of General Harrison, Mr. Benton replied:

"Look at the case of Mr. Jefferson, a man than whom no one that ever existed on God's earth were the human family more indebted to. His furniture and his estate were sold to satisfy his creditors. His posterity was driven from house and home, and his bones now lay in soil owned by a stranger. His family are scattered; some of his descendants are married in foreign lands. Look at Monroe—the amiable, the patriotic Monroe, whose services were revolutionary, whose blood was spilt in the war of Independence, whose life was worn out in civil service, and whose estate has been sold for debt, his family scattered, and his daughter buried in a foreign land. Look at Madison, the model of every virtue, public or private, and he would only mention in connection with this subject, his love of order, his economy, and his systematic regularity in all his habits of business. He, when his term of eight years had expired, sent a letter to a gentleman (a son of whom is now upon this floor) [Mr. Preston], enclosing a note for five thousand dollars, which he requested him to endorse, and raise the money in Virginia, so as to enable him to leave this city, and return to his modest retreat—his patrimonial inheritance—in that State. General Jackson drew upon the consignee of his

cotton crop in New Orleans for six thousand dollars to enable him to leave the seat of government without leaving creditors behind him. These were honored leaders of the republican party. They had all been Presidents. They had made great sacrifices, and left the presidency deeply embarrassed; and yet the republican party who had the power and the strongest disposition to relieve their necessities, felt they had no right to do so by appropriating money from the public Treasury. Democracy would not do this. It was left for the era of federal rule and federal supremacy—who are now rushing the country with steam power into all the abuses and corruptions of a monarchy, with its pensioned aristocracy—and to entail upon the country a civil pension list.

"To the argument founded on the expense of removing to the seat of government, Mr. Benton replied that there was something in it, and if the bill was limited to indemnity for that expense, and a rule given to go by in all cases, it might find claims to a serious consideration. Such a bill would have principle and reason in it—the same principle and the same reason which allows mileage to a member going to and returning from Congress. The member was supposed during that time to be in the public service (he was certainly out of his own service): he was at expense: and for these reasons he was allowed a compensation for his journeys. But, it was by a uniform rule, applicable to all members, and the same at each session. The same reason and principle with foreign ministers. They received an out-fit before they left home, and an in-fit to return upon. A quarter's salary, was the in-fit: the out-fit was a year's salary, because it included the expense of setting up a house after the minister arrived at his post. The President finds a furnished house on his arrival at the seat of government, so that the principle and reason of the case would not give to him, as to a minister to a foreign court, a full year's salary. The in-fit would be the proper measure; and that rule applied to the coming of the President elect, and to his going when he retires, would give him $6,250 on each occasion. For such an allowance he felt perfectly clear that he could vote as an act of justice; and nearly as clear that he could do it constitutionally. But it would have to be for a general and permanent act."

The bill was passed by a bare quorum, 28 affirmatives out of 52. The negatives were 16: so that 18 senators—being a greater number than voted against the bill—were either absent, or avoided the vote. The absentees were considered mostly of that class who were willing to see the bill pass, but not able to vote for it themselves. The yeas and nays were:

Yeas—Messrs. Barrow, Bates, Bayard, Berrien, Buchanan, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, Woodbridge.

Nays—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Nicholson, Sevier, Smith of Connecticut, Surgeon, Tappan, Williams, Woodbury, Wright, Young.

It was strenuously opposed by the stanch members of the democratic party, and elaborately resisted in a speech from the writer of this View—of which an extract is given in the next chapter.

71. Mrs. Harrison’s Bill: Speech Of Mr. Benton Extracts

Mr. Benton said he was opposed to this bill—opposed to it on high constitutional grounds, and upon grounds of high national policy—and could not suffer it to be carried through the Senate without making the resistance to it which ought to be made against a new, dangerous, and unconstitutional measure.

It was a bill to make a grant of money—twenty-five thousand dollars—out of the common Treasury to the widow of a gentleman who had died in a civil office, that of President of the United States; and was the commencement of that system of civil pensions, and support for families, which, in the language of Mr. Jefferson, has divided England, and other European countries into two classes—the tax payers and the tax consumers—and which sends the laboring man supperless to bed.

It is a new case—the first of the kind upon our statute book—and should have been accompanied by a report from a committee, or preceded by a preamble to the bill, or interjected with a declaration, showing the reason for which this grant is made. It is a new case, and should have carried its justification along with it. But nothing of this is done. There is no report from a committee—from the two committees in fact—which sat upon the case. There is no preamble to it, setting forth the reason for the grant. There is no declaration in the body of the bill, showing the reason why this money is voted to this lady. It is simply a bill granting to Mrs. Harrison, widow of William H. Harrison, late President of the United States, the sum of $25,000. Now, all this is wrong, and contrary to parliamentary practice. Reason tells us there should be a report from a committee in such a case. In fact, we have reports every day in every case, no matter how inconsiderable, which even pays a small sum of money to an individual. It is our daily practice, and yet two committees have shrunk from that practice in this new and important case. They would not make a report, though urged to do it. I speak advisedly, for I was of the committee, and know what was done. No report could be obtained; and why? because it was difficult, if not impossible, for any committee to agree upon a reason which would satisfy the constitution, and satisfy public policy, for making this grant. Gentlemen could agree to give the money—they could agree to vote—but they could not agree upon the reason which was to be left upon the record as a justification for the gift and the vote. Being no report, the necessity became apparent for a preamble; but we have none of that. And, worse than all, in the absence of report and preamble, the bill itself is silent on the motive of the grant. It does not contain the usual clause in money bills to individuals, stating, in a few words, for what reason the grant or payment is made. All this is wrong; and I point it out now, both as an argument against the bill, and as a reason for having it recommitted, and returned with a report, or a preamble, or a declaratory clause.

We were told at the last session that a new set of books were to be opened—that the new administration would close up the old books, and open new ones; and truly we find it to be the case. New books of all kinds are opened, as foreign to the constitution and policy of the country, as they are to the former practice of the government, and to the late professions of these new patriots. Many new books are opened, some by executive and some by legislative authority; and among them is this portentous volume of civil pensions, and national recompenses, for the support of families. Military pensions we have always had, and they are founded upon a principle which the mind can understand, the tongue can tell, the constitution can recognize, and public policy can approve. They are founded upon the principle of

personal danger and suffering in the cause of the country—upon the loss of life or limb in war. This is reasonable. The man who goes forth, in his country's cause, to be shot at for seven dollars a month, or for forty dollars a month, or even for one or two hundred, and gets his head or his limbs knocked off, is in a very different case from him who serves the same country at a desk or a table, with a quill or a book in his hand, who may quit his place when he sees the enemy coming; and has no occasion to die except in his tranquil and peaceful bed. The case of the two classes is wholly different, and thus far the laws of our country have recognized and maintained the difference. Military pensions have been granted from the foundation of the government—civil pensions, never; and now, for the first time, the attempt is to be made to grant them. A grant of money is to be made to the widow of a gentleman who has not been in the army for near thirty years—who has since that time, been much employed in civil service, and has lately died in a civil office. A pension, or a grant of a gross sum of money, under such circumstances, is a new proceeding under our government, and which finds no warrant in the constitution, and is utterly condemned by high considerations of public policy.

The federal constitution differs in its nature—and differs fundamentally from those of the States. The States, being original sovereignties, may do what they are not prohibited from doing; the federal government, being derivative, and carved out of the States, is like a corporation, the creature of the act which creates it, and can only do what it can show a grant for doing. Now the moneyed power of the federal government is contained in a grant from the States, and that grant authorizes money to be raised either by loans, duties or taxes, for the purpose of paying the debts, supporting the government, and providing for the common defence of the Union. These are the objects to which money may be applied, and this grant to Mrs. Harrison can come within neither of them.

But, gentlemen say this is no pension—it is not an annual payment, but a payment in hand. I say so, too, and that it is so much the more objectionable on that account. A pension must have some rule to go by—so much a month—and generally a small sum, the highest on our pension roll being thirty dollars—and it terminates in a reasonable time, usually five years, and at most for life. A pension granted to Mrs. Harrison on this principle, could amount to no great sum—to a mere fraction, at most, of these twenty-five thousand dollars. It is not a pension, then, but a gift—a gratuity—a large present—a national recompense; and the more objectionable for being so. Neither our constitution, nor the genius of our government, admits of such benefactions. National recompenses are high rewards, and require express powers to grant them in every limited government. The French Consular Constitution of the year 1799, authorized such recompenses; ours does not, and it has not yet been attempted, even in military cases. We have not yet voted a fortune to an officer's or a soldier's family, to lift them from poverty to wealth. These recompenses are worse than pensions: they are equally unfounded in the constitution, more incapable of being governed by any rule, and more susceptible of great and dangerous abuse. We have no rule to go by in fixing the amount. Every one goes by feeling—by his personal or political feeling—or by a cry got up at home, and sent here to act upon him. Hence the diversity of the opinions as to the proper sum to be given. Some gentlemen are for the amount in the bill; some are for double that amount; and some are for nothing. This diversity itself is an argument against the measure. It shows that it has no natural foundation—nothing to rest upon—nothing to go by; no rule, no measure, no standard, by which to compute or compare it. It is all guess-work—the work of the passions or policy—of faction or of party.

By our constitution, the persons who fill offices are to receive a compensation for their services; and, in many cases, this compensation is neither to be increased nor diminished during the period for which the person shall have been elected; and in some there is a

prohibition against receiving presents either from foreign States, or from the United States, or from the States of the Union. The office of President comes under all these restrictions, and shows how jealous the framers of the constitution were, of any moneyed influence being brought to bear upon the Chief Magistrate of the Union. All these limitations are for obvious and wise reasons. The President's salary is not to be diminished during the time for which he was elected, lest his enemies, if they get the upper hand of him in Congress, should deprive him of his support, and starve him out of office. It is not to be increased, lest his friends, if they get the upper hand, should enrich him at the public expense; and he is not to receive "*any other emolument*," lest the provision against an increase of salary should be evaded by the grant of gross sums. These are the constitutional provisions; but to what effect are they, if the sums can be granted to the officer's family, which cannot be granted to himself?—if his widow—his wife—his children can receive what he cannot? In this case, the term for which General Harrison was elected, is not out. It has not expired; and Congress cannot touch his salary or bestow upon him or his, any emolument without a breach of the constitution.

It is in vain to look to general clauses of the constitution. Besides the general spirit of the instrument, there is a specific clause upon the subject of the President's salary and emoluments. It forbids him any compensation, except at stated times, for services rendered; it forbids increase or diminution; and it forbids all emolument. To give salary or emolument to his family, is a mere evasion of this clause. His family is himself—so far as property is concerned, a man's family is himself. And many persons would prefer to have money or property conveyed to his family, or some member of it, because it would then receive the destination which his will would give it, and would be free from the claims or contingencies to which his own property—that in his own name—would be subject. There is nothing in the constitution to warrant this proceeding, and there is much in it to condemn it. It is condemned by all the clauses which relate to the levy, and the application of money; and it is specially condemned by the precise clause which regulates the compensation of the President, and which clause would control any other part of the constitution which might come in conflict with it. Condemned upon the constitutional test, how stands this bill on the question of policy and expediency? It is condemned—utterly condemned, and reprobated, upon that test! The view which I have already presented of the difference between military and naval services (and I always include the naval when I speak of the military) shows that the former are proper subjects for pensions—the latter not. The very nature of the service makes the difference. Differing in principle, as the military and civil pensions do, they differ quite as much when you come to details, and undertake to administer the two classes of rewards. The military has something to go by—some limit to it—and provides for classes of individuals—not for families or for individuals—one by one. Though subject to great abuse, yet the military pensions have some limit—some boundary—to their amount placed upon them. They are limited at least to the amount of armies, and the number of wars. Our armies are small, and our wars few and far between. We have had but two with a civilized power in sixty years. Our navy, also, is limited; and compared to the mass of the population, the army and navy must be always small. Confined to their proper subjects, and military and naval pensions have limits and boundaries which confine them within some bounds; and then the law is the same for all persons of the same rank. The military and naval pensioners are not provided for individually, and therefore do not become a subject of favoritism, of party, or of faction. Not so with civil pensions. There is no limit upon them. They may apply to the family of every person civilly employed—that is, to almost every body—and this without intermission of time; for civil services go on in peace and war, and the claims for them will be eternal when once begun. Then again civil pensions and grants of money are given individually, and not by classes, and every case is governed by the feeling of the moment, and the predominance of the party to which the individual belonged. Every case is the sport of party, of faction, of

favoritism; and of feelings excited and got up for the occasion. Thus it is in England, and thus it will be here. The English civil pension list is dreadful, both for the amount paid, and the nature of the services rewarded; but it required centuries for England to ripen her system. Are we to begin it in the first half century of our existence? and begin it without rule or principle to go by? Every thing to be left to impulse and favor—by the politics of the individual, his party affinities, and the political complexion of the party in power.

Gentlemen refuse to commit themselves on the record; but they have reasons; and we have heard enough, here and elsewhere, to have a glimpse of what they are. First, poverty: as if that was any reason for voting a fortune to a family, even if it was true! If it was a reason, one half of the community might be packed upon the backs of the other. Most of our public men die poor; many of them use up their patrimonial inheritances in the public service; yet, until now, the reparation of ruined fortune has not been attempted out of the public Treasury. Poverty would not do, if it was true, but here it is not true: the lady in question has a fine estate, and certainly has not applied for this money. No petition of hers is here! No letter, even, that we have heard of! So far as we know, she is ignorant of the proceeding! Certain it is, she has not applied for this grant, either on the score of poverty, or any thing else. Next, election expenses are mentioned; but that would seem to be a burlesque upon the character of our republican institutions. Certainly no candidate for the presidency ought to electioneer for it—spend money for it—and if he did, the public Treasury ought not to indemnify him. Travelling expenses coming on to the seat of government, are next mentioned; but these could be but a trifle, even if the President elect came at his own expense. But we know to the contrary. We know that the contest is for the honor of bringing him; that conveyances and entertainments are prepared; and that friends dispute for precedence in the race of lifting and helping along, and ministering to every want of the man who is so soon to be the dispenser of honor and fortune in the shape of office and contracts. Such a man cannot travel at his own expense. Finally, the fire in the roof of the west wing of the North Bend mansion has been mentioned; but Jackson had the whole Hermitage burnt to the ground when he was President, and would have scorned a gift from the public Treasury to rebuild it. Such are the reasons mentioned in debate, or elsewhere, for this grant. Their futility is apparent on their face, and is proved by the unwillingness of gentlemen to state them in a report, or a preamble, or in the body of the bill itself.

72. Abuse Of The Naval Pension System: Vain Attempt To Correct It

The annual bill for these pensions being on its passage, an attempt was made to correct the abuse introduced by the act of 1837. That act had done four things:—1. It had carried back the commencement of invalid naval pensions to the time of receiving the inability, instead of the time of completing the proof. 2. It extended the pensions for death to all cases of death, whether incurred in the line of duty or not. 3. It extended the widows' pensions for life, when five years had been the law both in the army and the navy. 4. It pensioned children until twenty-one years of age, thereby adopting the English pension system. The effects of these changes were to absorb and bankrupt the navy pension fund—a meritorious fund created out of the government share of prize money, relinquished for that purpose;—and to throw the pensions, the previous as well as the future, upon the public treasury—where it was never intended they were to be. This act, so novel in its character—so plundering in its effects—and introducing such fatal principles into the naval pension system, and which it has been found so difficult to get rid of—was one of the deplorable instances of midnight legislation, on the last night of the session; when, in the absence of many, the haste of all, the sleepiness of some, and a pervading inattention, an enterprising member can get almost any thing passed through—and especially as an amendment. It was at a time like this that this pension act was passed, the night of March 3d, 1837—its false and deceptive title ("*An act for the more equitable administration of the Navy Pension Fund*") being probably as much of it as was heard by the few members who heard any thing about it; and the word "equitable," so untruly and deceptiously inserted, probably the only part of it which lodged on their minds. And in that way was passed an act which instantly pillaged a sacred fund of one million two hundred thousand dollars—which has thrown the naval pensioners upon the Treasury, instead of the old navy pension fund, for their support—which introduced the English pension system—which was so hard to repeal; and which has still all its burdens on our finances, and some of its principles in our laws. It is instructive to learn the history of such legislation, and to see its power (a power inherent in the very nature of an abuse, and the greater in proportion to the greatness of the abuse) to resist correction: and with this view the brief debate on an ineffectual attempt in the Senate to repeal the act of this session is here given—Mr. Reuel Williams, of Maine, having the honor to commence the movement.

"The naval pension appropriation bill being under consideration, Mr. Williams offered an amendment, providing for the repeal of the act of 1837; and went at some length into the reasons in favor of the adoption of the amendment. He said all admitted the injurious tendency of the act of 1837, by which the fund which had been provided by the bravery of our gallant sailors for the relief of the widows and orphans of those who had been killed in battle, or had died from wounds which had been received while in the line of their duty, had been utterly exhausted; and his amendment went to the repeal of that law."

"Mr. Mangum hoped the amendment would not be adopted—that the system would be allowed to remain as it was until the next session. It was a subject of great complexity, and if this amendment passed it would be equivalent to the repeal of all the naval pension acts."

"Mr. Williams understood the senator from North Carolina as saying, that if they passed this amendment, and thus repealed the act of 1837, they repeal all acts which grant a pension for disability."

“Mr. Mangum had said, if they repealed the law of ‘37, they would cut off every widow and orphan now on the pension list, and leave none except the seamen, officers, and marines, entitled to pensions under the act of 1800.”

“Mr. Williams said the senator was entirely mistaken; and read the law of 1813, which was still in full force, and could not be affected by the repeal of the law of 1837. The law of 1813 gives a pension to the widows and orphans of all who are killed in battle, or who die from wounds received in battle; and also gives pensions to those who are disabled while in the line of their duty. This law was now in force. The additional provisions of the law of 1837 were to carry back the pensions to the time when the disability was incurred, and to extend it to the widows and children of those who died, no matter from what cause, while they were in the naval service. Thus, if an officer or seaman died from intoxication, or even committed suicide, his widow received a pension for life, and his children received pensions until they were twenty-one years of age.

“Again: if officers or seamen received a wound which did not disable them they continued in the service, receiving their full pay for years. When they thought proper they retired from the service, and applied for a pension for disability, which, by the law of 1837, they were authorized to have carried back to the time the disability was incurred, though they had, during the whole series of years subsequent to receiving the disability, and prior to the application for a pension, been receiving their full pay as officers or seamen. It was to prevent the continuance of such abuses, that the amendment was offered.”

“Mr. Walker must vote against this amendment, repealing the act of 1837, because an amendment which had been offered by him and adopted, provided for certain pensions under this very act, and which ought, in justice, to be given.”

“Mr. Williams thought differently, as the specific provision in the amendment of the senator from Mississippi, would except the cases included in it from the operation of the repealing clause.”

“Mr. Evans opposed the amendment, on the ground that it cut off all the amendments adopted, and brought back again the law of 1800.”

The proposed amendment of Mr. Williams was then put to the vote—and negatived—only nineteen senators voting for it. The yeas and nays were:

Yeas—Messrs. Allen, Benton, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan, Williams, Woodbury, Wright, Young—19.

Nays—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, Walker, White, Woodbridge—28.

It is remarkable that in this vote upon a palpable and enormous abuse in the navy, there was not a whig vote among the democracy for correcting it, nor a democratic vote, except one, among the negatives. A difference about a navy—on the point of how much, and of what kind—had always been a point of difference between the two great political parties of the Union, which, under whatsoever names, are always the same—each preserving its identity in principles and policy: but here the two parties divided upon an abuse which no one could deny, or defend. The excuse was to put it off to another time, which is the successful way of perpetuating abuses, as there are always in every public assembly, as in every mass of individuals, many worthy men whose easy temperaments delight in temporizations; and who

are always willing to put off, temporarily, the repeal of a bad law, or even to adopt temporarily, the enactment of a doubtful one. Mr. Williams' proposed amendment was not one of repeal only, but of enactment also. It repealed the act of 1837, and revived that of 1832, and corrected some injurious principles interjected into the naval pension code—especially the ante-dating of pensions, and the abuse of drawing pay and pension at the same time. This amendment being rejected, and some minor ones adopted, the question came up upon one offered by Mr. Walker—providing that all widows or children of naval officers, seamen, or marines, now deceased, and entitled to pensions under the act of 1837, should receive the same until otherwise directed by law; and excluding all cases from future deaths. Mr. Calhoun proposed to amend this amendment by striking out the substantive part of Mr. Walker's amendment, and after providing for those now on the pension-roll under the act of 1837, confining all future pensioners to the acts of April 23d, 1800—January 24th, 1813—and the second section of the act of the 3d of March, 1814. In support of his motion Mr. Calhoun spoke briefly, and pointedly, and unanswerably; but not quite enough so to save his proposed amendment. It was lost by one vote, and that the vote of the president *pro tempore*, Mr. Southard. The substance of Mr. Calhoun's brief speech is thus preserved in the register of the Congress debates:

"Mr. Calhoun said that, among the several objections to this, there was one to which he did hope the Senate would apply the correction. The amendment not only kept alive the act of 1837, as to the pensioners now on the list, under that act, but also kept it alive for all future applications which might be made under it, until it should be hereafter repealed, if it ever should be. To this he strongly objected.

"There was one point on which all were agreed, that the act in question was not only inexpedient, but something much worse—that it committed something like a fraud upon the pension fund. It is well known to the Senate that that fund was the result of prize money pledged to the use of meritorious officers and sailors who might be disabled in the service of their country. The whole of this fund, amounting to nearly a million and a half of dollars, was swept away by this iniquitous act, that passed on the third of March—the very last day of the session—introduced and carried through by nobody knows who, and for which nobody seems responsible. He ventured nothing in asserting, that if such an act was now under discussion for the first time, it would not receive a single vote with the present knowledge which the Senate has of the subject, but, on the contrary, would be cast from it with universal scorn and indignation. He went further: it would now be repealed with like unanimity, were it not that many persons had been placed upon the list under the act, which was still in force, which was felt by many to be a sort of a pledge to pay them until the act was formally repealed. But why should we go further? Why should we keep it alive to let in those who are not yet put upon the list? But one answer could be given, and that one stated by the two senators from Massachusetts, that the act partook of the nature of a contract between the government and the officers, sailors and marines, comprehended within its provisions. There might be some semblance of reason for the few cases which have occurred since the passage of the act; but not the slightest as far as it relates to that more numerous class which occurred before its passage. And yet the amendment keeps the act open for the latter as well as the former. As strong as this objection is to the amendment as it stands, there are others not less so.

"It introduces new and extraordinary principles into our pension list. It gives pensions for life—yes, beyond—to children for twenty-one years, as well as the widows of the deceased officer, sailor or marine, who may die while in service. It makes no distinction between the death of the gallant and brave in battle, or him who may die quietly in his hammock or his bed on shore, or even him who commits suicide. Nor does it even distinguish between those who have served a long or a short time. The widows and children of all, however short the

service, even for a single day, whatever might be the cause of death, are entitled, under this fraudulent act, to receive pensions, the widow for life, and the children for twenty-one years. To let in this undeserving class, to this unmeasured liberality of public bounty, this act is to be kept alive for an indefinite length of time—till the Congress may hereafter choose to repeal it.

"The object of my amendment, said Mr. C., is to correct this monstrous abuse; and, for this purpose, he proposed so to modify the amendment of the senator from Mississippi, as to exclude all who are not now on the pension roll from receiving pensions under the act of 1837, and also to prevent any one from being put on the navy pension roll hereafter under any act, except those of April 23, 1800, January 20, 1813, and the second section of the act of 30th March, 1814. These acts limit the pensions to the case of officers, sailors and marines, being disabled in the line of their duty, and limit the pensions to their widows and children to five years, even in those meritorious cases. Mr. C. then sent his amendment to the chair. It proposed to strike out all after the word 'now,' and insert, 'the pension roll, under the act of 1837, shall receive their pension till otherwise decided by law, but no one shall hereafter be put on the navy pension roll, under the said act, or any other act, except that of April 23, 1800, and the act of January 24, 1813, and the second section of the act of 3d March, 1814.' The question was then taken on the amendment by a count, and the Chair announced the amendment was lost—ayes 20, noes 21. Mr. Calhoun inquired if the Chair had voted. The Chair said he had voted with the majority. Mr. Buchanan then said he would offer an amendment which he had attempted to get an opportunity of offering in committee. It was to strike out the words 'until otherwise directed by law,' and insert the words 'until the close of the next session of Congress,' so as to limit the operations of the bill to that period. The amendment was adopted, and the amendments to the bill were ordered to be engrossed, and the bill ordered to a third reading."

Mr. Pierce having been long a member of the Pension Committee had seen the abuses to which our pension laws gave rise, and spoke decidedly against their abuse—and especially in the naval branch of the service. He said:

"There were cases of officers receiving pay for full disability, when in command of line-of-battle ships. The law of 1837 gave pay to officers from the time of their disability. He had been long enough connected with the Pension Committee to understand something of it. He had now in his drawer more than fifty letters from officers of the army, neither begging nor imploring, but demanding to be placed on the same footing with the navy in regard to pensions. He thought, on his conscience, that the pension system of this country was the worst on the face of the earth, and that they could never have either an army or a navy until there were reforms of more things than pensions. He pointed to the military academy, appointments to which rested on the influence that could be brought to bear by both Houses of Congress. He had looked on that *scientific institution*, from which no army would ever have a commander while West Point was in the ascendency; and he would tell why. The principles on which Frederick the Great and Napoleon acted were those to make soldiers—where merit was, reward always followed, but had they not witnessed cases of men of character, courage, and capacity, asking, from day to day, in vain for the humble rank of third lieutenant in your army, who would be glad to have such appointments? I know (said Mr. P.) a man who, at the battle of the *Withlacoochie*, had he performed the same service under Napoleon, would have received a *baton*. But in ours what did he get? Three times did that gallant fellow, with his arm broken and hanging at his side, charge the Indians, and drive them from their hammocks, where they were intrenched. The poor sergeant staid in the service until his time expired, and that was all he got for his gallantry and disinterestedness. Such instances of neglect would upset any service, destroy all emulation, and check all proper

pride and ambition in subordinates. If ever they were to have a good army or navy, they must promote merit in both branches of service, as every truly great general had done, and every wise government ought to do."

In the House of Representatives an instructive debate took place, chiefly between Mr. Adams, and Mr. Francis Thomas, of Maryland, in which the origin and course of the act was somewhat traced—enough to find out that it was passed in the Senate upon the faith of a committee, without any discussion in the body; and in the House by the previous question, cutting off all debate; and so quietly and rapidly as to escape the knowledge of the most vigilant members—the knowledge of Mr. Adams himself, proverbially diligent. In the course of his remarks he (Mr. Adams) said:

"Upwards of $1,200,000 in the year 1837, constituting that fund, had been accumulating for a number of years. What had become of it, if the fund was exhausted? It was wasted—it was gone. And what was it gone for? Gentlemen would tell the House that it had gone to pay those pensioners not provided for by the 8th and 9th sections of the act which had been read—the act of 1800; but to provide for the payment of others, their wives and children; and their cousins, uncles and aunts, for aught he knew—provided for by the act of 1837. It was gone. Now, he wished gentlemen who were so much attached to the *economies* of the present administration, to make a little comparison between the condition of the fund now and its condition in 1837, when the sum of $1,200,000 had accumulated—from the interest of which all the pensions designated in the act of 1800 were to have been paid. In the space of three little years, this fund of $1,200,000 (carrying an interest of $70,000) was totally gone—absorbed—not a dollar of it left. Yes: there were some State stocks, to be sure; about $18,000 or less; but they were unsaleable; and it was because they were unsaleable that this appropriation, in part, was wanted. How came this act of 1837 to have passed Congress? Because he saw, from the ground taken by the chairman of the committee on naval affairs, that it was Congress that had been guilty of this waste of the public money; the President had nothing to do with it—the administration had nothing to do with it. How, he asked, was this law of 1837 passed? Would the Chairman of the Committee on Naval Affairs tell the House how it had been passed; by whom it had been brought in and supported; and in what manner it had been carried through both Houses of Congress? If he would, we should then hear whether it came from whigs; or from economists, retrenchers, and reformers."

Mr. Francis Thomas, now the Chairman of the Committee on Naval Affairs, in answer to Mr. Adams's inquiry, as to who were the authors of this act of 1837, stated that

"It had been reported to the Senate by the honorable Mr. Robinson, of Illinois, and sent to the Committee on Naval Affairs, of which Mr. Southard was a member, and he had reported the bill to the Senate, by whom it had been passed without a division. The Senate bill coming into the House, had been referred to the Committee on Naval Affairs, in the House. Mr. T. read the names of this committee, among which that of Mr. Wise was one. The bill had been ordered to its third reading without a division, and passed by the House without amendment.

"Mr. Wise explained, stating that, though his name appeared on the naval committee, he was not responsible for the bill. He was at that time but nominally one of the committee—his attention was directed elsewhere—he had other fish to fry—and could no longer attend to the business of that committee [of which he had previously been an active member], being appointed on another, which occupied his time and thoughts."

Mr. Adams, while condemning the act of 1837, would not now refuse to pay the pensioners out of the Treasury. He continued:

"When the act of 1837 was before Congress then was the time to have inquired whether these persons were fairly entitled to such a pension—whether Congress was bound to provide for widows and children, and for relatives in the seventh degree (for aught he knew). But that was not now the inquiry. He thought that, by looking at the journals, gentlemen would see that the bill was passed through under the previous question, or something of that kind. He was in the House, but he could not say how it passed. He was not conscious of it; and the discussion must have been put down in the way in which such things were usually done in this House—by clapping the previous question upon it. No questions were asked; and that was the way in which the bill passed. He did not think he could tell the whole story; but he thought it very probable that there were those in this House who could tell if they would, and who could tell what private interests were provided for in it. He had not been able to look quite far enough behind the curtain to know these things, but he knew that the bill was passed in a way quite common since the reign of reform commenced in squandering away the public treasure. *That* he affirmed, and the Chairman of the Committee on Naval Affairs would not, he thought, undertake to contradict it. So much for that."

Mr. Adams showed that a further loss had been sustained under this pension act of 1837, under the conduct of the House itself, at the previous session, in refusing to consider a message from the President, and in refusing to introduce a resolution to show the loss which was about to be sustained. At that time there was a part of this naval pension fund ($153,000) still on hand, but it was in stocks, greatly depreciated; and the President sent in a report from the Secretary of the Navy, that $50,000 was wanted for the half-yearly payments due the first of July; and, if not appropriated by Congress, the stocks must be sold for what they would bring. On this head, he said:

"Towards the close of the last session of Congress, a message was transmitted by the President, covering a communication from the Secretary of the Navy, suggesting that an appropriation of $50,000 was necessary to meet the payment of pensions coming due on the 1st of July last. The message was sent on the 19th of June, and there was in it a letter from the Secretary of the Navy, stating that the sum of $50,000 was required to pay pensions coming due on the then 1st of July, and that it was found impracticable to effect a sale of the stocks belonging to the fund, even at considerable loss, in time to meet the payment. What did the House do with that message? It had no time to consider it; and then it was that he had offered his resolutions. But the House would not receive them—would not allow them to be read. The time of payment came—and sacrifices of the stocks were made, which were absolutely indispensable so long as the House would not make the payment. And that $50,000 was one of the demonstrations and reductions from the expenditures of 1840, about which the President and the Secretary of the Treasury were congratulating themselves and the country. They called for the $50,000. They told the House that if that sum was not appropriated, it would be necessary to make great sacrifices. Yet the House refused to consider the subject at all.

"He had desired a long time to say this much to the House; and he said it now, although a little *out* of order, because he had never been allowed to say it *in* order. At the last session the House would not hear him upon any thing; and it was that consideration which induced him to offer the resolutions he had read, and which gave something like a sample of these things. He offered them after the very message calling for $50,000 for this very object, had come in. But no, it was not in order, and there was a gentleman here who cried out "*I object!*" He (Mr. A.) was not heard by the House, but he had now been heard; and he hoped that when he should again offer these resolutions, as he wished to do, they might at least be allowed to go on the journal as a record, to show that such propositions had been offered. Those resolutions

went utterly and entirely against the system of purchasing State bonds above par, and selling them fifty or sixty per cent. below par."

These debates are instructive, as showing in what manner legislation can be carried on, under the silencing process of the previous question. Here was a bill, slipped through the House, without the knowledge of its vigilant members, by which a fund of one million two hundred thousand dollars was squandered at once, and a charge of about $100,000 per annum put upon the Treasury to supply the place of the squandered fund, to continue during the lives of the pensioners, so far as they were widows or invalids, and until twenty-one years of age, so far as they were children. And it is remarkable that no one took notice of the pregnant insinuation of Mr. Adams, equivalent to an affirmation, that, although he could not tell the whole story of the passage of the act of 1837, there were others in the House who could, if they would; and also could tell what private interests were provided for.

No branch of the public service requires the reforming and retrenching hand of Congress more than the naval, now costing (ocean steam mail lines included) above eighteen millions of dollars: to be precise—$18,586,547, and 41 cents; and exclusive of the coast survey, about $400,000 more; and exclusive of the naval pensions. The civil, diplomatic, and miscellaneous branch is frightful, now amounting to $17,255,929 and 59 cents: and the military, also, now counting $12,571,496 and 64 cents (not including the pensions). Both these branches cry aloud for retrenchment and reform; but not equally with the naval—which stands the least chance to receive it. The navy, being a maritime establishment, has been considered a branch of service with which members from the interior were supposed to have but little acquaintance; and, consequently, but little right of interference. I have seen many eyes open wide, when a member from the interior would presume to speak upon it. By consequence, it has fallen chiefly under the management of members from the sea-coast—the tide-water districts of the Atlantic coast: where there is an interest in its growth, and also in its abuses. Seven navy yards (while Great Britain has but two); the constant building and equally constant repairing and altering vessels; their renewed equipment; the enlistment and discharge of crews; the schools and hospitals; the dry docks and wet docks; the congregation of officers ashore; and the ample pension list: all these make an expenditure, perennial and enormous, and always increasing, creates a powerful interest in favor of every proposition to spend money on the navy—especially in the north-east, where the bulk of the money goes; and an interest not confined to the members of Congress from those districts, but including a powerful lobby force, supplied with the arguments which deceive many, and the means which seduce more. While this management remains local, reform and retrenchment are not to be expected; nor could any member accomplish any thing without the support and countenance of an administration. Besides a local interest, potential on the subject, against reform, party spirit, or policy, opposes the same obstacle. The navy has been, and still is, to some degree, a party question—one party assuming to be its guardian and protector; and defending abuses to sustain that character. So far as this question goes to the *degree*, and *kind* of a navy—whether fleets to fight battles for the dominion of the seas, or cruisers to protect commerce—it is a fair question, on which parties may differ: but as to abuse and extravagance, there should be no difference. And yet what but abuse—what but headlong, wilful, and irresponsible extravagance, could carry up our naval expenditure to 18 millions of dollars, in time of peace, without a ship of the line afloat! and without vessels enough to perform current service, without hiring and purchasing!

73. Home Squadron, And Aid To Private Steam Lines

Great Britain has a home squadron, and that results from her geographical structure as a cluster of islands, often invaded, more frequently threatened, and always liable to sudden descents upon some part of her coast, resulting from her proximity to continental Europe, and engaged as principal or ally in almost all the wars of that continent. A fleet for home purposes, to cruise continually along her coasts, and to watch the neighboring coasts of her often enemies, was, then, a necessity of her insular position. Not so with the United States. We are not an island, but a continent, geographically remote from Europe, and politically still more so—unconnected with the wars of Europe—having but few of our own; having but little cause to expect descents and invasions, and but little to fear from them, if they came. Piracy had disappeared from the West Indies twenty years before. We had then no need for a home squadron. But Great Britain had one; and therefore we must. That was the true reason, with the desire for a great navy, cherished by the party opposed to the democracy (no matter under what name), and now dominant in all the departments of the government, for the creation of a home squadron at this session. The Secretary of the Navy and the navy board recommended it: Mr. Thomas Butler King, from the Naval Committee of the House, reported a bill for it, elaborately recommended in a most ample report: the two Houses passed it: the President approved it: and thus, at this extra session, was fastened upon the country a supernumerary fleet of two frigates, two sloops, two schooners, and two armed steamers: for the annual subsistence and repairs of which, about nine hundred thousand dollars were appropriated. This was fifteen years ago; and the country has yet to hear of the first want, the first service, rendered by this domestic squadron. In the mean time, it furnishes comfortable pay and subsistence, and commodious living about home, to some considerable number of officers and men.

But the ample report which was drawn up, and of which five thousand extra copies were printed, and the speeches delivered in its favor were bound to produce reasons for this new precaution against the danger of invasion, now to be provided after threescore years of existence without it, and when we had grown too strong, and too well covered our maritime cities with fortresses, to dread the descent of any enemy. Reasons were necessary to be given, and were; in which the British example, of course, was omitted. But reasons were given (in addition to the main object of defence), as that it would be a school for the instruction of the young midshipmen; and that it would give employment to many junior officers then idle in the cities. With respect to the first of these reasons it was believed by some that the merchant service was the best school in which a naval officer was ever trained; and with respect to the idle officers, that the true remedy was not to create so many. The sum appropriated by the bill was in gross—so much for all the different objects named in the bill, without saying how much for each. This was objected to by Mr. McKay of North Carolina, as being contrary to democratic practice, which required specific appropriations; also as being a mere disguise for an increase of the navy; and further that it was not competent for Congress to limit the employment of a navy. He said:

“That the bill before the committee proposed to appropriate a gross sum to effect the object in view, which he deemed a departure from the wholesome rule heretofore observed in making appropriations. It was known to all that since the political revolution of 1800, which placed the democratic party in power, the doctrine had generally prevailed, that all our appropriations should be specific. Now he would suggest to the chairman whether it would

not be better to pursue that course in the present instance. Here Mr. McKay enumerated the different items of expenditure to be provided for in the bill, and named the specific sum for each. This was the form, he said, in which all our naval appropriation bills had heretofore passed. He saw no reason for a departure from this wholesome practice in this instance—a practice which was the best and most effectual means of securing the accountability of our disbursing officers. There was another suggestion he would throw out for the consideration of the chairman, and he thought it possessed some weight. This bill purported to be for the establishment of a home squadron, but he looked upon it as nothing more nor less than for the increase of the navy. Again, could Congress be asked to direct the manner in which this squadron, after it was fitted out, should be employed? It was true that by the constitution, Congress alone was authorized to build and fit out a navy, but the President was the commander-in-chief, and had alone the power to direct how and where it should be employed. The title of this bill, therefore, should be 'a bill to increase the navy,' for it would not be imperative on the President to employ this squadron on our coasts. Mr. M. said he did not rise to enter into a long discussion, but merely to suggest to the consideration of the chairman of the committee, the propriety of making the appropriations in the bill specific."

"Mr. Wise said that he agreed entirely with the gentleman from North Carolina as to the doctrine of specific appropriations; and if he supposed that this bill violated that salutary principle he should be willing to amend it. But it did not; it declared a specific object, for which the money was given. He did not see the necessity of going into all the items which made up the sum. That Congress had no power to ordain that a portion of the navy should be always retained upon the coast as a home squadron, was to him a new doctrine. The bill did not say that these vessels should never be sent any where else."

"Mr. McKay insisted on the ground he had taken, and went into a very handsome eulogy on the principle of specific appropriations of the public money, as giving to the people the only security they had for the proper and the economical use of their money; but this, by the present shape of the bill, they would entirely be deprived of. The bill might be modified with the utmost ease, but he should move no amendments."

Mr. Thomas Butler King, the reporter of the bill, entered largely into its support, and made some comparative statements to show that much money had been expended heretofore on the navy with very inadequate results in getting guns afloat, going as high as eight millions of dollars in a year and floating but five hundred and fifty guns; and claimed an improvement now, as, for seven millions and a third they would float one thousand and seventy guns. Mr. King then said:

"He had heard much about the abuse and misapplication of moneys appropriated for the navy, and he believed it all to be true. To illustrate the truth of the charge, he would refer to the table already quoted, showing on one hand the appropriations made, and on the other the results thereby obtained. In 1800 there had been an appropriation of $2,704,148, and we had then 876 guns afloat; while in 1836, with an appropriation of $7,011,055, we had but 462 guns afloat. In 1841, with an appropriation of a little over *three* millions, we had 836 guns afloat; and in 1838, with an appropriation of over *eight* millions, we had but 554 guns afloat. These facts were sufficient to show how enormous must have been the abuses somewhere."

Mr. King also gave a statement of the French and British navies, and showed their great strength, in order to encourage our own building of a great navy to be able to cope with them on the ocean. He

"Alluded to the change which had manifested itself in the naval policy of Great Britain, in regard to a substitution of steam power for ordinary ships of war. He stated the enumeration

of the British fleet, in 1840, to be as follows: ships of the line, 105; vessels of a lower grade, in all, 403; and war steamers, 87. The number of steamers had since then been stated at 300. The French navy, in 1840, consisted of 23 ships of the line, 180 lesser vessels, and 36 steamers; besides which, there had been, at that time, eight more steamers on the stocks. These vessels could be propelled by steam across the Atlantic in twelve or fourteen days. What would be the condition of the lives and property of our people, if encountered by a force of this description, without a gun to defend themselves?"

Lines of railroad, with their steam-cars, had not, at that time, taken such extension and multiplication as to be taken into the account for national defence. Now troops can come from the geographical centre of Missouri in about sixty hours (summoned by the electric telegraph in a few minutes), and arrive at almost any point on the Atlantic coast; and from all the intermediate States in a proportionately less time. The railroad, and the electric telegraph, have opened a new era in defensive war, and especially for the United States, superseding old ideas, and depriving invasion of all alarm. But the bill was passed—almost unanimously—only eight votes against it in the House; namely: Linn Boyd of Kentucky; Walter Coles of Virginia; John G. Floyd of New York; William O. Goode of Virginia; Cave Johnson, Abraham McClelland, and Hopkins L. Turney of Tennessee; and John Thompson Mason of Maryland. It passed the Senate without yeas and nays.

A part of the report in favor of the home squadron was also a recommendation to extend assistance out of the public treasury to the establishment of private lines of ocean steamers, adapted to war purposes; and in conformity to it Mr. King moved this resolution:

"*Resolved*, That the Secretary of the Navy is hereby directed to inquire into the expediency of aiding individuals or companies in our establishment of lines of armed steamers between some of our principal Northern and Southern ports, and to foreign ports; to advertise for proposals for the establishment of such lines as he may deem most important and practicable; and to report to this House at the next session of Congress."

This resolution was adopted, and laid the foundation for those annual enormous appropriations for private lines of ocean steamers which have subjected many members of Congress to such odious imputations, and which has taken, and is taking, so many millions of the public money to enable individuals to break down competition, and enrich themselves at the public expense. It was a measure worthy to go with the home squadron, and the worst of the two—each a useless waste of money; and each illustrating the difficulty, and almost total impossibility, of getting rid of bad measures when once passed, and an interest created for them.

74. Recharter Of The District Banks: Mr. Benton's Speech: Extracts

Mr. Benton then proposed the following amendment:

"*And be it further enacted*, That each and every of said banks be, and they are hereby, expressly prohibited from issuing or paying out, under any pretence whatever, any bill, note, or other paper, designed or intended to be used and circulated as money, of a less denomination than five dollars, or of any denomination between five and ten dollars, after one year from the passage of this bill; or between ten and twenty dollars, after two years from the same time; and for any violation of the provisions of this section, or for issuing or paying out the notes of any bank in a state of suspension, its own inclusive, the offending bank shall incur all the penalties and forfeitures to be provided and directed by the first section of this act for the case of suspension or refusal to pay in specie; to be enforced in like manner as is directed by that section."

Mr. Benton. The design of the amendment is to suppress two great evils in our banking system: the evil of small notes, and that of banks combining to sustain each other in a state of suspension. Small notes are a curse in themselves to honest, respectable banks, and lead to their embarrassment, whether issued by themselves or others. They go into hands of laboring people, and become greatly diffused, and give rise to panics; and when a panic is raised it cannot be stopped among the holders of these small notes. Their multitudinous holders cannot go into the counting-room to examine assets, and ascertain an ultimate ability. They rush to the counter, and demand pay. They assemble in crowds, and spread alarm. When started, the alarm becomes contagious—makes a run upon all banks; and overturns the good as well as the bad. Small notes are a curse to all good banks. They are the cause of suspensions. When the Bank of England commenced operations, she issued no notes of a less denomination than one hundred pounds sterling; and when the notes were paid into the Bank, they were cancelled and destroyed. But in the course of one hundred and three years, she worked down from one hundred pound notes to one pound notes. And when did they commence reducing the amount of their notes? During the administration of Sir Robert Walpole. When the notes got down to one pound, specie was driven from circulation, and went to France and Holland, and a suspension of six and twenty years followed.

They are a curse to all good banks in another way: they banish gold and silver from the country: and when that is banished the foundation which supports the bank is removed: and the bank itself must come tumbling down. While there is gold and silver in the country—in common circulation—banks will be but little called upon for it: and if pressed can get assistance from their customers. But when it is banished the country, they alone are called upon, and get no help if hard run. All good banks should be against small notes on their own account.

These small notes are a curse to the public. They are the great source of counterfeiting. Look at any price current, and behold the catalogue of the counterfeits. They are almost all on the small denominations—under twenty dollars. And this counterfeiting, besides being a crime in itself, leads to crimes—to a general demoralization in passing them. Holders cannot afford to lose them: they cannot trace out the person from whom they got them. They gave value for them; and pass them to somebody—generally the most meritorious and least able to bear the loss—the day-laborer. Finally, they stop in somebody's hands—generally in the hands of a working man or woman.

Why are banks so fond of issuing these small notes? Why, in the first place, banks of high character are against them: it is only the predatory class that are for them: and, unfortunately, they are a numerous progeny. It is in vain they say they issue them for public accommodation. The public would be much better accommodated with silver dollars, gold dollars—with half, whole, double, and quarter eagles—whereof they would have enough if these predatory notes were suppressed. No! they are issued for profit—for dishonest profit—for the shameful and criminal purpose of getting something for nothing. It is for the wear and tear of these little pilfering messengers! for their loss in the hands of somebody! which loss is the banker's gain! the gain of a day's or a week's work from a poor man, or woman, for nothing. Shame on such a spirit, and criminal punishment on it besides. But although the gains are small individually, and in the petty larceny spirit, yet the aggregate is great; and enters into the regular calculation of profit in these paper money machines; and counts in the end. There is always a large per centum of these notes outstanding—never to come back. When, at the end of twenty-five years, Parliament repealed the privilege granted to the Bank of England to issue notes under five pounds, a large amount were outstanding; and though the repeal took place more than twenty years ago, yet every quarterly return of the Bank now shows that millions of these notes are still outstanding, which are lost or destroyed, and never will be presented. The Bank of England does not now issue any note under five pounds sterling: nor any other bank in England. The large banks repulsed the privilege for themselves, and got it denied to all the small class. To carry the iniquity of these pillaging little notes to the highest point, and to make them open swindlers, is to issue them at one place, redeemable at another. That is to double the cheat—to multiply the chance of losing the little plunderer by sending him abroad, and to get a chance of "*shaving*" him in if he does not go.

The statistics of crime in Great Britain show, that of all the counterfeiting of bank bills and paper securities in that kingdom, more is counterfeited on notes under five pounds than over and it is the same in this country. On whom does the loss of these counterfeit notes fall? On the poor and the ignorant—the laborer and the mechanic. Hence these banks inflict a double injury on the poorer classes; and of all the evils of the banking system, the most revolting is its imposing unequal burdens on that portion of the people the least able to bear them.

Mr. B. then instanced a case in point of an Insurance Company in St. Louis, which, in violation of law, assumed banking privileges, and circulated to a large extent the notes of a suspended bank. Up to Saturday night these notes were paid out from its counter, and the working man and mechanics of St. Louis were paid their week's wages in them. Well, when Monday morning came, the Insurance Company refused to receive one of them, and they fell at once to fifty cents on the dollar. Thus the laborer and the mechanic had three days of their labor annihilated, or had worked three days for the exclusive benefit of those who had swindled them; and all this by a bank having power to receive or refuse what paper they please, and when they please. And the Senate are now called upon to confer the same privilege upon the banks of this district.

Mr. B. said it was against the immutable principles of justice—in opposition to God's most holy canon, to make a thing of value to-day, which will be of none to-morrow. You might as well permit the dry goods merchant to call his yard measure three yards, or the grocer to call his quart three quarts, as to permit the banker to call his dollar three dollars. There is no difference in principle, though more subtle in the manner of doing it. Money is the standard of value, as the yard, and the gallon, and the pound weight, were the standards of measure.

When he proposed the amendment, he considered it a proper opportunity to bring before the people of the United States the great question, whether they should have an exclusive paper currency or not. He wished to call their attention to this war upon the currency of the constitution—a war unremitting and merciless—to establish in this country an exclusive paper currency. This war to subvert the gold and silver currency of the constitution, is waged by that party who vilify your branch mints, ridicule gold, ridicule silver, go for banks at all times and at all places; and go for a paper circulation down to notes of six and a quarter cents. He rejoiced that this question was presented in that body, on a platform so high that every American can see it—the question of a sound or depreciated currency. He was glad to see the advocates of banks, State and national, show their hand on this question.

To hear these paper-money advocates celebrate their idols—for they really seem to worship bank notes—and the smaller and meaner the better—one would be tempted to think that bank notes were the ancient and universal currency of the world, and that gold and silver were a modern invention—an innovation—an experiment—the device of some quack, who deserved no better answer than to be called humbug. To hear them discoursing of "sound banks," and "sound circulating medium," one would suppose that they considered gold and silver unsound, and subject to disease, rottenness, and death. But, why do they apply this phrase "sound" to banks and their currency? It is a phrase never applied to any thing which is not subject to unsoundness—to disease—to rottenness—to death. The very phrase brings up the idea of something subject to unsoundness; and that is true of banks of circulation and their currency: but it is not true of gold and silver: and the phrase is never applied to them. No one speaks of the gold or silver currency as being sound, and for the reason that no one ever heard of it as rotten.

Young merchants, and some old ones, think there is no living without banks—no transacting business without a paper money currency. Have these persons ever heard of Holland, where there are merchants dealing in tens of millions, and all of it in gold and silver? Have they ever heard of Liverpool and Manchester, where there was no bank of circulation, not even a branch of the Bank of England; and whose immense operations were carried on exclusively upon gold and the commercial bill of exchange? Have they ever heard of France, where the currency amounts to four hundred and fifty millions of dollars, and it all hard money? For, although the Bank of France has notes of one hundred and five hundred, and one thousand francs, they are not used as currency but as convenient bills of exchange, for remittance, or travelling. Have they ever heard of the armies, and merchants, and imperial courts of antiquity? Were the Roman armies paid with paper? did the merchant princes deal in paper? Was Nineveh and Babylon built on paper? Was Solomon's temple so built? And yet, according to these paper-money idolaters, we cannot pay a handful of militia without paper! cannot open a dry goods store in a shanty without paper! cannot build a house without paper! cannot build a village of log houses in the woods, or a street of shanties in a suburb, without a bank in their midst! This is real humbuggery; and for which the industrial classes—the whole working population, have to pay an enormous price. Does any one calculate the cost to the people of banking in our country? how many costly edifices have to be built? what an army of officers have to be maintained? what daily expenses have to be incurred? how many stockholders must get profits? in a word, what a vast sum a bank lays out before it begins to make its half yearly dividend of four or five per centum, leaving a surplus—all to come out of the productive classes of the people? And after that comes the losses by the wear and tear of small notes—by suspensions and breakings—by expansions and contractions—by making money scarce when they want to buy, and plenty when they want to sell. We talk of standing armies in Europe, living on the people: we have an army of bank officers here doing the same. We talk of European taxes; the banks tax us here as much as kings tax their subjects.

And this district is crying out for banks. It has six, and wants them rechartered—Congress all the time spending more hard money among them than they can use. They had twelve banks: and what did they have to do? Send to Holland, where there is not a single bank of circulation, to borrow one million of dollars in gold, which they got at five per centum per annum; and then could not pay the interest. At the end of the third year the interest could not be paid; and Congress had to pay it to save the whole corporate effects of the city from being sold—sold to the Dutch, because the Dutch had no banks. And sold it would have been if Congress had not put up the money: for the distress warrant was out, and was to be levied in thirty days. Then what does this city want with banks of circulation? She has no use for them; but I only propose to make them a little safer by suppressing their small notes, and preventing them from dealing in the depreciated notes of suspended, or broken banks.

75. Revolt In Canada: Border Sympathy: Firmness Of Mr. Van Buren: Public Peace Endangered—And Preserved:—Case Of Mcleod

The revolt which took place in Canada in the winter of 1837-'8 led to consequences which tried the firmness of the administration, and also tried the action of our duplicate form of government in its relations with foreign powers. The revolt commenced imposingly, with a large show of disjointed forces, gaining advantages at the start; but was soon checked by the regular local troops. The French population, being the majority of the people, were chiefly its promoters, with some emigrants from the United States; and when defeated they took refuge on an island in the Niagara River on the British side, near the Canadian coast, and were collecting men and supplies from the United States to renew the contest. From the beginning an intense feeling in behalf of the insurgents manifested itself all along the United States border, upon a line of a thousand miles—from Vermont to Michigan. As soon as blood began to flow on the Canadian side, this feeling broke out into acts on the American side, and into organization for the assistance of the revolting party—the patriots, as they were called. Men assembled and enrolled, formed themselves into companies and battalions, appointed officers—even generals—issued proclamations—forced the public stores and supplied themselves with arms and ammunition: and were certainly assembling in sufficient numbers to have enabled the insurgents to make successful head against any British forces then in the provinces. The whole border line was in a state of excitement and commotion—many determined to cross over, and assist—many more willing to see the assistance given: the smaller part only discountenanced the proceeding and wished to preserve the relations which the laws of the country, and the duties of good neighborhood, required. To the Canadian authorities these movements on the American side were the cause of the deepest solicitude; and not without reason: for the numbers, the inflamed feeling, and the determined temper of these auxiliaries, presented a force impossible for the Canadian authorities to resist, if dashing upon them, and difficult for their own government to restrain. From the first demonstration, and without waiting for any request from the British minister at Washington (Mr. Fox), the President took the steps which showed his determination to have the laws of neutrality respected. A proclamation was immediately issued, admonishing and commanding all citizens to desist from such illegal proceedings, and threatening the guilty with the utmost penalties of the law. But the President knew full well that it was not a case in which a proclamation, and a threat, were to have efficacy; and he took care to add material means to his words. Instructions were issued to all the federal law officers along the border, the marshals and district attorneys, to be vigilant in making arrests: and many were made, and prosecutions instituted. He called upon the governors of the border States to aid in suppressing the illegal movement: which they did. And to these he added all the military and naval resources which could be collected. Major-general Scott was sent to the line, with every disposable regular soldier, and with authority to call on the governors of New York and Michigan for militia and volunteers: several steamboats were chartered on Lake Erie, placed under the command of naval officers, well manned with regular soldiers, and ordered to watch the lake.

The fidelity, and even sternness with which all these lawless expeditions from the United States, were repressed and rebuked by President Van Buren, were shown by him in his last communication to Congress on the subject; in which he said:

"Information has been given to me, derived from official and other sources, that many citizens of the United States have associated together to make hostile incursions from our territory into Canada, and to aid and abet insurrection there, in violation of the obligations and laws of the United States, and in open disregard of their own duties as citizens.

"The results of these criminal assaults upon the peace and order of a neighboring country have been, as was to be expected, fatally destructive to the misguided or deluded persons engaged in them, and highly injurious to those in whose behalf they are professed to have been undertaken. The authorities in Canada, from intelligence received of such intended movements among our citizens, have felt themselves obliged to take precautionary measures against them; have actually embodied the militia, and assumed an attitude to repel the invasion to which they believed the colonies were exposed from the United States. A state of feeling on both sides of the frontier has thus been produced, which called for prompt and vigorous interference. If an insurrection existed in Canada, the amicable dispositions of the United States towards Great Britain, as well as their duty to themselves, would lead them to maintain a strict neutrality, and to restrain their citizens from all violations of the laws which have been passed for its enforcement. But this government recognizes a still higher obligation to repress all attempts on the part of its citizens to disturb the peace of a country where order prevails, or has been re-established. Depredations by our citizens upon nations at peace with the United States, or combinations for committing them, have at all times been regarded by the American government and people with the greatest abhorrence. Military incursions by our citizens into countries so situated, and the commission of acts of violence on the members thereof, in order to effect a change in its government, or under any pretext whatever, have, from the commencement of our government, been held equally criminal on the part of those engaged in them, and as much deserving of punishment as would be the disturbance of the public peace by the perpetration of similar acts within our own territory."

By these energetic means, invasions from the American side were prevented; and in a contest with the British regulars and the local troops, the disjointed insurgents, though numerous, were overpowered—dispersed—subjected—or driven out of Canada. Mr. Van Buren had discharged the duties of neutrality most faithfully, not merely in obedience to treaties and the law of nations, but from a high conviction of what was right and proper in itself, and necessary to the well-being of his own country as well as that of a neighboring power. Interruption of friendly intercourse with Great Britain, would be an evil itself, even if limited to such interruption: but the peace of the United States might be endangered: and it was not to be tolerated that bands of disorderly citizens should bring on war. He had done all that the laws, and all that a sense of right and justice required—and successfully, to the repression of hostile movements—and to the satisfaction of the British authorities. Faithfully and ably seconded by his Secretary of State (Mr. Forsyth), and by his Attorney-general (Mr. Gilpin), he succeeded in preserving our neutral relations in the most trying circumstances to which they had ever been exposed, and at large cost of personal popularity to himself: for the sympathy of the border States resented his so earnest interference to prevent aid to the insurgents.

The whole affair was over, and happily, when a most unexpected occurrence revived the difficulty—gave it a new turn—and made the soil of the United States itself, the scene of invasion—of bloodshed—of conflagration—and of abduction. Some remnant of the dispersed insurgents had taken refuge on Navy Island, near the Canadian shore; and reinforced by some Americans, were making a stand there, and threatening a descent upon the British colonies. Their whole number has been ascertained to have been no more than some five hundred—but magnified by rumor at the time to as many thousands. A small steamboat from the American side, owned by a citizen of the United States, was in the habit of carrying men and supplies to

this assemblage on the island. Her practices became known to the British military authorities, encamped with some thousand men at Chippewa, opposite the island; and it was determined to take her in the fact, and destroy her. It was then the last of December. A night expedition of boats was fitted out to attack this vessel, moored to the island; but not finding her there, the vessel was sought for in her own waters—found moored to the American shore; and there attacked and destroyed. The news of this outrage was immediately communicated to the President, and by him made known to Congress in a special message—accompanied by the evidence on which the information rested, and by a statement of the steps which the President had taken in consequence. The principal evidence was from the master of the boat—her name, the Caroline—and Schlosser, on the American shore, her home and harbor. After admitting that the boat had been employed in carrying men and supplies to the assemblage on Navy Island, his affidavit continues:

"That from this point the Caroline ran to Schlosser, arriving there at three o'clock in the afternoon; that, between this time and dark, the Caroline made two trips to Navy Island, landing as before. That, at about six o'clock in the evening, this deponent caused the said Caroline to be landed at Schlosser, and made fast with chains to the dock at that place. That the crew and officers of the Caroline numbered ten, and that, in the course of the evening, twenty-three individuals, all of whom were citizens of the United States, came on board of the Caroline, and requested this deponent and other officers of the boat to permit them to remain on board during the night, as they were unable to get lodgings at the tavern near by; these requests were acceded to, and the persons thus coming on board retired to rest, as did also all of the crew and officers of the Caroline, except such as were stationed to watch during the night. That, about midnight, this deponent was informed by one of the watch, that several boats filled with men, were making towards the Caroline from the river, and this deponent immediately gave the alarm; and before he was able to reach the deck, the Caroline was boarded by some 70 or 80 men, all of whom were armed. That they immediately commenced a warfare with muskets, swords, and cutlasses, upon the defenceless crew and passengers of the Caroline, under a fierce cry of G—d damn them, give them no quarter; kill every man: fire! fire! That the Caroline was abandoned without resistance, and the only effort made by either the crew or passengers seemed to be to escape slaughter. That this deponent narrowly escaped; having received several wounds, none of which, however, are of a serious character. That immediately after the Caroline fell into the hands of the armed force who boarded her, she was set on fire, cut loose from the dock, was towed into the current of the river, there abandoned, and soon after descended the Niagara Falls: that this deponent has made vigilant search after the individuals, thirty-three in number, who are known to have been on the Caroline at the time she was boarded, and twenty-one only are to be found, one of whom, to wit, Amos Durfee, of Buffalo, was found dead upon the dock, having received a shot from a musket, the ball of which penetrated the back part of the head, and came out at the forehead. James II. King, and Captain C. F. Harding, were seriously, though not mortally wounded. Several others received slight wounds. The twelve individuals who are missing, this deponent has no doubt, were either murdered upon the steamboat, or found a watery grave in the cataract of the falls. And this deponent further says, that immediately after the Caroline was got into the current of the stream and abandoned, as before stated, beacon lights were discovered upon the Canada shore, near Chippewa; and after sufficient time had elapsed to enable the boats to reach that shore, this deponent distinctly heard loud and vociferous cheering at that point. That this deponent has no doubt that the individuals who boarded the Caroline, were a part of the British forces now stationed at Chippewa."

Ample corroborative testimony confirmed this affidavit—for which, in fact, there was no necessity, as the officer in command of the boats made his official report to his superior (Col.

McNab), to the same effect—who published it in general orders; and celebrated the event as an exploit. This report varied but little from the American in any respect, and made it worse in others. After stating that he did not find the Caroline at Navy Island, "as expected," he went in search of her, and found her at Grand Island, and moored to the shore. The report proceeds:

"I then assembled the boats off the point of the Island, and dropped quietly down upon the steamer; we were not discovered until within twenty yards of her, when the sentry upon the gangway hailed us, and asked for the countersign, which I told him we would give when we got on board; he then fired upon us, when we immediately boarded and found from twenty to thirty men upon her decks, who were easily overcome, and in two minutes she was in our possession. As the current was running strong, and our position close to the Falls of Niagara, I deemed it most prudent to burn the vessel; but previously to setting her on fire, we took the precaution to loose her from her moorings, and turn her out into the stream, to prevent the possibility of the destruction of anything like American property. In short, all those on board the steamer who did not resist, were quietly put on shore, as I thought it possible there might be some American citizens on board. Those who assailed us, were of course dealt with according to the usages of war.

"I beg to add, that we brought one prisoner away, a British subject, in consequence of his acknowledging that he had belonged to Duncombe's army, and was on board the steamer to join Mackenzie upon Navy Island. Lieutenant McCormack, of the Royal Navy, and two others were wounded, and I regret to add that five or six of the enemy were killed."

This is the official report of Captain Drew, and it adds the crimes of impressment and abduction to all the other enormities of that midnight crime. The man carried away as a British subject, and because he had belonged to the insurgent forces in Canada, could not (even if these allegations had been proved upon him), been delivered up under any demand upon our government: yet he was carried off by violence in the night.

This outrage on the Caroline, reversed the condition of the parties, and changed the tenor of their communications. It now became the part of the United States to complain, and to demand redress; and it was immediately done in a communication from Mr. Forsyth, the Secretary of State, to Mr. Fox, the British minister, at Washington. Under date of January 5th, 1838, the Secretary wrote to him:

"The destruction of the property, and assassination of citizens of the United States on the soil of New York, at the moment when, as is well known to you, the President was anxiously endeavoring to allay the excitement, and earnestly seeking to prevent any unfortunate occurrence on the frontier of Canada, has produced upon his mind the most painful emotions of surprise and regret. It will necessarily form the subject of a demand for redress upon her majesty's government. This communication is made to you under the expectation that, through your instrumentality, an early explanation may be obtained from the authorities of Upper Canada, of all the circumstances of the transaction; and that, by your advice to those authorities, such decisive precautions may be used as will render the perpetration of similar acts hereafter impossible. Not doubting the disposition of the government of Upper Canada to do its duty in punishing the aggressors and preventing future outrage, the President, notwithstanding, has deemed it necessary to order a sufficient force on the frontier to repel any attempt of a like character, and to make known to you that if it should occur, he cannot be answerable for the effects of the indignation of the neighboring people of the United States."

In communicating this event to Congress, Mr. Van Buren showed that he had already taken the steps which the peace and honor of the country required. The news of the outrage, spreading through the border States, inflamed the repressed feeling of the people to the highest degree, and formidable retaliatory expeditions were immediately contemplated. The President called all the resources of the frontier into instant requisition to repress these expeditions, and at the same time took measures to obtain redress from the British government. His message to the two Houses said:

"I regret, however, to inform you that an outrage of a most aggravated character has been committed, accompanied by a hostile, though temporary invasion of our territory, producing the strongest feelings of resentment on the part of our citizens in the neighborhood, and on the whole border line; and that the excitement previously existing, has been alarmingly increased. To guard against the possible recurrence of any similar act, I have thought it indispensable to call out a portion of the militia to be posted on that frontier. The documents herewith presented to Congress show the character of the outrage committed, the measures taken in consequence of its occurrence, and the necessity for resorting to them. It will also be seen that the subject was immediately brought to the notice of the British minister accredited to this country, and the proper steps taken on our part to obtain the fullest information of all the circumstances leading to and attendant upon the transaction, preparatory to a demand for reparation."

The feeling in Congress was hardly less strong than in the border States, on account of this outrage, combining all the crimes of assassination, arson, burglary, and invasion of national territory. An act of Congress was immediately passed, placing large military means, and an appropriation of money in the President's hands, for the protection of our frontier. His demand for redress was unanimously seconded by Congress; and what had been so earnestly deprecated from the beginning, as a consequence of this border trouble—a difficulty between the two nations—had now come to pass; but entirely from the opposite side from which it had been expected. The British government delayed the answer to the demand for redress—avoided the assumption of the criminal act—excused and justified it—but did not assume it: and in fact could not, without contradicting the official reports of her own officers, all negativing the idea of any intention to violate the territory of the United States. The orders to the officer commanding the boats, was to seek the Caroline at Navy Island, where she had been during the day, and was expected to be at night. In pursuance of this order, the fleet of boats went to the island, near midnight; and not finding the offending vessel there, sought her elsewhere. This is the official report of Capt. Drew, of the Royal Navy, commanding the boats: "I immediately directed five boats to be armed, and manned with forty-five volunteers; and, at about eleven o'clock, P. M., we pushed off from the shore for Navy Island, when not finding her there, as expected, we went in search, and found her moored between the island and the main shore." The island here spoken of as the one between which and the main shore, the Caroline was found, was the American island, called Grand Island, any descent upon which, Colonel McNab had that day officially disclaimed, because it was American territory. The United States Attorney for the District of New York, (Mr. Rodgers), then on the border to enforce the laws against the violators of our neutrality, hearing that there was a design to make a descent upon Grand Island, addressed a note to Col. McNab, commanding on the opposite side of the river, to learn its truth; and received this answer:

"With respect to the report in the city of Buffalo, that certain forces under my command had landed upon Grand Island—an island within the territory of the United States—I can assure you that it is entirely without foundation; and that so far from my having any intention of the kind, such a proceeding would be in direct opposition to the wishes and intentions of her Britannic majesty's government, in this colony, whose servant I have the honor to be.

Entering at once into the feeling which induced you to address me on this subject, I beg leave to call your attention to the following facts: That so far from occupying or intending to occupy, that or any other portion of the American territory, aggressions of a serious and hostile nature have been made upon the forces under my command from that island. Two affidavits are now before me, stating that a volley of musketry from Grand Island was yesterday fired upon a party of unarmed persons, some of whom were females, without the slightest provocation having been offered. That on the same day, one of my boats, unarmed, manned by British subjects, passing along the American shore, and without any cause being given, was fired upon from the American side, near Fort Schlosser, by cannon, the property, I am told, of the United States."

This was written on the 29th day of December, and it was eleven o'clock of the night of that day that the Caroline was destroyed on the American shore. It was Col. McNab, commanding the forces at Chippewa, that gave the order to destroy the Caroline. The letter and the order were both written the same day—probably within the same hour, as both were written in the afternoon: and they were coincident in import as well as in date. The order was to seek the offending vessel at Navy Island, being British territory, and where she was seen at dark: the letter disclaimed both the fact, and the intent, of invading Grand Island, because it was American territory: and besides the disclaimer for himself, Col. McNab superadded another equally positive in behalf of her Majesty's government in Canada, declaring that such a proceeding would be in direct opposition to the wishes and intentions of the colonial government. In the face of these facts the British government found it difficult, and for a long time impossible, to assume this act of destroying the Caroline as a government proceeding. It was never so assumed during the administration of Mr. Van Buren—a period of upwards of three years—to be precise—(and this is a case which requires precision)—three years and two months and seven days: that is to say, from the 29th of December, 1837, to March 3d, 1841.

When this letter of Col. McNab was read in the House of Representatives (which it was within a few days after it was written), Mr. Fillmore (afterwards President of the United States, and then a representative from the State of New York, and, from that part of the State which included the most disturbed portion of the border), stood up in his place, and said:

"The letter just read by the clerk, at his colleague's request, was written in reply to one from the district attorney as to the reported intention of the British to invade Grand Island; and in it is the declaration that there was no such intention. Now, Mr. F. would call the attention of the House to the fact that that letter was written on the 29th December, and that it was on the very night succeeding the date of it that this gross outrage was committed on the Caroline. Moreover, he would call the attention of the House to the well-authenticated fact, that, after burning the boat, and sending it over the falls, the assassins were lighted back to McNab's camp, where he was in person, by beacons lighted there for that purpose. Mr. F. certainly deprecated a war with Great Britain as sincerely as any gentleman on that floor could possibly do: and hoped, as earnestly, that these difficulties would be amicably adjusted between the two nations. Yet, he must say, that the letter of McNab, instead of affording grounds for a palliation, was, in reality, a great aggravation of the outrage. It held out to us the assurance that there was nothing of the kind to be apprehended; and yet, a few hours afterwards, this atrocity was perpetrated by an officer sent directly from the camp of that McNab."

At the time that this was spoken the order of Col. McNab to Captain Drew had not been seen, and consequently it was not known that the letter and the order were coincident in their character, and that the perfidy, implied in Mr. Fillmore's remarks, was not justly attributable

to Col. McNab: but it is certain he applauded the act when done: and his letter will stand for a condemnation of it, and for the disavowal of authority to do it.

The invasion of New York was the invasion of the United States, and the President had immediately demanded redress, both for the public outrage, and for the loss of property to the owners of the boat. Mr. Van Buren's entire administration went off without obtaining an answer to these demands. As late as January, 1839—a year after the event—Mr. Stevenson, the United States minister in London, wrote: "I regret to say that no answer has yet been given to my note in the case of the Caroline." And towards the end of the same year, Mr. Forsyth, the American Secretary of State, in writing to him, expressed the belief that an answer would soon be given. He says: "I have had frequent conversations with Mr. Fox in regard to this subject—one of very recent date—and from its tone, the President expects the British government will answer your application in the case without much further delay."—Delay, however, continued; and, as late as December, 1840, no answer having yet been received, the President directed the subject again to be brought to the notice of the British government; and Mr. Forsyth accordingly wrote to Mr. Fox:

"The President deems this to be a proper occasion to remind the government of her Britannic majesty that the case of the "Caroline" has been long since brought to the attention of her Majesty's principal Secretary of State for foreign affairs, who, up to this day, has not communicated its decision thereupon. It is hoped that the government of her Majesty will perceive the importance of no longer leaving the government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences. I avail myself of this occasion to renew to you the assurance of my distinguished consideration."

This was near the close of Mr. Van Buren's administration, and up to that time it must be noted, *first*, that the British government had not assumed the act of Captain Drew in destroying the Caroline; *secondly*, that it had not answered (had not refused redress) for that act. Another circumstance showed that the government, in its own conduct in relation to those engaged in that affair, had not even indirectly assumed it by rewarding those who did it. Three years after the event, in the House of Commons, Lord John Russell, the premier, was asked in his place, whether it was the intention of ministers to recommend to her Majesty to bestow any reward upon Captain Drew, and others engaged in the affair of the Caroline; to which he replied negatively, and on account of the delicate nature of the subject. His answer was: "No reward had been resolved upon, and as the question involved a subject of a very delicate nature, he must decline to answer it further." Col. McNab had been knighted; not for the destruction of the Caroline on United States territory (which his order did not justify, and his letter condemned), but for his services in putting down the revolt.

Thus the affair stood till near the close of Mr. Van Buren's administration, when an event took place which gave it a new turn, and brought on a most serious question between the United States and Great Britain, and changed the relative positions of the two countries—the United States to become the injured party, claiming redress. The circumstances were these: one Alexander McLeod, inhabitant of the opposite border shore, and a British subject, had been in the habit of boasting that he had been one of the destroyers of the Caroline, and that he had himself killed one of the "damned Yankees." There were enough to repeat these boastings on the American side of the line; and as early as the spring of 1838 the Grand Jury for the county in which the outrage had been committed, found a bill of indictment against him for murder and arson. He was then in Canada, and would never have been troubled upon the indictment if he had remained there; but, with a boldness of conduct which bespoke clear innocence, or insolent defiance, he returned to the seat of the outrage—to the county in which

the indictment lay—and publicly exhibited himself in the county town. This was three years after the event; but the memory of the scene was fresh, and indignation boiled at his appearance. He was quickly arrested on the indictment, also sued for damages by the owner of the destroyed boat, and committed to jail—to take his trial in the State court of the county of Niagara. This arrest and imprisonment of McLeod immediately drew an application for his release in a note from Mr. Fox to the American Secretary of State. Under date of the 13th December, 1840, he wrote:

"I feel it my duty to call upon the government of the United States to take prompt and effectual steps for the liberation of Mr. McLeod. It is well known that the destruction of the steamboat 'Caroline' was a public act of persons in her Majesty's service, obeying the order of their superior authorities.—That act, therefore, according to the usages of nations, can only be the subject of discussion between the two national governments; it cannot justly be made the ground of legal proceedings in the United States against the individuals concerned, who were bound to obey the authorities appointed by their own government. I may add that I believe it is quite notorious that Mr. McLeod was not one of the party engaged in the destruction of the steamboat 'Caroline,' and that the pretended charge upon which he has been imprisoned rests only upon the perjured testimony of certain Canadian outlaws and their abettors, who, unfortunately for the peace of that neighborhood, are still permitted by the authorities of the State of New York to infest the Canadian frontier. The question, however, of whether Mr. McLeod was or was not concerned in the destruction of the 'Caroline,' is beside the purpose of the present communication. That act was the public act of persons obeying the constituted authorities of her Majesty's province. The national government of the United States thought themselves called upon to remonstrate against it; and a remonstrance which the President did accordingly address to her Majesty's government is still, I believe, a pending subject of diplomatic discussion between her Majesty's government and the United States legation in London. I feel, therefore, justified in expecting that the President's government will see the justice and the necessity of causing the present immediate release of Mr. McLeod, as well as of taking such steps as may be requisite for preventing others of her Majesty's subjects from being persecuted, or molested in the United States in a similar manner for the future."

This note of Mr. Fox is fair and unexceptionable—free from menace—and notable in showing that the demand for redress for the affair of the Caroline was still under diplomatic discussion in London, and that the British government had not then assumed the act of Captain Drew. The answer of Mr. Forsyth was prompt and clear—covering the questions arising out of our duplicate form of government, and the law of nations—and explicit upon the rights of the States, the duties of the federal government, and the principles of national law. It is one of the few answers of the kind which circumstances have arisen to draw from our government, and deserves to be well considered for its luminous and correct expositions of the important questions of which it treats. Under date of the 28th of December, and writing under the instructions of the President, he says:

"The jurisdiction of the several States which constitute the Union is, within its appropriate sphere, perfectly independent of the federal government. The offence with which Mr. McLeod is charged was committed within the territory, and against the laws and citizens of the State of New York, and is one that comes clearly within the competency of her tribunals. It does not, therefore, present an occasion where, under the constitution and laws of the Union, the interposition called for would be proper, or for which a warrant can be found in the powers with which the federal executive is invested. Nor would the circumstances to which you have referred, or the reasons you have urged, justify the exertion of such a power, if it existed. The transaction out of which the question arises, presents the case of a most

unjustifiable invasion, in time of peace, of a portion of the territory of the United States, by a band of armed men from the adjacent territory of Canada, the forcible capture by them within our own waters, and the subsequent destruction of a steamboat, the property of a citizen of the United States, and the murder of one or more American citizens. If arrested at the time, the offenders might unquestionably have been brought to justice by the judicial authorities of the State within whose acknowledged territory these crimes were committed; and their subsequent voluntary entrance within that territory, places them in the same situation. The President is not aware of any principle of international law, or, indeed, of reason or justice, which entitles such offenders to impunity before the legal tribunals, when coming voluntarily within their independent and undoubted jurisdiction, because they acted in obedience to their superior authorities, or because their acts have become the subject of diplomatic discussion between the two governments. These methods of redress, the legal prosecution of the offenders, and the application of their government for satisfaction, are independent of each other, and may be separately and simultaneously pursued. The avowal or justification of the outrages by the British authorities might be a ground of complaint with the government of the United States, distinct from the violation of the territory and laws of the State of New York. The application of the government of the Union to that of Great Britain, for the redress of an authorized outrage of the peace, dignity, and rights of the United States, cannot deprive the State of New York of her undoubted right of vindicating, through the exercise of her judicial power, the property and lives of her citizens. You have very properly regarded the alleged absence of Mr. McLeod from the scene of the offence at the time when it was committed, as not material to the decision of the present question. That is a matter to be decided by legal evidence; and the sincere desire of the President is, that it may be satisfactorily established. If the destruction of the Caroline was a public act of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been communicated to the government of the United States by a person authorized to make the admission; and it will be for the court which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it."

This answer to Mr. Fox, was read in the two Houses of Congress, on the 5th of January, and was heard with great approbation—apparently unanimous in the Senate. It went to London, and on the 8th and 9th of February, gave rise to some questions and answers, which showed that the British government did not take its stand in approving the burning of the Caroline, until after the presidential election of 1840—until after that election had ensured a change of administration in the United States. On the 8th of February, to inquiries as to what steps had been taken to secure the liberation of McLeod, the answers were general from Lord Palmerston and Lord Melbourne, "*That her Majesty's ministers would take those measures which, in their estimation, would be best calculated to secure the safety of her Majesty's subjects, and to vindicate the honor of the British nation*." This answer was a key to the instructions actually given to Mr. Fox, showing that they were framed upon a calculation of what would be most effective, and not upon a conviction of what was right. They would do what they thought would accomplish the purpose; and the event showed that the calculation led them to exhibit the war attitude—to assume the offence of McLeod, and to bully the new administration. And here it is to be well noted that the British ministry, up to that time, had done nothing to recognize the act of Captain Drew. Neither to the American minister in London, nor to the Secretary of State here, had they assumed it. More than that: they carefully abstained from indirect, or implied assumption, by withholding pensions to their wounded officers in that affair—one of whom had five severe wounds. This fact was brought out at this time by a question from Mr. Hume in the House of Commons to Lord John Russell, in which—

"He wished to ask the noble lord a question relating to a matter of fact. He believed that, in the expedition which had been formed for the destruction of the Caroline, certain officers, who held commissions in her Majesty's army and navy, were concerned in that affair, and that some of these officers had, in the execution of the orders which were issued, received wounds. The question he wished to ask was, whether or not her Majesty's government had thought proper to award pensions to those officers, corresponding in amount with those which were usually granted for wounds received in the regular service of her Majesty."

This was a pointed question, and carrying an argument along with it. Had the wounded officers received the usual pension? If not, there must be a reason for departing from the usual practice; and the answer showed that the practice had been departed from. Lord John Russell replied:

"*That he was not aware of any pensions having been granted to those officers who were wounded in the expedition against the Caroline.*"

This was sufficiently explicit, and showed that up to the 8th day of February, 1841, the act of Captain Drew had not been even indirectly, or impliedly recognized. But the matter did not stop there. Mr. Hume, a thoroughly business member, not satisfied with an answer which merely implied that the government had not sanctioned the measure, followed it up with a recapitulation of circumstances to show that the government had not answered, one way or the other, during the three years that the United States had been calling for redress; and ending with a plain interrogatory for information on that point.

"He said that the noble lord (Palmerston), had just made a speech in answer to certain questions which had been put to him by the noble lord, the member for North Lancashire; but he (Mr. Hume) wished to ask the House to suspend their opinion upon the subject until they had the whole of the papers laid before the House. He had himself papers in his possession, that would explain many things connected with this question, and which, by-the-bye, were not exactly consistent with the statement which had just been made. It appeared by the papers which he had in his possession, that in January, 1838, a motion was made in the U. S. House of Representatives, calling upon the President to place upon the table of the House, all the papers respecting the Caroline, and all the correspondence which had passed between the government of the United States and the British government on the subject of the destruction of the Caroline. In consequence of that motion, certain papers were laid upon the table, including one from Mr. Stevenson, the present minister here from the U. States. These were accompanied by a long letter, dated the 15th of May, 1838, from that gentleman, and in that letter, the burning of the Caroline was characterized in very strong language. He also stated, that agreeably to the orders of the President, he had laid before the British government the whole of the evidence relating to the subject, which had been taken upon the spot, and Mr. Stevenson *denied he had ever been informed that the expedition against the Caroline was authorized or sanctioned by the British government*. Now, from May, 1838, the time when the letter had been written, up to this hour, no answer had been given to that letter, nor had any satisfaction been given by the British government upon this subject. In a letter dated from London, the 2d of July, Mr. Stevenson stated that he had not received any answer upon the subject, and that he did not wish to press the subject further; but if the government of the United States wished him to do so, he prayed to be informed of it. By the statement which had taken place in the House of Congress, it appeared that the government of the United States had been ignorant of any information that could lead them to suppose that the enterprise against the Caroline had been undertaken by the orders of the British government, or by British authority. That he believed was the ground upon which Mr. Forsyth acted as he had done. He takes his objections, and denies the allegation of Mr. Fox, that neither had he

nor her Majesty's government made any communication to him or the authorities of the United States, that the British government had *authorized the destruction of the Caroline*. He (Mr. Hume) therefore hoped that no discussion would take place, until all the papers connected with the matter were laid before the House. He wished to know what the nature of those communications was with Mr. Stevenson and her Majesty's government which had induced him to act as he had done."

Thus the ministry were told to their faces, and in the face of the whole Parliament, that for the space of three years, and under repeated calls, they had never assumed the destruction of the Caroline: and to that assertion the ministry *then* made no answer. On the following day the subject was again taken up, "*and in the course of it Lord Palmerston admitted that the government approved of the burning of the Caroline*." So says the Parliamentary Register of Debates, and adds: "*The conversation was getting rather warm, when Sir Robert Peel interposed by a motion on the affairs of Persia.*" This was the first knowledge that the British parliament had of the assumption of that act, which undoubtedly had just been resolved upon. It is clear that Lord Palmerston was the presiding spirit of this resolve. He is a bold man, and a man of judgment in his boldness. He probably never would have made such an assumption in dealing with General Jackson: he certainly made no such assumption during the three years he had to deal with the Van Buren administration. The conversation was "getting warm;" and well it might: for this pregnant assumption, so long delayed, and so given, was entirely gratuitous, and unwarranted by the facts. Col. McNab was the commanding officer, and gave all the orders that were given. Captain Drew's report to him shows that his orders were to destroy the vessel at Navy Island: McNab's letter of the same day to the United States District Attorney (Rodgers), shows that he would not authorize an expedition upon United States territory; and his sworn testimony on the trial of McLeod shows that he did not do it in his orders to Captain Drew. That testimony says:

"I do remember the last time the steamboat Caroline came down previous to her destruction; from the information I received, I had every reason to believe that she came down for the express purpose of assisting the rebels and brigands on Navy Island with arms, men, ammunition, provisions, stores, &c.; to ascertain this fact, I sent two officers with instructions to watch the movements of the boat, to note the same, and report to me; they reported they saw her land a cannon (a six or nine-pounder), several men armed and equipped as soldiers, and that she had dropped her anchor on the east side of Navy Island; on the information I had previously received from highly respectable persons in Buffalo, together with the report of these gentlemen, I determined to destroy her that night. I intrusted the command of the expedition for the purposes aforesaid, to Capt. A. Drew, royal navy; seven boats were equipped, and left the Canadian shore; I do not recollect the number of men in each boat; Captain Drew held the rank of commander in her Majesty's royal navy; I ordered the expedition, and first communicated it to Capt. Andrew Drew, on the beach, where the men embarked a short time previous to their embarkation; Captain Drew was ordered to take and destroy the Caroline wherever he could find her; I gave the order as officer in command of the forces assembled for the purposes aforesaid; they embarked at the mouth of the Chippewa river; in my orders to Captain Drew nothing was said about invading the territory of the United States, but such was their nature that Captain Drew might feel himself justified in destroying the boat wherever he might find her."

From this testimony it is clear that McNab gave no order to invade the territory of the United States; and the whole tenor of his testimony agrees with Captain Drew's report, that it was "expected" to have found the Caroline at Navy Island, where she was in fact immediately before, and where McNab saw her while planning the expedition. No such order was then given by him—nor by any other authority; for the local government in Quebec knew no more

of it than the British ministry in London. Besides, Col. McNab was only the military commander to suppress the insurrection. He had no authority, for he disclaimed it, to invade an American possession; and if the British government had given such authority, which they had not, it would have been an outrage to the United States, not to be overlooked. They then assumed an act which they had not done; and assumed it! and took a war attitude! and all upon a calculation that it was the most effectual way to get McLeod released. It was in the evening of the 4th day of March that all Washington city was roused by the rumor of this assumption and demand: and on the 12th day of that month they were all formally communicated to our government. It was to the new administration that this formidable communication was addressed—and addressed at the earliest moment that decency would permit. The effect was to the full extent all that could have been calculated upon; and wholly reversed the stand taken under Mr. Van Buren's administration. The burning of the Caroline was admitted to be an act of war, for which the sovereign, and not the perpetrators, was liable: the invasion of the American soil was also an act of war: the surrender of McLeod could not be effected by an *order* of the federal government, because he was in the hands of a State court, charged with crimes against the laws of that State: but the United States became his defender and protector, with a determination to save him harmless: and all this was immediately communicated to Mr. Fox in unofficial interviews, before the formal communication could be drawn up and delivered. Lord Palmerston's policy was triumphant; and it is necessary to show it in order to show in what manner the Caroline affair was brought to a conclusion; and in its train that of the northeastern boundary, so long disputed; and that of the north-western boundary, never before disputed; and that of the liberated slaves on their way from one United States port to another: and all other questions besides which England wished settled. For, emboldened by the success of the Palmerstonian policy in the case of the Caroline, it was incontinently applied in all other cases of dispute between the countries—and with the same success. But of this hereafter. The point at present is, to show, as has been shown, that the assumption of this outrage was not made until three years after the event, and then upon a calculation of its efficiency, and contrary to the facts of the case; and when made, accompanied by large naval and military demonstrations—troops sent to Canada—ships to Halifax—newspapers to ourselves, the *Times* especially—all odorous of gunpowder and clamorous for war.

This is dry detail, but essential to the scope of this work, more occupied with telling how things were done than what was done: and in pursuing this view it is amazing to see by what arts and contrivances—by what trifles and accidents—the great affairs of nations, as well as the small ones of individuals, are often decided. The finale in this case was truly ridiculous: for, after all this disturbance and commotion—two great nations standing to their arms, exhausting diplomacy, and inflaming the people to the war point—after the formal assumption of McLeod's offence, and war threatened for his release, it turned out that he was not there! and was acquitted by an American jury on ample evidence. He had slept that night in Chippewa, and only heard of the act the next morning at the breakfast table—when he wished he had been there. Which wish afterwards ripened into an assertion that he was there! and, further, had himself killed one of the damned Yankees—by no means the first instance of a man boasting of performing exploits in a fight which he did not see. But what a lesson it teaches to nations! Two great countries brought to angry feelings, to criminative diplomacy, to armed preparation, to war threats—their governments and people in commotion—their authorities all in council, and taxing their skill and courage to the uttermost: and all to settle a national quarrel as despicable in its origin as the causes of tavern brawls; and exceedingly similar to the origin of such brawls. McLeod's false and idle boast was the cause of all this serious difficulty between two great Powers.

Mr. Fox had delivered his formal demand and threat on the 12th day of March: the administration immediately undertook McLeod's release. The assumption of his imputed act had occasioned some warm words in the British House of Commons, where it was known to be gratuitous: its communication created no warmth in our cabinet, but a cold chill rather, where every spring was immediately put in action to release McLeod. Being in the hands of a State court, no order could be given for his liberation; but all the authorities in New York were immediately applied to—governor, legislature, supreme court, local court—all in vain: and then the United States assumed his defence, and sent the Attorney-General, Mr. Crittenden, to manage his defence, and General Scott, of the United States army, to protect him from popular violence; and hastened to lay all their steps before the British minister as fast as they were taken.

The acquittal of McLeod was honorable to the jury that gave it; and his trial was honorable to the judge, who, while asserting the right to try the man, yet took care that the trial should be fair. The judges of the Supreme Court (Bronson, Nelson, and Cowan) refused the *habeas corpus* which would take him out of the State: the Circuit judge gave him a fair trial. It was satisfactory to the British; and put an end to their complaint against us: unhappily it seemed to put an end to our complaint against them. All was postponed for a future general treaty—the invasion of territory, the killing of citizens, the arson of the boat, the impressment and abduction of a supposed British subject—all, all were postponed to the day of general settlement: and when that day came all were given up.

The conduct of the administration in the settlement of the affair became a subject of discussion in both Houses of Congress, and was severely censured by the democracy, and zealously defended by the whigs. Mr. Charles Jared Ingersoll, after a full statement of the extraordinary and successful efforts of the administration of Mr. Van Buren to prevent any aid to the insurgents from the American side, proceeded to say:

"Notwithstanding, however, every exertion that could be and was made, it was impossible altogether to prevent some outbreaks, and among the rest a parcel of some seventy or eighty Canadians, as I have understood, with a very few Americans, took possession of a place near the Canadian shore, called Navy Island, and fortified themselves in defiance of British power. If I have not been misinformed there were not more than eight or ten Americans among them. An American steamboat supplied them with a cannon and perhaps other munitions of war: for I have no disposition to diminish whatever was the full extent of American illegality, but, in this statement of the premises, desire to present the argument with the most unreserved concessions. I am discussing nothing as the member of a party. I consider the Secretary of State as the representative of his government and country. I desire to be understood as not intending to say one word against that gentleman as an individual; as meaning to avoid every thing like personality, and addressing myself to the position he has assumed for the country, without reference to whether he is connected with one administration or another; viewing this as a controversy between the United States and a foreign government, in which all Americans should be of one party, acknowledging no distinction between the acts of Mr. Forsyth and Mr. Webster, but considering the whole affair, under both the successive administrations, as one and indivisible; and on many points, I believe this country is altogether of one and the same sentiment concerning this controversy. It seems to be universally agreed that British *pirates* as they were, as I will show according to the strictest legal definition of the term, in the dead of night, *burglariously invaded* our country, *murdered* at least one of our unoffending fellow-citizens, were guilty of the further crime of *arson* by burning what was at least the temporary dwelling of a number of persons asleep in a steamboat moored to the wharf, and finally cutting her loose, carried her into the middle of the stream, where, by

romantic atrocity, unexampled in the annals of crime, they sent her over the Falls of Niagara, with how many persons in her, God only will ever know.

“Now Mr. Speaker, this, in its national aspect, was precisely the same as if perpetrated in your house or mine, and should be resented and punished accordingly. Some time afterwards one of the perpetrators, named McLeod, in a fit of that sort of infatuation with which Providence mostly betrays the guilty, strayed over from Canada to the American shore, like a fool, as he was, and there was soon arrested and imprisoned by that popular police, which is always on the alert to administer justice upon malefactors. First proceeded against, as it appears, for civil redress for the loss of the vessel, he was soon after indicted by the appropriate grand jury, and has remained ever since in custody, awaiting the regular administration of justice. Guilty or innocent, however, there he was, under the ægis of the law of the sovereign State of New York, with the full protection of every branch of the government of that State, when the present administration superseded the last, and the first moment after the late President’s inauguration was ungenerously seized by the British minister to present the new Secretary of State with a letter containing the insolent, threatening, and insufferable language which I am about to read from it:

“‘The undersigned is instructed to demand from the government of the United States, formally, in the name of the British government, the immediate release of Mr. Alexander McLeod. The transaction in question may have been, as her Majesty’s government are of opinion that it was, a justifiable employment of force for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who, having been permitted to arm and organize themselves within the territory of the United States, had actually invaded and occupied a portion of the territory of her Majesty; or it may have been, as alleged by Mr. Forsyth, in his note to the undersigned of the 26th of December, a most unjustifiable invasion in time of peace, of the territory of the United States.’”

“Finally, after a tissue of well elaborated diplomatic contumely, the very absurdity of part of which, in the application of the term pirates to the interfering Americans, is demonstrated by Mr. Webster—the British minister reiterates, towards the conclusion of his artfully insulting note—that ‘be that as it may, her Majesty’s government formally demands, upon the grounds already stated, the immediate release of Mr. McLeod; and her Majesty’s government entreats the President of the United States—I pray the House to mark the sarcasm of this offensive entreaty—to take into his deliberate consideration the serious nature of the consequences which must ensue from a rejection of this demand.’

“Taken in connection with all the actual circumstances of the case—the tone of the British press, both in England and Canada, the language of members in both Houses of Parliament, and the palpable terms of Mr. Fox’s letter itself, it is impossible, I think, not to see we cannot wink so hard as not to perceive that Mr. Fox’s is a threatening letter. It surprises me that this should have been a subject of controversy in another part of this building, while I cannot doubt that Mr. Webster was perfectly satisfied of the menacing aspect of the first letter he received from the British minister. Anxious—perhaps laudably anxious—to avoid a quarrel so very unpromising at the very outset of a new administration, he seems to have shut his eyes to what must flash in every American face. And here was his first mistake; for his course was perfectly plain. He had nothing to do but, by an answer in the blandest terms of diplomatic courtesy, to send back the questionable phrases to Mr. Fox, with a respectful suggestion that they looked to him as if conveying a threat; that he hoped not, he believed not; he trusted for the harmony of their personal relations, and the peace of their respective nations, that he was laboring under a mistake; but he could not divest his mind of the impression, that there were in this note of Mr. Fox, certain phrases which, in all controversies

among gentlemen as well as nations, inevitably put an end to further negotiation. Mr. Fox must have answered negatively or affirmatively, and the odious indignity which now rankles in the breast of at least a large proportion of the country, interpreting it as the meaning of the British communication, would have been avoided. Mr. Webster had Mr. Fox absolutely in the hollow of his hand. He had an opportunity of enlisting the manly feeling of all his countrymen, the good will of right-minded Englishmen themselves, to a firm and inoffensive stand like this, on the threshold of the correspondence. Why he did not, is not for me to imagine. With no feeling of personal disparagement to that gentleman, I charge this as an obvious, a capital, and a deplorable lapse from the position he should have assumed, in his very first attitude towards the British minister.

"The British argument addressed to him was, that 'the transaction in question was a justifiable employment of public force, with the sanction, or by order of the constituted authorities of a State, engaging individuals in military or naval enterprises in their country's cause, when it would be contrary to the universal practice of civilized nations to fix individual responsibility upon the persons engaged.' This, as I do not hesitate to pronounce it, false assumption of law, is, at once, conceded by Mr. Webster, in the remarkable terms, that the 'government of the United States,' by which he must mean himself, entertains *no doubt* of the asserted British principle. Mr. Webster had just before said, that 'the President is not certain that he understands precisely the meaning intended to be conveyed by her Majesty's government,' 'which doubt,' he adds, 'has occasioned with the President some hesitation.' Thus while the President entertained a doubt, the government entertained no doubt at all; which I cannot understand, otherwise, than that while the President hesitated to concede, the Secretary of State had no hesitation whatever to concede at once the whole British assumption, and surrender at discretion the whole American case. For where is the use of Mr. Webster's posterior, elaborated argument, when told by the British minister that this transaction was *justifiable*, and informed by the public prints that at a very early day, one of the British Secretaries, Lord John Russell, declared in open Parliament that the British government *justified* what is called the *transaction* of McLeod. The matter was ended before Mr. Webster set his powerful mind to produce an argument on the subject. The British crown had taken its position. Mr. Webster knew it had; and he may write the most elegant and pathetic letters till doomsday, with no other effect than to display the purity of his English to admiring fellow-citizens, and the infirmity of his argument to Great Britain and the world. By asserting the legal position which they assume, and justifying the transaction, together with Mr. Webster's concession of their legal position, the transaction is settled. Nothing remains to be done. Mr. Webster may write about it if he will, but Mr. Fox and the British minister hold the written acknowledgment of the American Secretary of State, that the affair is at an end. I call this, sir, a terrible mistake, a fatal blunder, irrecoverable, desperate, leaving us nothing but Mr. Webster's dreadful alternative of cold-blooded, endless, causeless war.

"Our position is false, extremely and lamentably false. The aggrieved party, as we are, and bound to insist upon redress, to require the punishment of McLeod, Drew, and McNab, and the other pirates who destroyed the Caroline, we have been brought to such a reverse of the true state of things, as to be menaced with the wrong-doer's indignation, unless we yield every thing. I care not whose fault it is, whether of this administration or that. In such an affair I consider both the present and the past, as presenting one and the same front to one and the same assailant. I cannot refrain, however, from saying, that whatever may have been our position, it has been greatly deteriorated by Mr. Webster's unfortunate concession.

"Never did man lose a greater occasion than Mr. Webster cast away, for placing himself and his country together, upon a pinnacle of just renown. Great Britain had humbled France, conquered Egypt, subdued vast tracts of India, and invaded the distant empire of China—

there was nothing left but our degradation, to fill the measure of her glory, if it consists in such achievements; and she got it by merely demanding, without expecting it. And why have we yielded? Was there any occasion for it? Did she intend to realize her threat? Were the consequences which Mr. Webster was entreated to take into his consideration, the immediate and exterminating warfare, servile war and all, which belligerent newspapers, peers, and other such heralds of hostilities have proclaimed? No such thing. We may rely, I think, with confidence, upon the common good sense of the English nation, not to rush at once upon such extremities, and for such a cause. Mr. Fox took Mr. Webster in the melting mood, and conquered by a threat; that is to say, conquered for the moment; because the results, at some distant day, unless his steps are retraced, will and must be estrangement between kindred nations, and cold-blooded hostilities. I have often thought, Mr. Speaker, that this affair of McLeod is what military men call a demonstration, a feint, a false attack, to divert us from the British design on the State of Maine; of which I trust not one inch will ever be given up. And truly, when we had the best cause in the world, and were the most clearly in the right, it has been contrived, some how or other, to put us in false position, upon the defensive, instead of the offensive, and to perplex the plainest case with vexatious complication and concession."

The latter part of this speech was prophetic—that which related to the designs on the State of Maine. Successful in this experiment of the most efficacious means for the release of McLeod, the British ministry lost no time in making another trial of the same experiment, on the territory of that State—and again successfully: but of this in its proper place. Mr. John Quincy Adams, and Mr. Caleb Cushing, were the prominent defenders of the administration policy in the House of Representatives—resting on the point that the destruction of the Caroline was an act of war. Mr. Adams said:

"I take it that the late affair of the Caroline was in hostile array against the British government, and that the parties concerned in it were employed in acts of war against it: and I do not subscribe to the very learned opinion of the chief justice of the State of New York (not, I hear, the chief justice, but a judge of the Supreme Court of that State), that there was no act of war committed. Nor do I subscribe to it that every nation goes to war only on issuing a declaration or proclamation of war. This is not the fact. Nations often wage war for years, without issuing any declaration of war. The question is not here upon a declaration of war, but acts of war. And I say that in the judgment of all impartial men of other nations, we shall be held as a nation responsible; that the Caroline, there, was in a state of war against Great Britain; for purposes of war, and the worst kind of war—to sustain an insurrection; I will not say rebellion, because rebellion is a crime, and because I heard them talked of as patriots."

Mr. Cushing said:

"It is strange enough that the friends of Mr. Van Buren should deny that the attack on the Caroline was an act of war. I reply to them not only by exhibiting the reason and the principle of the thing, but by citing the authority of their own President. I hold in my hand a copy of the despatch addressed by Mr. Stevenson to Lord Palmerston, under the direction of Mr. Van Buren, making demand of reparation for the destruction of the Caroline, and in that despatch, which has been published, Mr. Stevenson pursues the only course he could pursue; he proceeds to prove the hostile nature of the act by a full exhibition of facts, and concludes and winds up the whole with declaring in these words: 'The case then is one of open, undisguised, and unwarrantable hostility.' After this, let no one complain of Mr. Webster for having put the case of the Caroline on the same precise ground which Mr. Van Buren had assumed for it, and which, indeed, is the only ground upon which the United States could undertake to hold

the British government responsible. And when the gentleman from Pennsylvania is considering the first great negotiation of Mr. Webster, how does he happen to forget the famous, or rather infamous, first great negotiation undertaken by Mr. Van Buren? And is it not an act of mere madness on the part of the friends of Mr. Van Buren, to compel us to compare the two? Here is a despatch before us, addressed in a controversy between the United States and Great Britain, containing one of the ablest vindications of the honor and integrity of the United States that ever was written. Mr. Van Buren began, also, with the discussion of the question between us and Great Britain. And in what spirit?—that of a patriot, a man of honor, and an American? Is not that despatch, on the contrary, a monument of ignominy in the history of the United States? Instead of maintaining the interests of this country, did not Mr. Van Buren, on that occasion, utterly sacrifice them? Did he not dictate in that despatch, a disposition of the great question of the colony trade between the United States and Great Britain, which, from that time to this, has proved most disastrous in its effects on the commercial and navigating interests of the United States? And pernicious as was the object of the despatch, was not the spirit of it infinitely worse? in which, for the first time, party quarrels of the people of the United States were carried into our foreign affairs—in which a preceding administration was impliedly reproached for the zeal with which it had defended our interests—in which it was proclaimed that the new administration started in the world with a set purpose of concession toward Great Britain—in which the honor of the United States was laid prostrate at the foot of the British throne, and the proud name of America, to sustain which our fathers had carried on a first and a second war, as we may have to do a third—that glory which the arms of our enemy could not reach, was, in this truckling despatch, laid low for the first, and, I trust in God, the last time, before the lion of England."

The ground taken by Mr. Adams and Mr. Cushing for the defence of Mr. Webster (for they seemed to consider him, and no doubt truly, as the whole administration in this case) was only shifting the defence from one bad ground to another. The war ground they assumed could only apply between Great Britain and the insurgents: she had no war with the United States: the attack on the Caroline was an invasion of the territory of a neutral power—at peace with the invader. That is a liberty not allowed by the laws of nations—not allowed by the concern which any nation, even the most inconsiderable, feels for its own safety, and its own self-respect. A belligerent party cannot enter the territory of a neutral, even in fresh pursuit of an enemy. No power allows it. That we have seen in our own day, in the case of the Poles, in their last insurrection, driven across the Austrian frontier by the Russians; and the pursuers stopped at the line, and the fugitive Poles protected the instant they had crossed it: and in the case of the late Hungarian revolt, in which the fugitive Hungarians driven across the Turkish frontier, were protected from pursuit. The Turks protected them, Mahometans as they were; and would not give up fugitive Christians to a Christian power; and afterwards assisted the fugitives to escape to Great Britain and the United States. The British then had no right to invade the United States even in fresh pursuit of fugitive belligerents: but the Caroline and crew were not belligerents. She was an American ferry-boat carrying men and supplies to the insurgents, but she was not a combatant. And if she had been—had been a war-vessel belonging to the insurgents, and fighting for them, she could not be attacked in a neutral port. The men on board of her were not Canadian insurgents, but American citizens, amenable to their own country for any infraction of her neutrality laws: and if they had been Canadian insurgents they could not have been seized on American soil; nor even demanded under the extradition clause in the treaty of 1796, even if in force. It did not extend to political offences, either of treason or war. It only applied to the common law offences of murder and forgery. How contradictory and absurd then to claim a right to come and take by violence, what could not be demanded under any treaty or the law of nations. No power gives up a political fugitive. Strong powers protect them openly, while they demean themselves

orderly: weak powers get them to go away when not able to protect them. None give them up—not even the weakest. All the countries of Europe—the smallest kingdom, the most petty principality, the feeblest republic, even San Marino—scorn to give up a political fugitive, and though unable to chastise, never fail to resent any violation of its territory to seize them. We alone, and in the case of the Caroline, acknowledge the right of Great Britain to invade our territory, seize and kill American citizens sleeping under the flag of their country, to cut out an American vessel moored in our port, and send her in flames over the Falls of Niagara. We alone do that! but we have done it but once! and history places upon it the stigma of opprobrium.

Mr. William O. Butler of Kentucky, replied to Mr. Cushing, especially to his rehash of the stale imputations, worn out at the time of Mr. Van Buren's senatorial rejection as minister to Great Britain, and said:

"He expected from the gentleman a discussion on national law; but how much was he astonished the next day, on reading his speech in the *Intelligencer*, and finding him making a most virulent attack on the conduct and reputation of Mr. Van Buren. The gentleman referred to the letter of instructions of Mr. Van Buren to our Minister at the Court of St. James, and compared it with the instructions of Mr. Webster to the Attorney-general; speaking of the latter as breathing the statesman and patriot throughout, while he characterizes the former as infamous. Mr. B. said he would not repeat the harsh and offensive terms in which the gentleman had spoken of Mr. Van Buren's letter; he would read what the gentleman said from his printed speech, in order that the House might see the length to which his invectives were carried. [Here Mr. B. read extracts from Mr. Cushing's speech.] The gentleman spoke of comparing the two letters together. But did he think of comparing the thing we complain of with the thing he complains of? No: that would be next to madness. The gentleman shrinks from that comparison, and goes on to compare not the thing we complain of with the letter of Mr. Van Buren, but the beautiful composition of Mr. Webster, written forty days after complying with the British minister's insulting demands, and intended to cover over the instructions to Mr. Crittenden, after which he characterizes Mr. Van Buren's letter as a monument of ignominy. Now Mr. B. said he would make the same reply that a dignified farmer of Kentucky did to a lawyer. The lawyer prosecuted the farmer for a slander, and in the course of the trial took occasion to heap on him all the abuse and invective of which the Billingsgate vocabulary is capable. Yet the jury, without leaving their box, pronounced a verdict of acquittal. The verdict of an honest and intelligent jury, said the farmer, is a sufficient answer to all your abuse. Just so it was with Mr. Van Buren. His letter had made a great noise in the country; had been extensively circulated and read, and had been assailed with the utmost virulence by the opposite party. Yet the highest jury on earth, the American people, had pronounced the acquittal of Mr. Van Buren by electing him to the Chief Magistracy. The gentleman complained that the patriotism of Mr. Webster not only had been assailed, but that the gentleman from Pennsylvania had had the temerity to attack that most beautiful of letters which the patriotic Secretary wrote to Mr. Fox. Now he (Mr. B.) would admit that it was a beautiful piece of composition, and he knew of but one that would compare with it, and that was the proclamation of General Hull, just before surrendering the Northwestern army to the British."

The friends of Mr. Webster had a fashion of extolling his intellect when his acts were in question; and on no occasion was that fashion more largely indulged in than on the present one. His letter, superscribed to Mr. Fox—brought out for home consumption forty days after the satisfactory answer had been given—was exalted to the skies for the harmony of its periods, the beauty of its composition, the cogency of its reasons! without regarding the national honor and interest which it let down into the mud and mire; and without considering

that the British imperious demand required in the answer to it, nerve as well as head—and nerve most. It was a case for an iron will, more than for a shining intellect: and iron will was not the strong side of Mr. Webster's character. His intellect was great—his will small. His pursuits were civil and intellectual; and he was not the man, with a goose quill in his hand, to stand up against the British empire in arms. Throughout the debate, in both Houses of Congress, the answer to Mr. Fox was treated by Mr. Webster's friends, as his own; and, no doubt, justly—his supremacy as a jurist being so largely deferred to.

The debate in the House was on the adoption of a resolution offered by Mr. John G. Floyd, of New York, calling on the President for information in relation to the steps taken to aid the liberation of McLeod; and the fate of the resolution was significant of the temper of the House—a desire to get rid of the subject without a direct vote. It was laid upon the table by a good majority—110 to 70. The nays, being those who were for prosecuting the inquiry, were:

Messrs. Archibald H. Arrington, Charles G. Atherton, Linn Banks, Henry W. Beeson, Benjamin A. Bidlack, Samuel S. Bowne, Linn Boyd, Aaron V. Brown, Charles Brown, Edmund Burke, Reuben Chapman, James G. Clinton, Walter Coles, Edward Cross, John R. J. Daniel, Richard D. Davis, Ezra Dean, William Doan, Andrew W. Doig, Ira A. Eastman, John C. Edwards, Charles G. Ferris, John G. Floyd, Charles A. Floyd, Joseph Fornance, James Gerry, William O. Goode, Samuel Gordon, William A. Harris, John Hastings, Samuel L. Hays, Isaac E. Holmes, Jacob Houck, jr., George S. Houston, Edmund W. Hubard, Charles J. Ingersoll, William Jack, Cave Johnson, John W. Jones, George M. Keim, Abraham McClellan, Robert McClellan, James J. McKay, John McKeon, Albert G. Marchand, Alfred Marshall, John Thompson Mason, James Mathews, William Medill, John Miller, Christopher Morgan, Peter Newhard, William Parmenter, Samuel Patridge, William W. Payne, Arnold Plumer, John Reynolds, Lewis Riggs, Tristram Shaw, John Snyder, Lewis Steenrod, George Sweeny, Thomas A. Tomlinson, Hopkins L. Turney, John Van Buren, Aaron Ward, Harvey M. Watterson, John Westbrook, James W. Williams, Henry A. Wise, Fernando Wood.

The same subject was largely debated in the Senate—among others by Mr. Benton—some extracts from whose speech will constitute the next chapter.

76. Destruction Of The Caroline: Arrest And Trial Of Mcleod: Mr. Benton's Speech: Extracts

Mr. Benton said the history of our country contained a warning lesson to gentlemen who take the side of a foreign country against their own: he alluded to the case of Arbuthnot and Ambrister, seized among the Seminole Indians in 1818, and hung as outlaws and pirates by the orders of General Jackson. The news of that execution was heard with joy by the American people, who considered these Englishmen as a thousand times more culpable than the wretched savages whom they stimulated to the murder of women and children—men who had abandoned their own country, and the white race to which they belonged, to join savages against a country with which their own government was at peace. The country heard the news of the execution with joy: they approved the act of General Jackson. Not so with the politicians—the politicians of the federal school especially. They condemned it; partisan presses attacked it; and when Congress met, committees of each House of Congress reported against it—loudly condemned it—and were followed by a crowd of speakers. All the phrases now heard in claiming exemption for McLeod, and bewailing his fate, were then heard in deploring the fate of Arbuthnot and Ambrister. Violation of the laws of nations—inhuman—unworthy of the nineteenth century—shocking to humanity—barbarous—uncivilized—subjecting us to reprisals, and even to war from England—drawing upon us the reproaches of Christendom, and even the wrath of Heaven: such were the holiday phrases with which the two Houses of Congress then resounded. To hear what was said, and it would seem that the British lion would be instantly upon us. We were taught to tremble for the return news from England. Well! it came! and what was it? Not one word from the British government against the act of Jackson! Not the scrape of a pen from a minister on the subject! Not a word in Parliament except the unsupported complaint of some solitary members—just enough to show, by the indifference with which it was received, that the British House of Commons had no condemnation to pronounce upon the conduct of General Jackson. Their silence justified him in England, while committees and orators condemned him in his own country: and this justification from abroad, in a case where two Englishmen were actually hanged, should be a warning to gentlemen how they should commit themselves in a case where an Englishman is merely in the hands of justice, and has nothing to fear from "God and the country" if he is as innocent, as he now alleges, and which humanity would wish him to be. General Jackson was right, and the committees and orators who condemned him were wrong. He was right in the law, and in the application of the law. He had no musty volumes of national law to refer to in the swamps of Florida; and he needed none. He had the law of nature, and of nations, in his heart. He had an American heart, and that heart never led him wrong when the rights, the interest, and the honor of his country were at stake. He hung the Englishmen who were inciting savages to the murder of our women and children: and the policy of the measure has become no less apparent than its legality was clear. Before that time Englishmen were habitually in the camp and wigwam of the Indians, stimulating to war upon us: since that time no Englishman has been heard of among them. The example was impressive—its effect salutary—its lesson permanent. It has given us twenty-five years of exemption from British interference in our Indian relations; and if the assassins of the Caroline shall be hung up in like manner it will give us exemption from future British outrage along the extended line which divides the Union from the British Canadian provinces.

It is humiliating to see senators of eminent ability consulting books to find passages to justify an outrage upon their own country. Better far throw away the books, and go by the heart.

Then, at least, with American hearts, they would always have the consolation of being on their country's side. Better even to take the rule of the illustrious commodore whose actions have shed so much lustre on the American name (Decatur), and go for their country, right or wrong. Then they would always have their own hearts on their side. Besides, there is no book which fits our case—none which was written for the duplicate form of government which we possess. We have State governments as well as a general government; and those governments have their rights, and are sovereign within their limits. The protection of the lives, liberty, and property of their citizens, is among these rights: the punishment of murder, arson, and burglary, are among these rights. If there was nothing in the law of nations, as written in the books, to recognize these rights, it would be necessary for us to do an act which would cause a new line to be written in these books. But this is not the case. The law of nations as it now stands, is sufficient for us. It has been read from Vattel by several senators; and is conclusive in our favor. What is it? Why, that if the citizens of one country commit an outrage upon another, you must apply to their sovereign for redress: but if the wrong-doer comes into your country, you may seize and punish him. This is the law of nations, and it fits our case; and we have followed it. The United States, as charged with our foreign relations, have made the demand for redress upon Great Britain: the State of New York, as the wronged local authority, has seized the wrong-doer, when he came upon her territory; and is giving him what he did not give her citizens—a trial for his life: and this she has a right to do: and if the federal government attempts to give up that man, she shrinks from the defence of right, violates the law of nations, and invades the jurisdiction of New York.

This brings us to the case before us. What is it? The facts of the transaction are all spread out in official documents, and sustained upon clear and undeniable testimony. Some Canadian insurgents are on an island, near the Canada shore, entrenching themselves, and receiving aid in men and arms from the American side. An American ferry-boat, the Steamer Caroline, carries that aid. She is seen in the fact—seen by the commanding officer of the British forces, as he stands on the Canadian shore, looking on. He sees her there late in the evening—saw her cast anchor near the island—and determines to destroy her there. Five boats are fitted out in the dark to go and do the work; and if they had done it there, not a word would have been said; for it was a British island, and she was there upon an unlawful business—violating the laws of neutrality, disobeying the laws of her own country, disregarding the proclamation of the President; and doing an act which might bring her own country into trouble. If she had been found there and destroyed, not a word would have been said: but she was not found there, and the captain of the boats, of his own head, contrary to the order which he had received, and which directed him to the British island, and contrary to the letter written by his commanding officer on that very day, abjuring all right and all intent to make a descent upon our coast, because it was ours: this captain, his name Drew, and an officer in the British navy without the knowledge of his commander, determines to cross the line—to steal across the river in the night—oars muffled—all noises silenced—creep upon the unsuspecting vessel, anchored at the shore, sleeping under the flag, and sheltered by the laws of her country, and the law of nations: and stealthily get on board. They run to the berths—cut, stab, slash, and shoot, all that they see—pursue the flying—kill one man on the shore—no distinction of persons—and no quarter the word. Several are killed in the boat: none escape but those whom darkness and confusion favored. Victorious in an attack upon men asleep, the conquerors draw the vessel into the middle of the river—it was just above the falls—set her on fire; and, with all her contents—the dead and the dying, the living and the wounded—send her, luminous in flames, over the frightful cataract of Niagara. One man alone had been spared, and he as a British subject, to be taken home for punishment. These are facts. What do they amount to in law—that of nations, and that of New York, where the deed was done? First, a violation of the law of nations, in invading the soil of the United States—in attacking a vessel

(even if it had been a belligerent), in a neutral port—in attacking persons on neutral territory—in impressing and carrying off a man from our territory: then each of these acts was a crime against the municipal laws of New York. McLeod, one of the actors in that cowardly assassination, and conflagration, guilty upon his own boasting, and caught upon the scene of his outrage, now in the hands of justice in the State of New York, while no indemnity is offered for the outrage itself: this perpetrator we are required, and that under a threat, to release from the hands of a State, which has the legal right to try him. All this was years before—near four years before—December, 1837. The news flew upon the wings of the wind. It fired the bosoms of the border inhabitants, upon a line of fifteen hundred miles. Retaliation was in every heart, threats in every mouth, preparation open—war imminent. Mr. Van Buren was then President. To repress the popular risings, proclamations were issued: to prevent acts of retaliation, troops were stationed along the line, and armed steamers floated the river and the lakes: to punish any violation of order, instructions were issued to the district attorneys, and marshals; and the aid of the State authorities was claimed, and obtained. To obtain redress for the outrage to our citizens, and the insults to our national character, immediate application was made to the British government. That government delayed its answer to our just demand—avoided the assumption of the criminal act—excused and justified, without assuming it, either in words, or indirectly, by rewarding the actors, or even giving pensions to those wounded in the attack: for there were several of them in the dark and dastardly attack. Diplomacy was still drawing out its lengthened thread—procrastination the game, and the chapter of accidents the hope—when McLeod, the boaster in Canada of his active share in this triple crime of murder, arson, and robbery, against the State of New York, and of violated neutrality against the United States, crosses over to the United States, exhibits himself on the very spot of his exploits, and in the sight of those who had often heard of his boasts. Justice then took hold of him. He was arrested on an indictment found against him, immediately after the act; and he was also sued by the owner of the vessel. A trial, of course, in each case, was to take place in the courts of the State whose laws had been violated. Vattel prescribed that. The United States had nothing to do with it. Her business was with his sovereign. To the State it belonged to punish the violation of her own laws, the perpetrator having been caught within her jurisdiction: to the owner of the boat it belonged to sue for damages; and neither the United States, nor the State of New York, had any right to defeat his action, by releasing the defendant. It was a transitory action, and would lay any where where the defendant was caught. McLeod went to jail in both cases—the indictment, and the civil suit; and would seem to have courted that fate by coming over to defy it. The news of these proceedings fly to the British minister in this city (Mr. Henry S. Fox): that minister addresses a note to the Secretary of State (Mr. Forsyth), demanding the release of McLeod: the Secretary answered, by the direction of President Van Buren, that this man, being charged with criminal offences against the State of New York, and sued in a civil action by one of her citizens, the general government had no right to release him: and would not undertake to do so. This answer was read in this chamber on the night of the 5th of January last, when the Senate was composed very nearly as it is now—nearly all the same members—when the present Secretary of State (Mr. Webster), and the present Attorney-general (Mr. Crittenden), were both present: and we all know in what manner that answer of Mr. Forsyth was received. It received the unanimous approbation of this chamber! Mr. B. repeated the expression—unanimous approbation! and said he would pause for correction if he was mistaken. (He paused. Several senators said, yes! yes! No one said the contrary.) Mr. B. continued: I remember that letter well, and the feeling of unanimous approbation which pervaded the chamber when it was read. Every senator that spoke, expressed his approbation. No one signified dissent: and the feeling was then universal that the proper answer had been given by the American government—the answer which the law of nations, our duplicate form

of government, the dignity of the Union, the rights of the State of New York, and the rights of the owner of the destroyed vessel—all required to be given. If I am wrong in my recollection, I repeat the request: let me be set right now. (Several voices exclaimed, "right! right!" No one said the contrary.) Mr. B. resumed: a great point—one vital to the case as it concerns our action, and conclusive in this debate, is now established. It is established, that in the month of January last, when the answer of the American Secretary was read in this chamber, we were all of opinion that he had given the correct and proper answer: and among the senators then present were the present Secretary of State, who has undertaken to get McLeod out of the clutches of the law in New York; and also the present attorney-general, who has gone to New York upon that errand. This is enough. Those gentlemen heard the case then, and uttered no dissent. The Senate was then unanimous—including those who dissent now. How was it in the House of Representatives, where the same papers were read at the same time? How was it there, in a body of 220, and the immediate representatives of the people? About the same that it was in the Senate—only more formally expressed. The papers were sent to the Committee of Foreign Affairs. That committee, through Mr. Pickens, its chairman, made an ample report, fully sustaining the answer of the American government: and of that report, five thousand extra copies were printed by the unanimous consent of the House, for distribution among the people.

In the month of January last, it may then be assumed, that the two Houses of Congress approved the decision of President Van Buren; and according to that decision, McLeod was neither to be given up, nor the course of justice in New York interfered with by the federal government. Mr. Fox received the answer of Mr. Forsyth—transmitted it to his government—and received from that government precise instructions to avow and assume the attack on the Caroline as a national act—to make a peremptory demand for the release of McLeod—to threaten us with serious consequences in the event of refusal; and, as the London newspapers said, to demand his passports and leave the country if his demand was not immediately complied with. It was on the evening of the 4th day of March—the day of the inauguration of the new President, so nicely had the British ministry calculated the time—that the news of these instructions arrived in this city; and along with that news came the war-threats, and the war speeches of the press and public men of Great Britain—the threat of many papers to send admirals and war-steamers to batter down our cities; and the diabolical speech of a peer of the realm (Lord Mountcashel) to excite our three millions of slaves to insurrection—to raise all the Indian tribes against us—and to destroy our finances by bursting the paper bubbles on which they floated. Yes! it was on the evening of the 4th day of March that these instructions—these threats—these war annunciations—all arrived together in this city. The new President (General Harrison) had just been inaugurated: his cabinet had just been indicated: the men who were to compose the presidential council were fully known: and I undertook at once to tell what would be done. I said to several—some now in this city if not in this chamber: McLeod will be given up—not directly, but indirectly. Underhanded springs will be set in motion to release him, and a letter will afterwards be cooked up to show to Congress and the people, and to justify what had been done. This is what I said. Persons are now in this city to whom I said it. And now let us resume the succession of events, and see what was done by this new administration which had just been inducted into office in the midst of triumphal processions—under the fire of cannon—the beating of drums—the display of flags; and all the glorious pomp and circumstance of war. Let us see what they did. On the 12th of March—the new administration having been allowed a week to organize—Mr. Fox addresses to Mr. Webster a formal demand, in the name of his government for the release of McLeod, and goes on to say:

"The grounds upon which the British government made this demand upon the government of the United States are these: that the transaction on account of which Mr. McLeod has been arrested, and is to be put upon his trial, was a transaction of a public character planned and executed by persons duly empowered by her Majesty's colonial authorities to take any steps, and to do any acts which might be necessary for the defence of her Majesty's territories, and for the protection of her Majesty's subjects; and that, consequently, those subjects of her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country."

And after enforcing this demand, by argument, contesting the answer given by Mr. Forsyth, and suggesting the innocence of McLeod, the letter proceeds to say:

"But, be that as it may, her Majesty's government formally demands, upon the grounds already stated, the immediate release of Mr. McLeod; and her Majesty's government entreat the President of the United States to take into his most deliberate consideration the serious nature of the consequences which must ensue from a rejection of this demand."

This letter to Mr. Webster bears date on the 12th of March, which was Friday, and will be considered as having been delivered on the same day. On the 15th of the same month, which was Monday, Mr. Webster delivers to the Attorney-general of the United States, a set of instructions, and delivers a copy of the same to Mr. Fox, in which he yields to the demand of this Minister, and despatches the Attorney-general to New York, to effect the discharge of the prisoner. The instructions, among other things, say:

"You are well aware that the President has no power to arrest the proceeding in the civil and criminal courts of the State of New York. If this indictment were pending in one of the courts of the United States, I am directed to say that the President, upon the receipt of Mr. Fox's last communication, would have immediately directed a *nolle prosequi* to be entered. Whether in this case the Governor of New York have that power, or, if he have, whether he would not feel it his duty to exercise it, are points upon which we are not informed. It is understood that McLeod is holden also on civil process, sued out against him by the owner of the Caroline. We suppose it very clear that the Executive of the State cannot interfere with such process; and, indeed, if such process were pending in the courts of the United States, the President could not arrest it. In such, and many analogous cases, the party prosecuted and sued, must avail himself of his exemption or defence, by judicial proceedings, either in the court into which he is called, or in some other court. But whether the process be criminal or civil, the fact of having acted under public authority, and in obedience to the orders of lawful superiors, must be regarded as a valid defence; otherwise, individuals would be holden responsible for injuries resulting from the acts of government, and even from the operations of public war. You will be furnished with a copy of this instruction, for the use of the Executive of New York, and the Attorney-general of that State. You will carry with you also authentic evidence of the recognition by the British government of the destruction of the Caroline, as an act of public force, done by national authority. The President is impressed with the propriety of transferring the trial from the scene of the principal excitement to some other and distant county. You will take care that this be suggested to the prisoner's counsel. The President is gratified to learn that the Governor of New York has already directed that the trial take place before the Chief Justice of the State. Having consulted with the Governor you will proceed to Lockport, or wherever else the trial may be holden, and furnish the prisoner's counsel with the evidence of which you will be in possession material to his defence. You will see that he have skilful and eminent counsel, if such be not already retained, and, although you are not desired to act as counsel yourself, you will cause it to be

signified to him, and to the gentlemen who may conduct his defence, that it is the wish of this government that, in case his defence be overruled by the court in which he shall be tried, proper steps be taken immediately for removing the cause, by writ of error, to the Supreme Court of the United States. The President hopes that you will use such despatch as to make your arrival at the place of trial sure before the trial comes on; and he trusts you will keep him informed of whatever occurs by means of a correspondence through this Department."

A copy of these instructions, as I have said, was delivered to Mr. Fox at the time they were written. At the same moment they were delivered to the new Attorney-general [Mr. Crittenden], who, thus equipped with written directions for his guide, and accompanied by an officer of high rank in the United States army [Major-general Scott], immediately proceeded on the business of his mission to the State of New York, and to the place of the impending trial, at Lockport. About forty days thereafter, namely, on the 24th day of April, Mr. Webster replies to Mr. Fox's letter of the 12th of March; elaborately reviews the case of McLeod—justifies the instructions—absolves the subject—and demands nothing from the sovereign who had assumed his offence. Thus, what I had said on the evening of the 4th of March had come to pass. Underhand springs had been set in motion to release the man; a letter was afterwards cooked up to justify the act. This, sir, is the narrative of the case—the history of it down to the point at which it now stands; and upon this case I propose to make some remarks, and, in the first place, to examine into the legality and the propriety of the mission in which our Attorney-general was employed. I mean this as a preliminary inquiry, unconnected with the general question, and solely relating to the sending of our Attorney-general into any State to interfere in any business in its courts. I believe this mission of Mr. Crittenden to New York was illegal and improper—a violation of our own statutes, and will test it by referring to the law under which the office of Attorney-general was created, and the duties of the officer defined. That law was passed in 1789, and is in these words:

"And there shall also be appointed a meet person, learned in the law, to act as Attorney-general of the United States, who shall be sworn, or affirmed, to a faithful execution of his office; whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law, when required by the President of the United States, or when requested by any of the heads of the Departments, touching any matters that may concern their departments; and shall receive such compensation for his services as shall be by law provided."

Here, said Mr. B., are the duties of the Attorney-general. He is subject to no orders whatever from the Secretary of State. That Secretary has nothing to do with him except to request his legal advice on a matter which concerns his department. Advice on a question of municipal law was doubtless what was intended; but no advice of any kind seems to have been asked of the Attorney-general. He seems to have been treated as the official subordinate of the Secretary—as his clerk or messenger—and sent off with "*instructions*" which he was to read and to execute. This was certainly an illegal assumption of authority over the Attorney-general, an assumption which the statute does not recognize. In the next place, this officer is sent into a State court to assist at the defence of a person on trial in that court for a violation of the State laws, and is directed to employ eminent and skilful counsel for him—to furnish him with evidence—to suggest a change of venue—and to take a writ of error to the Supreme Court of the United States, if the defence of the prisoner be overruled by the State court. If brought to the Supreme Court by this writ of error—a novel application of the writ, it must be admitted—then the Attorney-general is to appear in this court for the prisoner, not to prosecute him in the name of the United States, but to dismiss the writ. Now, it is very clear that all this is foreign to the duty of the Attorney-general—foreign to his office—

disrespectful and injurious to the State of New York—incompatible with her judicial independence—and tending to bring the general government and the State government into collision. McLeod, a foreigner, is under prosecution in a State court for the murder of its citizens; the importance of the case has induced the Governor of the State, as he has officially informed its legislature, to direct the Attorney-general of the State to repair to the spot, and to prosecute the prisoner in person; and here is the Attorney-general of the United States sent to the same place to defend the same person against the Attorney-general of the State. The admonition to Mr. Crittenden, that he was not desired to act as counsel himself, was an admission that he ought not so to act—that all he was doing was illegal and improper—and that he should not carry the impropriety so far as to make it public by making a speech. He was to oppose the State without publicly appearing to do so; and, as for his duty in the Supreme Court of the United States, he was to violate that outright, by acting for the accused, instead of prosecuting for the United States! From all this, I hold it to be clear, that our Attorney-general has been illegally and improperly employed in this business; that all that he has done, and all the expense that he has incurred, and the fee he may have promised, are not only without law but against law; and that the rights of the State of New York have not only been invaded and infringed in this interference in a criminal trial, but that the rights and interests of the owners of the Caroline, who have brought a civil action against McLeod for damages for the destruction of their property, have been also gratuitously assailed in that part of the Secretary's instructions in which he declares that such civil suit cannot be maintained. I consider the mission as illegal in itself, and involving a triple illegality, *first*, as it concerns the Attorney-general himself, who was sent to a place where he had no right to go; *next*, as it concerns the State of New York, as interfering with her administration of justice; and, *thirdly*, as it concerns the owners of the Caroline, who have sued McLeod for damages, and whose suit is declared to be unmaintainable.

I now proceed, Mr. President, to the main inquiry in this case, the correctness and propriety of the answer given by our Secretary of State to Mr. Fox, and its compatibility with the honor, dignity, and future welfare of this republic.

I look upon the "*instructions*" which were given to Mr. Crittenden, and a copy of which was sent to Mr. Fox, as being THE ANSWER to that Minister; and I deem the letter entitled an answer, and dated forty days afterwards, as being a mere afterpiece—an article for home consumption—a speech for Buncombe, as we say of our addresses to our constituents—a pleading intended for us, and not for the English, and wholly designed to excuse and defend the real answer so long before, and so promptly given. I will give some attention to this, so called, letter, before I quit the case; but for the present my business is with the "*instructions*," a copy of which being delivered to Mr. Fox, was the answer to his demand; and as such was transmitted to the British government, and quoted in the House of Commons as being entirely satisfactory. This quotation took place on the 6th day of May, several days before the, so called, letter of the 24th of April could possibly have reached London. Lord John Russell, in answer to a question from Mr. Hume, referred to these instructions as being satisfactory, and silenced all further inquiry about the affair, by showing that they had all they wanted.

I hold these instructions to have been erroneous, in point of national law, derogatory to us in point of national character, and tending to the future degradation and injury of this republic.

That the Secretary has mistaken the law of the case in consenting to the release of McLeod is persuasively shown by referring to the opinions of the two Houses of Congress in January last. Their opinions were then unanimous in favor of Mr. Forsyth's answer; and that answer was a peremptory refusal either to admit that McLeod ought to be released, or to interfere in his behalf with the courts of New York. The reasons urged by Mr. Fox in his letter to Mr.

Forsyth for making the demand, were precisely the same with those subsequently given in the letter to Mr. Webster. The only difference in the two demands was in the formality of the latter, being under instructions from his government, and in the threat which it contained. In other respects the two demands were the same; so that, at the outset of this inquiry, we have the opinions of the Secretary of State, the Attorney-general, and the body of their friends in the two Houses of Congress to plead against themselves. Then we produce against our Secretary the law of nations, as laid down by Vattel. He says:

"However, as it is impossible for the best regulated State, or for the most vigilant and absolute sovereign to model at his pleasure all the actions of his subjects, and to confine them on every occasion to the most exact obedience, it would be unjust to impute to the nation or the sovereign every fault committed by the citizens. We ought not, then, to say, in general, that we have received an injury from a nation, because we have received it from one of its members. But if a nation or its chief approves and ratifies the act of the individual, it then becomes a public concern, and the injured party is then to consider the nation as the real author of the injury, of which the citizen was, perhaps, only the instrument. *If the offended State has in her power the individual who has done the injury, she may, without scruple, bring him to justice, and punish him.* If he has escaped, and returned to his own country, she ought to apply to his sovereign to have justice done in the case."

This is the case before us. The malefactor is taken, and is in the hands of justice. His imputed crime is murder, arson, and robbery. His government, by assuming his crime, cannot absolve his guilt, nor defeat our right to try and punish him according to law. The assumption of his act only adds to the number of the culpable, and gives us an additional offender to deal with them, if we choose. We may proceed against one or both; but to give up the individual when we have him, without redress from the nation, which justifies him, is to throw away the advantage which chance or fortune has put into our hands, and to make a virtual, if not actual surrender, of all claim to redress whatsoever.

The law of nations is clear, and the law of the patriot heart is equally clear. The case needs no book, no more than the hanging of Arbuthnot and Ambrister required the justification of books when General Jackson was in the hommocks and marshes of Florida. A band of foreign volunteers, without knowing what they were going to do, but ready to follow their file leader to the devil, steal across a boundary river in the night, attack unarmed people asleep upon the soil, and under the flag of their country; give no quarter—make no prisoners—distinguish not between young and old—innocent or guilty—kill all—add fire to the sword—send the vessel and its contents over the falls in flames—and run back under cover of the same darkness which has concealed their approach. All this in time of peace. And then to call this an act of war, for which the perpetrators are not amenable, and for which redress must be had by fighting, or negotiating with the nation to which they belong. This is absurd. It is futile and ridiculous. Common sense condemns it. The heart condemns it. Jackson's example in Florida condemns it; and we should render ourselves contemptible if we took any such weak and puerile course.

Mr. Fox nowhere says this act was done by the sovereign's command. He shows, in fact, that it was not so done; and we know that it was not. It was the act of volunteers, unknown to the British government until it was over, and unassumed by them for three years after it occurred. The act occurred in December, 1837; our minister, Mr. Stevenson, demanded redress for it in the spring of 1838. The British government did not then assume it, nor did they assume it at all until McLeod was caught. Then, for the first time, they assume and justify, and evidently for the mere purpose of extricating McLeod. The assumption is void. Governments cannot assume the crimes of individuals. It is only as a military enterprise that this offence can be

assumed; and we know this affair was no such enterprise, and is not even represented as such by the British minister. He calls it a "*transaction*." Three times in one paragraph he calls it a "*transaction*;" and whoever heard of a fight, or a battle, being characterized as a transaction? We apply the term to an affair of business, but never to a military operation. How can we have a military operation without war? without the knowledge of the sovereign? without the forms and preliminaries which the laws of nations exact? This was no military enterprise in form, or in substance. It was no attack upon a fort, or a ship of war, or a body of troops. It was no attack of soldiers upon soldiers, but of assassins upon the sleeping and the defenceless. Our American defenders of this act go beyond the British in exalting it into a military enterprise. They take different ground, and higher ground, than the British, in setting up that defence; and are just as wrong now as they were in the case of Arbuthnot and Ambrister.

Incorrect in point of national law, I hold these instructions to have been derogatory to as in point of national character, and given with most precipitate haste when they should not have been given at all. They were given under a formal, deliberate, official threat from the minister; and a thousand unofficial threats from high and respectable sources. The minister says:

"But, be that as it may, her Majesty's government *formally demands*, upon the grounds already stated, the *immediate* release of Mr. McLeod; and her Majesty's government entreat the President of the United States to take into his most *deliberate consideration* the serious nature of the consequences which must ensue from a rejection of this demand."

Nothing could be more precise and formal than this demand—nothing more significant and palpable than this menace. It is such as should have prevented any answer—such as should have suspended diplomatic intercourse—until it was withdrawn. Instead of that, a most sudden and precipitate answer is given; and one that grants all that the British demanded, and more too; and that without asking any thing from them. It is given with a haste which seems to preclude the possibility of regular deliberation, cabinet council, and official form. The letter of Mr. Fox bears date the 12th of March, which was Friday, and may have been delivered in office hours of that day. The instruction to Mr. Crittenden was delivered on the 15th of March, which was Monday, and a copy delivered to Mr. Fox. This was the answer to the demand and the threat; and thus the answer was given in two days; for Sunday, as the lawyers call it, is *dies non*; that is to say, no day for business; and it is hardly to be presumed that an administration which seems to be returning to the church and state times of Queen Anne, had the office of the Department of State open, and the clerks at their desks on Sunday, instead of being in their pews at church. The answer, then, was given in two days; and this incontinent haste to comply with a threat contrasts wonderfully with the delay—the forty days' delay—before the letter was written which was intended for home consumption; and which, doubtless, was considered as written in good time, if written in time to be shown to Congress at this extra session.

Sir, I hold it to have been derogatory to our national character to have given any answer at all, much less the one that was given, while a threat was hanging over our heads. What must be the effect of yielding to demands under such circumstances? Certainly degradation—national degradation—and an encouragement to Great Britain to continue her aggressive course upon us. That nation is pressing us in the Northeast and Northwest; she is searching our ships on the coast of Africa; she gives liberty to our slaves wrecked on her islands in their transit from one of our ports to another; she nurtures in London the societies which produced the San Domingo insurrection, and which are preparing a similar insurrection for us; and she is the mistress of subjects who hold immense debts against our States, and for the payment of

which the national guarantee, or the public lands, are wanted. She has many points of aggressive contact upon us; and what is the effect of this tame submission—this abject surrender of McLeod, without a word of redress for the affair of the Caroline, and under a public threat—what is the effect of this but to encourage her to press us and threaten us on every other point? It must increase her arrogance, and encourage her encroachments, and induce her to go on until submission to further outrage becomes impossible, and war results from the cowardice which courage would have prevented. On this head the history of many nations is full of impressive lessons, and none more so than that of Great Britain. It is a nation of brave people; but they have sometimes had ministers who were not brave, and whose timidity has ended in involving their country in all the calamities of war, after subjecting it to all the disgrace of pusillanimous submission to foreign insult. The administration of Sir Robert Walpole; long, cowardly and corrupt—tyrannical at home and cringing abroad—was a signal instance of this; and, as a warning to ourselves, I will read a passage from English history to show his conduct, and the consequences of it. I read from Smollett, and from his account of the Spanish depredations, and insults upon English subjects, which were continued the whole term of Walpole's administration, and ended in bringing on the universal war which raged throughout Europe, Asia, Africa, and America, and cost the English people so much blood and treasure. The historian says:

"The merchants of England loudly complained of these outrages; the nation was fired with resentment, and cried for vengeance; but the minister appeared cold, phlegmatic, and timorous. He knew that a war would involve him in such difficulties as must of necessity endanger his administration. The treasure which he now employed for domestic purposes must in that case be expended in military armaments; the wheels of that machine on which he had raised his influence would no longer move; the opposition would of consequence gain ground, and the imposition of fresh taxes, necessary for the maintenance of the war, would fill up the measure of popular resentment against his person and ministry. Moved by these considerations, he industriously endeavored to avoid a rupture, and to obtain some sort of satisfaction by dint of memorials and negotiations, in which he betrayed his own fears to such a degree as animated the Spaniards to persist in their depredations, and encouraged the court of Madrid to disregard the remonstrances of the British ambassador."

Such is the picture of Walpole's foreign policy; and how close is the copy we are now presenting of it! Under the scourge of Spanish outrage, he was cold, phlegmatic, and timorous; and such is the conduct of our secretary under British outrage. He wanted the public treasure for party purposes, and neglected the public defences: our ministry want the public lands and the public money for *douceurs* to the States, and leave the Union without forts and ships. Walpole sought some sort of satisfaction by dint of negotiation; our minister does the same. The British minister at Madrid was paralyzed by the timidity of the cabinet at home; so is ours paralyzed at London by our submission to Mr. Fox here. The result of the whole was, accumulated outrage, coalitions against England, universal war, the disgrace of the minister, and the elevation of the man to the highest place in his country, and to the highest pinnacle of glory, whom Walpole had dismissed from the lowest place in the British army—that of cornet of horse—for the political offence of voting against him. The elder William Pitt—the dismissed cornet—conducted with glory and success the war which the timidity of Walpole begat; and, that the smallest circumstances might not be wanting to the completeness of the parallel, our prime minister here has commenced his career by issuing an order for treating our military and naval officers as Pitt was treated by Walpole, and for the same identical offence.

Sir, I consider the instructions to Mr. Crittenden as most unfortunate and deplorable. They have sunk the national character in the eyes of England and of Europe. They have lost us the

respect which we gained by the late war and by the glorious administration of Jackson. They bring us into contempt, and encourage the haughty British to push us to extremities. We shall feel the effect of this deplorable diplomacy in our impending controversies with that people; and happy and fortunate it will be for us if, by correcting our error, retracing our steps, recovering our manly attitude, discarding our distribution schemes, and preparing for war, we shall be able thereby to prevent war, and to preserve our rights.

I have never believed our English difficulties free from danger. I have not spoken upon the Northeastern question; but the senator from that State who sits on my right (looking at senator Williams) knows my opinion. He knows that I have long believed that nothing could save the rights of Maine *but the war countenance of our government*. Preparation for war might prevent war, and save the rights of the State. This has been my opinion; and to that point have all my labors tended. I have avoided speeches; I have opposed all distributions of land and money; I have gone for ships, forts and cannon—the *ultima ratio* of Republics as well as kings. I go for them now, and declare it as my opinion that the only way to obtain our rights, and to avoid eventual war with England, is to abandon all schemes of distribution, and to convert our public lands and surplus revenue, when we have it, into cannon, ships and forts.

Hard pressed on the instructions to Mr. Crittenden—prostrate and defenceless there—the gentlemen on the other side take refuge under the letter to Mr. Fox, and celebrate the harmony of its periods, and the beauty of its composition. I grant its merit in these particulars. I admit the beauty of the style, though attenuated into gossamer thinness and lilliputian weakness. I agree that the Secretary writes well. I admit his ability even to compose a prettier letter in less than forty days. But what has all this to do with the question of right and wrong—of honor and shame—of war and peace—with a foreign government? In a contest of rhetoricians, it would indeed be important; but in the contests of nations it dwindles into insignificance. The statesman wants knowledge, firmness, patriotism, and invincible adherence to the rights, honor, and interests of his country. These are the characteristics of the statesman; and tried by these tests, what becomes of this letter, so encomiastically dwelt upon here? Its knowledge is shown by a mistake of the law of nations—its firmness, by yielding to a threat—its patriotism, by taking the part of foreigners—its adherence to the honor, rights and interests of our own country, by surrendering McLeod without receiving, or even demanding, one word of redress or apology for the outrage upon the Caroline!

The letter, besides its fatal concessions, is deficient in manly tone—in American feeling—in nerve—in force—in resentment of injurious imputations—and in enforcement of our just claims to redress for blood spilt, territory invaded, and flag insulted.

The whole spirit of the letter is feeble and deprecatory. It does not repel, but begs off. It does not recriminate, but defends. It does not resent insult—not even the audacious threat—which is never once complained of, nor even alluded to.

This letter is every way an unfortunate production. It does not even show the expense and trouble we took to prevent our citizens from crossing the line and joining the Canadian insurgents. It does not show the expense we were at in raising a new regiment of infantry expressly for that service (several voices said yes, yes, it mentions that). Good, let it be credited accordingly. But it does not mention the appropriation of $650,000 made at one time for that object; it does not mention the numerous calls upon the militia authorities and the civil authorities along the line to assist in restraining our people; it does not mention the arrests of persons, and seizures of arms, which we made; it does not mention the prosecutions which we instituted; it does not show that for two years we were at great expense and trouble to restrain our people; and that this expense and trouble was brought upon us by the

excitement produced by the affair of the Caroline. The British brought us an immense expense by that affair, for which they render us no thanks, and the Secretary fails to remind them. The letter does not repel, with the indignant energy which the declaration required, that we had "*permitted*" our citizens to arm and join the insurgents. It repels it, to be sure, but too feebly and gently, and it omits altogether what should never be lost sight of in this case, that the British have taken great vengeance on our people for their rashness in joining this revolt. Great numbers of them were killed in action; many were hanged; and many were transported to the extremities of the world—to Van Diemen's Land, under the antarctic circle—where they pine out a miserable existence, far, far, and for ever removed from kindred, home and friends.

The faults of the letter are fundamental and radical—no beauty of composition, no tropes and figures, no flowers of rhetoric—can balance or gloss over. The objections go to its spirit and substance—to errors of fact and law—to its tameness and timidity—and to its total omission to demand redress from the British government for the outrages on the Caroline, which that government has assumed. She has now assumed that outrage for the first time—assumed it after three years of refusal to speak; and in the assumption offers not one word of apology, or of consolation to our wounded feelings. She claps her arms akimbo, and avows the offence; and our Secretary, in his long and beautiful letter, finds no place to insert a demand for the assumed outrage. He gives up the culprit subject, and demands nothing from the imperious sovereign. He lets go the servant, and does not lay hold of the master. This is a grievous omission. It is tantamount to a surrender of all claim for any redress of any kind. McLeod, the culprit, is given up: he is given up without conditions. The British government assume his offence—demand his release—offer us no satisfaction: and we give him up, and ask no satisfaction. The letter demands nothing—literally nothing: and in that respect again degrades us as much as the surrender upon a threat had already degraded us. This is a most material point, and I mean to make it clear. I mean to show that the Secretary in giving up the alleged instrument, has demanded nothing from the assuming superiors: and this I will do him the justice to show by reading from his own letter. I have examined it carefully, and can find but two places where the slightest approach is made, not even to a demand for redress, but to the suggestion of an intimation of a wish on our side ever to hear the name of the Caroline mentioned again. These two places are on the concluding pages of the letter, as printed by our order. If there are others, let gentlemen point them out, and they shall be read. The two paragraphs I discover, are these:

"This government, therefore, not only holds itself above reproach in every thing respecting the preservation of neutrality, the observance of the principle of non-intervention, and the strictest conformity, in these respects, to the rules of international law, but it doubts not that the world will do it the justice to acknowledge that it has set an example not unfit to be followed by others, and that, by its steady legislation on this most important subject, it has done something to promote peace and good neighborhood among nations, and to advance the civilization of mankind.

"The President instructs the undersigned to say, in conclusion, that he confidently trusts that this and all other questions of difference between the two governments will be treated by both in the full exercise of such a spirit of candor, justice, and mutual respect, as shall give assurance of the long continuance of peace between the two countries."

This is all I can see that looks to the possible contingency of any future allusion to the case of the Caroline. Certainly there could not be a more effectual abandonment of our claim to redress. The first paragraph goes no further than to "trust" that the grounds may be presented which "justify"—a strange word in such a case—the local authorities in attacking and

destroying this vessel; and the second buries it all up by deferring it to the general and peaceful settlement of all other questions and differences between the two countries. Certainly this is a farewell salutation to the whole affair. It is the valedictory to the Caroline. It is the parting word, and is evidently so understood by the British ministry. They have taken no notice of this beautiful letter: they have returned no answer to it; they have not even acknowledged its receipt. The ministry, the parliament, and the press, all acknowledge themselves satisfied—satisfied with the answer which was given to Mr. Fox, on the 12th of March. They cease to speak of the affair; and the miserable Caroline—plunging in flames over the frightful cataract, the dead and the dying both on board—is treated as a gone-by procession, which has lost its interest for ever. Mr. Webster has given it up, by deferring it to general settlement; and in so giving it up, has not only abandoned the rights and honor of his country, but violated the laws of diplomatic intercourse. Outrages and insults are never deferred to a general settlement. They are settled *per se*—and promptly and preliminarily. All other negotiations cease until the insult and outrage is settled. That is the course of Great Britain herself in this case. She assumes the arrest of McLeod to be an offence to the British crown, and dropping all other questions of difference, demands instant reparation for that offence. Mr. Webster should have done the same by the offence to his country. It was prior in time, and should have been prior in settlement—at all events the two offences should have been settled together. Instead of that he hastens to make reparation to the British—does it in person—and without waiting even to draw up a letter in reply to Mr. Fox! and then, of his own head, defers our complaint to a general settlement. This is unheard of, either in national or individual insults. What would we think of a man, who being insulted by an outrage to his family in his house, should say to the perpetrators: "We have some outstanding accounts, and some day or other we may have a general settlement; and then, I trust you will settle this outrage." What would be said of an individual in such a case, must be said of ourselves in this case. In vain do gentlemen point to the paragraph in the letter, so powerfully drawn, which paints the destruction of the Caroline, and the slaughter of the innocent as well as the guilty, asleep on board of her. That paragraph aggravates the demerit of the letter: for, after so well showing the enormity of the wrong, and our just title to redress, it abandons the case without the slightest atonement. But that letter, with all its ample beauties, found no place to rebuke the impressment and abduction of the person claimed as a British subject, because he was a fugitive rebel. Whether so, or not, he could not be seized upon American soil—could not even be given up under the extradition clause in Mr. Jay's treaty, even if in force, which only applied to personal and not to political offences. But that letter, was for Buncombe: it was for home consumption: it was to justify to the American people on the 24th of May, what had been done on the 12th of March. It was superscribed to Mr. Fox, but written for our own people: and so Mr. Fox understood it, and never even acknowledged its receipt.

But gentlemen point to a special phrase in the letter, and quote it with triumph, as showing pluck and fight in our Secretary: it is the phrase, "bloody and exasperated war"—and consider this phrase as a cure for all deficiencies. Alas! it would seem to have been the very thing which did the business for our Secretary. That blood, with war, and exasperation, seems to have hastened his submission to the British demand. But how was it with Mr. Fox? Did it hasten his inclination to pacify us? Did he take it as a thing to quicken him? or, did the British government feel it as an inducement, or stimulus to hasten atonement for the injury they had assumed? Not at all! Far from it! Mr. Fox did not take fright, and answer in two days! nor has he answered yet! nor will he ever while such gentle epistles are written to him. Its effect upon the British ministry is shown by the manner in which they have treated it—the contempt of silence. No, sir! instead of these gentle phrases, there ought to have been two brief words spoken to Mr. Fox—first, your letter contains a threat; and the American government does not negotiate under a threat; *next*, your government has assumed the Caroline outrage to the

United States, and now atone for it: and as to McLeod, he is in the hands of justice, and will be tried for his crimes, according to the law of nations. This is the answer which ought to have been given. But not so. Instant submission on our part, was the resolve and the act. Forty days afterwards this fine letter was delivered. Unfortunate as is this boasted letter in so many respects, it has a further sin to answer for, and that is for its place, or order—its collocation and connection—in the printed document which lies before us; and also in its assumption to "enclose" the Crittenden instructions to Mr. Fox—which had been personally delivered to him forty days before. The letter is printed, in the document, before the "instructions," though written forty days after them; and purports to "enclose" what had been long before delivered. Sir, the case of McLeod is not an isolation: it is not a solitary act: it is not an atom lying by itself. But it is a feature in a large picture—a link in a long chain. It connects itself with all the aggressive conduct of Great Britain towards the United States—her encroachments on the State of Maine—her occupation of our territory on the Oregon—her insolence in searching our vessels on the coast of Africa—the liberation of our slaves, wrecked on her islands, when in transition from one part of the Union to another—her hatching in London for the Southern States, what was hatched there above forty years ago for San Domingo: and the ominous unofficial intimation to our aforesaid Secretary, that the federal government is bound for the European debts of the individual States. The McLeod case mixes itself with the whole of these; and the success which has attended British threats in his case, may bring us threats in all the other cases; and blows to back them, if not settled to British liking. Submission invites aggression. The British are a great people—a wonderful people; and can perform as well as threaten. Occupying some islands no larger than two of our States, they have taken possession of the commanding points in the four quarters of the globe, and dominate over an extent of land and water, compared to which the greatest of empires—that of Alexander, of Trajan, of the Caliphs—was a dot upon the map. War is to them a distant occupation—an ex-territorial excursion—something like piracy on a vast scale; in which their fleets go forth to capture and destroy—to circumnavigate the globe; and to return loaded with the spoil of plundered nations. Since the time of William the Conqueror, no foreign hostile foot has trod their soil; and, safe thus far from the ravages of war at home, they are the more ready to engage in ravages abroad. To bully, to terrify, to strike, to crush, to plunder—and then exact indemnities as the price of forbearance—is their policy and their practice: and they look upon us with our rich towns and extended coasts, as a fit subject for these compendious tactics. We all deprecate a war with that people—none deprecate it more than I do—not for its dangers, but for its effects on the business pursuits of the two countries, and its injury to liberal governments: but we shall never prevent war by truckling to threats, and squandering in douceurs to the States what ought to be consecrated to the defence of the country. The result of our first war with this people, when only a fifth of our present numbers, shows what we could do in a seven years' contest: the result of the second shows that, at the end of two years, having repulsed their fleets and armies at all points, we were just ready to light upon Canada with an hundred thousand volunteers, fired by the glories of New Orleans. And in any future war with that nation, woe to the statesman that woos peace at the repulse of the foe. Of all the nations of the earth, we are the people to land upon the coasts of England and Ireland. We are their kin and kith; and the visits of kindred have sympathies and affections, which statutes and proclamations cannot control.

77. Refusal Of The House To Allow Recess Committees

Two propositions submitted at this session to allow committees to sit in the recess, and collect information on industrial subjects—commerce, manufactures, and agriculture—with a view to beneficial legislation, had the effect of bringing out a very full examination into the whole subject—under all its aspects, of constitutionality and expediency. The whole debate was brought on by the principal proposition, submitted by Mr. Winthrop, from the Committee on Commerce, in these words:

"*Resolved*, That a committee of nine members, not more than one of whom shall be from any one State, be appointed by the Chair, to sit during the recess, for the purpose of taking evidence at the principal ports of entry and elsewhere, as to the operation of the existing system and rates of duties on imports upon the manufacturing, agricultural, and commercial interests of the country, and of procuring, generally, such information as may be useful to Congress in any revision of the revenue laws which may be attempted at the next session."

On this resolution there was but little said. The previous question was soon called, and the resolution carried by a lean majority—106 to 104. A reconsideration was instantly moved by Mr. McKeon of New York, which, after some discussion, was adopted, 106 to 90. The resolution was then laid on the table: from which it was never raised. Afterwards a modification of it was submitted by Mr. Kennedy of Maryland, from the committee on commerce, in these words:

"*Resolved*, That a select committee of eleven members, not more than one of which shall be from any one State, be appointed by the Chair for the purpose of taking evidence at the principal ports of entry and elsewhere as to the operation of the existing system and rates of duties on imports upon the manufacturing, commercial, and agricultural interests of the country; and of procuring, generally, such information as may be useful to Congress in any revision of the revenue laws which may be attempted at the next session.

"*Resolved, further*, That said committee be authorized to sit during the recess, and to employ a clerk."

A motion was made by Ingersoll which brought up the question of recess committees on their own merits, stripped of the extraneous considerations which a proposition for such a committee, for a particular purpose, would always introduce. He moved to strike out the words, "*to sit during the recess*." This was the proper isolation of the contested point. In this form the objections to such committees were alone considered, and found to be insuperable. In the first place, no warrant could be found in the constitution for this elongation of itself by the House by means of its committees, and it was inconsistent with that adjournment for which the constitution provides, and with those immunities to members which are limited to the term of service, and the time allowed for travelling to and from Congress. No warrant could be found for them in the constitution, and practical reasons against them presented themselves more forcibly and numerously as the question was examined. The danger of degenerating into faction and favoritism, was seen to be imminent. Committees might be appointed to perambulate the Union—at the short sessions for nine months in the year—spending their time idly, or engaged in political objects—drawing the pay and mileage of members of Congress all the time, with indefinite allowances for contingencies. If one committee might be so appointed, then as many others as the House chose: if by one House,

then by both: if to perambulate the United States, then all Europe—constituting a mode of making the tour of Europe at the public expense. All Congress might be so employed: but it was probable that only the dominant party, each in its turn, would so favor its own partisans, and for its own purposes. The practical evils of the measure augmented to the view as more and more examined: and finally, the whole question was put to rest by the decided sense of the House—only sixty-two members voting against the motion to lay it on the table, not to be taken up again: a convenient, and compendious way to get rid of a subject, as it brings on the direct vote, without discussion, and without the process of the previous question to cut off debate.

Such was the decision of the House; and, what has happened in the Senate, goes to confirm the wisdom of their decision. Recess committees have been appointed from that body; and each case of such appointment has become a standing argument against their existence. The first instance was that of a senatorial committee, in the palmy days of the United States Bank, consisting of the friends of that bank, appointed on the motion of its own friends to examine it—spending the whole recess in the work: and concluding with a report lauding the management of the bank, and assailing those who opposed it. Several other senatorial recess committees have since been appointed; but under circumstances which condemn them as an example; and with consequences which exemplify the varieties of abuse to which they are subject; and of which, faction, favoritism, personal objects, ungovernable expense, and little, or no utility, constitute the heads.

78. Reduction Of The Expense Of Foreign Missions By Reducing The Number

A question of permanent and increasing interest was opened at this session, which has become more exigent with time, and deserves to be pursued until its object shall be accomplished. It was the question of reducing the expenses of foreign missions, by reducing the number, and the expediency of returning to the Jeffersonian policy of having no ministers resident, or permanent succession of ministers abroad. The question was brought on by a motion from Mr. Charles Jared Ingersoll to strike from the appropriation bill the salaries of some missions mentioned in it; and this motion brought on the question of, how far the House had a right to interfere in these missions and control them by withholding compensation? and how far it was expedient to diminish their number, and to return to the Jeffersonian policy? Chargés had been appointed to Sardinia and Naples: Mr. Ingersoll thought them unnecessary; as also the mission to Austria, and that the ministers to Spain ought to be reduced to chargéships. Mr. Caleb Cushing considered the appointment of these ministers as giving them "vested rights in their salaries," and that the House was bound to vote. Mr. Ingersoll scouted this idea of "vested rights." Mr. Adams said the office of minister was created by the law of nations, and it belonged to the President and Senate to fill it, and for the Congress to control it, if it judged it necessary, as the British parliament has a right to control the war which the king has a right to declare, namely, by withholding the supplies: but it would require an extreme case to do so after the appointment had been made. He did not think the House ought to lay aside its power to control in a case obviously improper. And he thought the introduction of an appropriation bill, like the present, a fit occasion to inquire into the propriety of every mission; and he thought it expedient to reduce the expenses of our foreign missions, by reducing the number: and with this view he should offer a resolution when it should be in order to do so. Mr. Gilmer, as one of the Committee on Retrenchment, had paid some attention to the subject of our foreign representation; and he believed, with Mr. Adams, that both the grade and the destination of our foreign agents would admit of a beneficial reduction. Mr. Ingersoll rejoined on the different branches of the question, and in favor of Mr. Jefferson's policy, and for following up the inquiry proposed by Mr. Adams; and said:

"If the stand he had now taken should eventually lead to the retrenchment alluded to in the resolution of the venerable gentleman from Massachusetts, he should be content. He still thought the House might properly exercise its withholding power, not, indeed, so as to stop the wheels of government, but merely to curtail an unnecessary expenditure; and he hoped there would be enough of constitutional feeling, of the *esprit du corps*, to lead them to insist upon their right. He scouted the idea of the President's appointment creating a vested interest in the appointee to his salary as minister. Such a doctrine would be monstrous. The House might be bound by high considerations of policy and propriety, but never by the force of a contract, to appropriate for an appointed minister. This was carrying the principle totally *extra mœnia mundi*. Mr. I. disclaimed opposing these measures on the mere ground of dollars and cents; he alluded to the multiplication of missions to and from this country as introducing examples of lavish expenditure and luxurious living among our own citizens. As to the distinction between temporary and permanent missions, the gentleman from Massachusetts [Mr. Cushing] perfectly well knew that originally all public missions were temporary; such a thing as a permanent foreign mission was unheard of. This was an invention of modern times; and it had been Mr. Jefferson's opinion that such missions ought not to exist. It was high time that public attention was called to the subject; and he hoped that

at the next session Mr. Adams would bring forward and press his resolution of inquiry as to the expediency of reducing the whole system of foreign intercourse."

Mr. Adams afterwards introduced his proposed resolution, which was adopted by the House, and sent to the Committee on Foreign Relations; but which has not yet produced the required reform. This was his resolve:

"*Resolved*, That the Committee on Foreign Affairs be instructed to inquire into the expediency of reducing the expenditures in the diplomatic department of the government, by diminishing the number of ministers and other diplomatic agents abroad, and report thereon to the House."

It would be a public benefaction, and a great honor to the member who should do it, for some ardent man to take charge of this subject—revive Mr. Adams' resolution, and pursue the inquiry through all the branches which belong to it: and they are many. First: The full mission of minister plenipotentiary and envoy extraordinary, formerly created only on extraordinary occasions, and with a few great courts, and intrusted to eminent men, are now lavished in profusion; and at secondary courts; and filled with men but little adapted to grace them; and without waiting for an occasion, but rapidly, to accommodate political partisans; and as a mere party policy, recalling a political opponent to make room for an adherent: and so keeping up a perpetual succession, and converting the envoys extraordinary into virtual ministers resident. In the second place, there are no plenipotentiaries now—no ministers with full powers—or in fact with any powers at all, except to copy what is sent to them, and sign what they are told. The Secretaries of State now do the business themselves, either actually making the treaty at home while the minister is idle abroad, or virtually by writing instructions for home effect, often published before they are delivered, and containing every word the minister is to say—with orders to apply for fresh instructions at every new turn the business takes. And communications have now become so rapid and facile that the entire negotiation may be conducted at home—the important minister plenipotentiary and envoy extraordinary being reduced to the functions of a messenger. In the third place, all the missions have become resident, contrary to the policy and interest of our country, which wants no entangling alliances or connections abroad; and to the damage of our treasury, which is heavily taxed to keep up a numerous diplomatic establishment in Europe, not merely useless, but pernicious. In the fourth place, our foreign intercourse has become inordinately expensive, costing above three hundred thousand dollars a year; and for ministers who do not compare with the John Marshalls of Virginia, the John Quincy Adamses, the Pinckneys of South Carolina, the Pinkney of Maryland, the Rufus Kings, Albert Gallatins, James Monroes, the Livingstons, and all that class, the pride of their country, and the admiration of Europe; and which did not cost us one hundred thousand dollars a year, and had something to do, and did it—and represented a nation abroad, and not a party. Prominently among the great subjects demanding reform, is now the diplomatic intercourse of the United States. Reduction of number, no mission without an object to accomplish, no perpetual succession of ministers, no ministers resident, no exclusion of one party by the other from this national representation abroad, no rank higher than a chargé except when a special service is to be performed and then nationally composed: and the expenses inexorably brought back within one hundred thousand dollars a year. Such are the reforms which our diplomatic foreign intercourse has long required—which so loudly called for the hand of correction fifteen years ago, when Mr. Adams submitted his resolution; and all the evils of which have nearly doubled since. It is a case in which the House of Representatives, the immediate representatives of the people, and the sole constitutional originator of taxes upon them, should act as a check upon the President and Senate; and do it as the British House of Commons checks the king, the lords and the ministry—by withholding the supplies.

79. Infringement Of The Tariff Compromise Act Of 1833: Correction Of Abuses In Drawbacks

The history, both ostensible and secret, of this act has been given, and its brief existence foretold, although intended for perpetuity, and the fate of the Union, in numerous State legislative resolves, and in inumerable speeches, declared to depend upon its inviolability. It was assumed to have saved the Union: the corollary of that assumption was, that its breach would dissolve the Union. Equally vain and idle were both the assumption and the inference! and equally erroneous was the general voice, which attributed the act to Mr. Clay and Mr. Calhoun. They appeared to the outside observer as the authors of the act: the inside witness saw in Mr. John M. Clayton, of Delaware, and Mr. Robert P. Letcher, of Kentucky, its real architects—the former in commencing the measure and controlling its provisions; the latter as having brought Mr. Calhoun to its acceptance by the communication to him of President Jackson's intentions; and by his exertions in the House of Representatives. It was composed of two parts—one part to last nine years, for the benefit of the manufacturers: the other part to last for ever, for the benefit of the planting and consuming interest. Neither part lived out its allotted time; or, rather, the first part died prematurely, and the second never began to live. It was a *felo de se* from the beginning, and bound to perish of the diseases in it. To Mr. Clay and Mr. Calhoun, it was a political necessity—one to get rid of a stumbling-block (which protective tariff had become); the other to escape a personal peril which his nullifying ordinance had brought upon him: and with both, it was a piece of policy, to enable them to combine against Mr. Van Buren, by postponing their own contention: and a device on the part of Mr. Clayton and Mr. Clay to preserve the protective system, doomed to a correction of its abuses at the ensuing session of Congress. The presidential election was over, and General Jackson elected to his second term, pledged to a revenue tariff and incidental protection: a majority of both Houses of Congress were under the same pledge: the public debt was rapidly verging to extinction: and both the circumstances of the Treasury, and the temper of the government were in harmony with the wishes of the people for a "judicious tariff;" limited to the levy of the revenue required for the economical administration of a plain government, and so levied as to extend encouragement to the home production of articles necessary to our independence and comfort. All this was ready to be done, and the country quieted for ever on the subject of the tariff, when the question was taken out of the hands of the government by a coalition between Mr. Clay and Mr. Calhoun, and a bill concocted, as vicious in principle, as it was selfish and unparliamentary in its conception and execution. The plan was to give the manufacturers their undue protection for nine years, by making annual reductions, so light and trifling during the time, that they would not be felt; and after the nine years, to give the anti-tariff party their millennium, in jumping down, at two leaps, in the two last years, to a uniform *ad valorem* duty of twenty per centum on all dutied articles. All practical men saw at the time how this concoction would work—that it would produce more revenue than the government wanted the first seven years, and leave it deficient afterwards—that the result would be a revulsion of all interests against a system which left the government without revenue—and that, in this revulsion there must be a re-modelling, and an increase in the tariff: all ending in a complete deception to the anti-tariff party, who would see the protective part of the compromise fully enjoyed by the manufacturing interest, and the relief part for themselves wholly lost. All this was seen at the time: but a cry was got up, by folly and knavery, of danger to the Union: this bill was proclaimed as the only means of saving it: ignorance, credulity, timidity and temporizing temperaments united to believe it. And so the

bill was accepted as a God-send: the coming of which had saved the Union—the loss of which would destroy it: and the two ostensible architects of the measure (each having worked in his own interest, and one greatly over-reaching the other), were saluted as pacificators, who had sacrificed their ambition upon the altar of patriotism for the good of their country.

The time had come for testing these opinions. We were in the eighth year of the compromise, the first part had nearly run its course: within one year the second part was to begin. The Secretary of the Treasury had declared the necessity of loans and taxes to carry on the government: a loan bill for twelve millions had been passed: a tariff bill to raise fourteen millions more was depending; and the chairman of the Committee of Ways and Means, Mr. Millard Fillmore, thus defended its necessity:

"He took a view of the effects of the compromise act, in the course of which he said that by that act one tenth of the customs over twenty-five per cent. ad valorem was to come off on the 1st January, 1834; and on the 1st January, 1836, another tenth was to be deducted; on the 1st January, 1838, another tenth; and on the 1st January, 1840, another tenth; and on the 1st January, 1842, three tenths more; and on the 1st July, 1842, the remaining three tenths were to be deducted, so that, on that day, what was usually termed the compromise act, was to go fully into effect, and reduce the revenue to 20 per cent. ad valorem on all articles imported into the country. It appeared from a report submitted to this House (he meant the financial report of the Secretary of the Treasury, document No. 2, page 20), showing the amount of imports for the seven years from 1834 to 1840 inclusive, that there were imported into this country one hundred and forty-one million four hundred and seventy-six thousand seven hundred and sixty-nine dollars' worth of goods, of which seventy-one million seven hundred and twenty-eight thousand three hundred and twelve dollars were free of duty, and sixty-nine million seven hundred and forty-eight thousand four hundred and fifty-seven dollars paid duty. Then, having these amounts, and knowing that, by the compromise act, articles paying duty over 20 per cent., and many of them paid more, were to be reduced down to that standard, and all were to pay only 20 per cent., what would be the amount of revenue from that source? Why, its gross amount would only be thirteen million nine hundred and fifty thousand dollars in round numbers—that is, taking the average of goods imported in the last seven years, the whole gross amount of duty that would pass into the Treasury, did all the imported articles pay the highest rate of duty, would only be thirteen million nine hundred and fifty-four thousand dollars—say fourteen millions of dollars in round numbers."

Thus the compromise act, under its second stage, was only to produce about fourteen millions of dollars—little more than half what the exigencies of the government required. Mr. Fillmore passed in review the different modes by which money could be raised. *First*, by loans: and rejected that mode as only to be used temporarily, and until taxes of some kind could be levied. Next, by direct taxation: and rejected that mode as being contrary to the habits and feelings of the people. Thirdly, by duties: and preferred that mode as being the one preferred by the country, and by which the payment of the tax became, in a large degree, voluntary—according to the taste of the payer in purchasing foreign goods. He, therefore, with the Secretary of the Treasury, preferred that mode, although it involved an abrogation of the compromise. His bill proposed twenty per centum additional to the existing duty on certain specified articles—sufficient to make up the amount wanted. This encroachment on a measure so much vaunted when passed, and which had been kept inviolate while operating in favor of one of the parties to it, naturally excited complaint and opposition from the other; and Mr. Gilmer, of Virginia, said:

"In referring to the compromise act, the true characteristics of that act which recommended it strongly to him, were that it contemplated that duties were to be levied for revenue only, and

in the next place to the amount only necessary to the supply of the economical wants of the government. He begged leave to call the attention of the committee to the principle recognized in the language of the compromise—a principle which ought to be recognized in all time to come by every department of the government. It is, said he, that duties to be raised for revenue are to be raised to such an amount only as is necessary for an economical administration of the government. Some incidental protection must necessarily be given, and he, for one, coming from an anti-tariff portion of the country, would not object to it. But said he, we were told yesterday by the gentleman from Massachusetts [Mr. Adams], that he did not consider the compromise binding, because it was a compact between the South and the West, in which New England was not a party, and it was crammed down her throat by the previous question, he voting against it. The gentleman from Pennsylvania said to-day almost the same thing, for he considered it merely a point of honor which he was willing to concede to the South, and that object gained, there was no longer reason for adhering to it.

"Did the gentleman contend that no law was binding on New England, and on him, unless it is sanctioned by him and the New England delegation? Sir, said Mr. G., I believe that it is binding, whether sanctioned by New England or not. The gentleman said that he would give the public lands to the States, and the compromise act to the dogs. Sir, if the lands are to be given to the States, if upwards of three millions are to be deducted from that source of revenue, and we are then to be told that this furnishes a pretext, first for borrowing, and then for taxing the people, we may well feel cause for insisting on the obligations of the compromise. Sir, said Mr. G., gentlemen know very well that there is some virtue in the compromise act, and that though it may be repudiated by a few of the representatives of the people, yet the people themselves will adhere to it as the means of averting the greatest of evils. But he had seen enough to show him that the power of giving might be construed as the power of taking, and he should not be surprised to see a proposition to assume the debts of the States—for the more that you give, the more that is wanted.

"After some further remarks, Mr. G. said that he was opposed to the hurrying of this important measure through at the present session. Let us wait until sufficient information is obtained to enable us to act judiciously. Let us wait to inquire whether there is any necessity for raising an increased revenue of eight millions of dollars from articles, all of which, under the compromise act, are either free of duty or liable to a duty of less than 20 per cent. Let us not be told that on account of the appropriations for a home squadron, and for fortifications amounting to about three millions of dollars, that it is necessary to raise this large sum. We have already borrowed twelve millions of dollars, and during the remainder of the year, Mr. Ewing tells us that the customs will yield five millions, which together, will make seventeen millions of dollars of available means in the Treasury. Then there was a large sum in the hands of the disbursing officers of the government, and he ventured to assert that there would be more than twenty millions at the disposal of the Treasury before the expiration of the next session of Congress. Are we to be told, said Mr. G., that we are to increase the tariff in order to give to the States this fourth instalment under the deposit act? No sir; let us arrest this course of extravagance at the outset; let us arrest that bill which is now hanging in the other House [the distribution bill], and which I trust will ever hang there. Let us arrest that bill and the proceeds from that source will, in the coming four years, pay this twelve million loan. But these measures are all a part of the same system. Distribution is used as a pretext for a loan, and a loan is used as a pretext for high duties. This was an extraordinary session of Congress, and inasmuch as there would be within a few months a regular session—inasmuch as the Committee on Commerce had reported a resolution contemplating the organization of a select committee, with a view to the collection of information to aid in the revision of the tariff for revenue—and inasmuch as the compromise goes fully into operation in July next—he

thought that wisdom, as well as justice, demanded that they should not hurry through so important a measure, when it was not absolutely essential to the wants of the government.

"After some further remarks, Mr. G. said that it was time that he and his whig friends should understand one another. He wanted now to understand what were the cardinal principles of the whig party, of which he was an humble member. He had for six or seven years been a member of that party, and thought he understood their principles, but he much feared that he had been acting under some delusion; and now that they were all here together, he wished to come to a perfect understanding."

The perfect understanding of each other which Mr. Gilmer wished to have with his whig friends, was a sort of an appeal to Mr. Clay to stand by the act of 1833. He represented that party on one side of the compromise, and Mr. Calhoun the other: and now, when it was about to be abrogated, he naturally called on the guaranty of the other side to come to the rescue. Mr. Charles Jared Ingersoll, pleasantly and sarcastically apostrophized the two eminent chiefs, who represented two opposite parties, and gloriously saved the Union (without the participation of the government), at the making of that compromise: and treated it as glory that had passed by:

"I listened with edification to the account of the venerable member from Massachusetts [Mr. Adams], of the method of enacting the compromise act—what may be called the perpetration of that memorable measure. Certainly it put an end to fearful strife. Perhaps it saved this glorious Union. I wish to be understood as speaking respectfully of both the distinguished persons who are said to have accomplished it. After all, however, it was rather their individual achievement than an act of Congress. The two chiefs, the towering peaks, of overhanging prohibitory protection and forcible nullification, nodded their summits together, and the work was done, without the active agency of either the executive or legislative branches of government. Its influences on public tranquillity were benignant. But how to be regarded as economical or constitutional lessons, is a different question, which, at this session, I am hardly prepared to unravel. Undiscriminating impost, twenty per cent. flush throughout, on all articles alike, will not answer the purposes of the Union, or of my State. It is not supposed by their advocates that it will. The present bill is to be transient; we are to have more particular, more thorough and permanent laws hereafter. Without giving in my adhesion to the compromise act, or announcing opposition to it, I hope to see such government as will ensure steady employment, at good wages, by which I mean high wages, paid in hard money; no others can be good, high, or adequate, or money at all; for every branch of industry, agricultural, commercial, manufacturing, and navigation, that palmy state of a country, to which this of all others is entitled, *pulcherrimo populi fasligio*."

Mr. Pickens, of South Carolina, the intimate friend of Mr. Calhoun, also raised his voice against the abrogation of the act which had been kept in good faith by the free-trade party, and the consuming classes while so injurious to them, and was now to be impaired the moment it was to become beneficial:

"All the gentlemen who had spoken denied the binding force of the compromise act. Was this the doctrine of the party in power? Mr. P. had wished to hear from Kentucky, that he might discover whether this had been determined in conclave. The struggle would be severe to bring back the system of 1824, '28, and '32. The fact could no longer be disguised; and gentlemen might prepare themselves for the conflict. He saw plainly that this bill was to be passed by, and that all the great questions of the tariff policy would be again thrown open as though the compromise act had no existence. Was this fair? In 1835-6, when the last administration had taken possession of power, it was determined that the revenue must be reduced; but Mr. P. had at that time insisted that, though there was a surplus, the compromise

act was not lightly to be touched, and that it would therefore be better to forbear and let that act run its course. Gentlemen on the other side had then come up and congratulated him on his speech; for they had already received the benefit of that act for four years. Then his doctrine was all right and proper; but now, when the South came to enjoy its share of the benefit, they took the other side, and the compromise was as nothing. One gentleman had said that twenty-eight millions would be needed to carry on the government; another, that twenty-seven; another, that twenty-five; and in this last opinion, the gentleman from Pennsylvania [Mr. Ingersoll] agreed. And, as this sum could not be raised without duties over 20 per cent. the compromise must be set aside. Until lately Mr. P. had not been prepared for this; he had expected that at least the general spirit of that act would be carried out in the legislation of Congress; but he now saw that the whole tariff question must be met in all its length and breadth."

Very justly did Mr. Pickens say that the bill had been kept inviolate while operating injuriously to the consumers—that no alteration would be allowed in it. That was the course of the Congress to such a degree that a palpable error in relation to drawbacks was not allowed to be rectified, though plundering the Treasury of some hundreds of thousands of dollars per annum. But the new bill was to be passed: it was a necessity: for, in the language of Mr. Adams, the compromise act had beggared the Treasury, and would continue to beggar it—producing only half enough for the support of the government: and the misfortune of the free trade party was, that they did not foresee that consequence at the time, as others did; or seeing it, were obliged to submit to what the high tariff party chose to impose upon them, to release eminent men of South Carolina from the perilous condition in which the nullification ordinance had placed them. It passed the House by a vote of 116 to 101—the vote against it being stronger than the resistance in debate indicated.

The expenses of collecting the duties under the universal *ad valorem* system, in which every thing had to be valued, was enormous, and required an army of revenue officers—many of them mere hack politicians, little acquainted with their business, less attentive to it, giving the most variant and discordant valuations to the same article at different places, and even in the same place at different times; and often corruptly; and more occupied with politics than with custom-house duties. This was one of the evils foreseen when specific duties were abolished to make way for *ad valorems* and home valuations, and will continue until specific duties are restored as formerly, or "*angels*" procured to make the valuations. Mr. Charles Jared Ingersoll exposed this abuse in the debate upon this bill, showing that it cost nearly two millions of dollars to collect thirteen; and that two thousand officers were employed about it, who also employed themselves in the elections. He said:

"Even the direct tax and internal duties levied during the late war cost but little more than five per cent. for collection; whereas, now, upon an income decreasing under the compromise act in geometrical ratio, the cost of collecting it increases in that ratio; amounting, according to the answer I got from the chairman of the Committee of Ways and Means, to at least twelve per cent.; near two millions of dollars, says the gentleman from Massachusetts [Mr. Saltonstall]—one million seven hundred thousand dollars. To manage the customs, government is obliged to employ not less than two thousand officers, heavily paid, and said to be the most active partisans; those who, in this metropolis, are extremely annoying by their importunate contests for office, and elsewhere still more offensive by misconduct, sometimes of a gross kind, as in the instance of one, whom I need not name, in my district. The venerable gentleman from Vermont [Mr. Everett] suggested yesterday a tax on auctions as useful to American manufactures. On that, I give no opinion. But this I say, that a stamp tax on bank notes, and a duty on auctions, would not require fifty men to collect them. It is not for us of the minority to determine whether they should be laid. Yet I make bold to suggest to

the friends of the great leader, who, next to the President, has the power of legislation at present, that one of three alternatives is inevitable."

The bill went to the Senate where it found its two authors—such to the public; but in relative positions very different from what they were when it was passed—then united, now divided—then concurrent, now antagonistic: and the antagonism, general upon all measures, was to be special on this one. Their connection with the subject made it their function to lead off in its consideration; and their antagonist positions promised sharp encounters—which did not fail to come. From the first word temper was manifest; and especially on the part of Mr. Clay. He proposed to go on with the bill when it was called: Mr. Calhoun wished it put off till Monday. (It was then Friday.) Mr. Clay persevered in his call to go on with the bill, as the way to give general satisfaction. Then ensued a brief and peremptory scene, thus appearing in the Register of Debates:

"Mr. Calhoun thought the subject had better lie over. Senators had not an opportunity of examining the amendments; indeed, few had even the bill before them, not expecting it to come up. He agreed with the senator from Kentucky that it was important to give satisfaction, but the best way was to do what was right and proper; and he always found that, in the end, it satisfied more persons than they would by looking about and around to see what particular interest could be conciliated. Whatever touched the revenue touched the pockets of the people, and should be looked to with great caution. Nothing, in his opinion, was so preposterous as to expect, by a high duty on these articles, to increase the revenue. If the duty was placed at 20 per cent. it would be impossible to prevent smuggling. The articles in question would not bear any such duty; indeed, if they were reduced to 5 per cent. more revenue would be realized. He really hoped the senator would let the matter lie over until to-morrow or Monday."

"Mr. Clay said he always found, when there was a journey to be performed, that it was as well to make the start; if they only got five or six miles on the way, it was so much gained at least."

"Mr. Calhoun. We ought to have had some notice."

"Mr. Clay. I give you notice now. Start! start! The amendment was very simple, and easily understood. It was neither more nor less than to exempt the articles named from the list of exceptions in the bill, by which they would be subjected to a duty of 20 per cent. Those who agreed to it could say 'aye,' and those who did not 'no;' and that was all he should say on the subject."

The bill went on. Mr. Calhoun said:

"He was now to be called on to vote for this bill, proposing, as it did, a great increase of taxes on the community, because it was an exigency measure. He should give his votes as if for the permanent settlement of the tariff. The exigency was produced by the gentlemen on the opposite side, and they should be held responsible for it. This necessity had been produced by the present administration—it was of their making, and he should vote for this as if he were settling the taxes, and as if the gentlemen had done their duty, and had not by extravagance and distribution created a deficiency in the Treasury, for which they were responsible. They yesterday passed a bill emptying the Treasury, by giving away the proceeds of the public lands, and to-day we have a bill to supply the deficiency by a resort to a tax which in itself was a violation of the compromise act. The compromise act provides that no duty shall be laid except for the economical support of the government; and he regarded the giving away of the public lands a violation of that act, whether the duty was raised to 20 per cent. or not, because they had not attempted to bring down the expenses of the government to an

economical standard. He should proceed with this bill as if he were fixing the tariff; he thought an average of twelve and a half per cent. on our imports would raise an ample revenue for the support of the government, and in his votes on the several classes of articles he should bear this average in mind, imposing higher duties on some, and lower duties on others, as he thought the several cases called for."

"Mr. Benton said the bill came in the right place; and at the right moment: it came to fill up the gap which we had just made in the revenue by voting away the land-money. He should not help to fill that gap. Those who made it may fill it. He knew the government needed money, and must have it, and he did not intend to vote factiously, to stop its wheels, but considerately to compel it to do right. Stop the land-money distribution, and he would vote to supply its place by increased duties on imports; but while that branch of the revenue was lavished on the States in order to purchase popularity for those who squandered it, he would not become accessory to their offence by giving them other money to enable them to do so. The present occasion, he said, was one of high illustration of the vicious and debauching distribution schemes. When those schemes were first broached in this chamber ten years before, it was solely to get rid of a surplus—solely to get rid of money lying idle in the Treasury—merely to return to the people money which they had put into the Treasury and for which there was no public use. Such was the argument for these distributions for the first years they were attempted. Then the distributors advanced a step further, and proposed to divide the land money for a series of years, without knowing whether there would be any surplus or not. Now they have taken the final stride, and propose to borrow money, and divide it: propose to raise money by taxes, and divide it: for that is what the distribution of the land money comes to. It is not a separate fund: it is part of the public revenue: it is in the Treasury: and is as much custom-house revenue, for the customs have to be resorted to to supply its place. It is as much public money as that which is obtained upon loan: for the borrowed money goes to supply its loss. The distribution law is a fraud and a cheat on its face: its object is to debauch the people, and to do it with their own money; and I will neither vote for the act; nor for any tax to supply its place."

It was moved by Mr. Woodbury to include sumach among the dutiable articles, on the ground that it was an article of home growth, and the cultivation of it for domestic manufacturing purposes ought to be encouraged. Mr. Clay opposed this motion, and fell into a perfect free-trade argument to justify his opposition, and to show that sumach ought to come in free. This gave Mr. Calhoun an opportunity, which was not neglected, to compliment him on his conversion to the right faith; and this compliment led to some interesting remarks on both sides, in which each greeted the other in a very different spirit from what they had done when they were framing that compromise which one of them was now breaking. Thus:

"Mr. Clay said it was very true that sumach was an article of home growth; but he understood it was abundant where it was not wanted; and where those manufactures exist which would require it, there was none to be found. Under these circumstances, it had not as yet been cultivated for manufacturing purposes, and probably would not be, as long as agricultural labor could be more profitably employed. Imported sumach came from countries where labor was much cheaper than in this country, and he thought it was for the interest of our manufacturers to obtain it upon the cheapest terms they can. Our agricultural labor would be much employed in other channels of industry."

"Mr. Calhoun was very glad to hear the senator from Kentucky at last coming round in support of this sound doctrine. It was just what he (Mr. Calhoun) had long expected that Mr. Clay would be forced to conform to, that those articles ought to be imported, which can be obtained from abroad on cheaper terms than they can be produced at home."

"Mr. Clay thought the senator from South Carolina was not entitled to his interpretation of what he (Mr. Clay) had said. The senator converts a few words expressed in favor of continuing the free importation of sumach, under present circumstances, into a general approbation of free trade—a thing wholly out of view in his (Mr. Clay's) mind at the time he made his remarks. It was certainly owing to the peculiar habit of mind in which the senator from South Carolina was so fond of indulging, that he was thus always trying to reduce every thing to his system of abstractions."

These "abstractions," and this "peculiar habit," were a standing resort with Mr. Clay when a little pressed by Mr. Calhoun. They were mere flouts, but authorizing retaliation; and, on the present occasion, when the question was to break up that compromise which (in his part of it, the universal 20 per cent. ad valorems) was the refined essence of Mr. Calhoun's financial system, and which was to be perpetual, and for which he had already paid the consideration in the nine years' further endurance of the protective system: when this was the work in hand, and it aggravated by the imperative manner in which it was brought on—refusal to wait till Monday, and that most extemporaneous notice, accompanied by the command, "start! start!"—all this was a good justification to Mr. Calhoun in the biting spirit which he gave to his replies—getting sharper as he went on, until Mr. Clay pleasantly took refuge under sumach—popularly called shoe-make in the South and West.

"Mr. Calhoun observed that the senator from Kentucky had evidently very strong prejudices against what he calls abstractions. This would be easily understood when we take into consideration what the senator and his friends characterized as abstractions. What he and they called abstractions, was the principle of scrutiny and opposition so powerfully evinced by this side of the Senate, against the low estimates, ruinous projects, and extravagant expenditures which constitute the leading measures of the present administration. As regards the principles of free trade, if these were abstractions, he was happy to know that he was in company with some of the ablest statesmen of Great Britain. He referred to the report recently made in Parliament on this subject—a document of eminent ability."

"Mr. Clay observed that the senator from South Carolina based his abstractions on the theories of books—on English authorities, and on the arguments urged in favor of free trade by a certain party in the British Parliament. Now, he (Mr. Clay), and his friends would not admit of these authorities being entitled to as much weight as the universal practice of nations, which in all parts of the world was found to be in favor of protecting home manufactures to an extent sufficient to keep them in a flourishing condition. This was the whole difference. The senator was in favor of book theory and abstractions: he (Mr. Clay) and his friends were in favor of the universal practice of nations, and the wholesome and necessary protection of domestic manufactures. And what better proof could be given of national decision on this point than that furnished by the recent elections in Great Britain. A report on the subject of free trade, written by the astute and ingenious Scotchman, Mr. Hume, had obtained pretty general circulation in this country. On the principles set forth in that report the British ministry went before the people of England at a general election, and the result proved that they were repudiated."

"Mr. Calhoun had supposed the senator from Kentucky was possessed of more tact than to allude at all to the recent elections in England, and claim them as a triumph of his principles, much less to express himself in such strong terms of approbation at the result. The senator was, however, elated at the favorable result of the late elections to the tory party in England. That was not much to be wondered at, for the interests, objects, and aims of the tory party there and the whig party here, are identical. The identity of the two parties is remarkable. The tory party are the patrons of corporate monopolies; *and are not you?* They are advocates of a

high tariff; *and are not you?* They are the supporters of a national bank; *and are not you?* They are for corn-laws—laws oppressive to the mass of the people, and favorable to their own power; *and are not you?* Witness this bill. The tory party in England are not supported by the British people. That party is the representative of the mere aristocracy of the country, which, by the most odious and oppressive system of coercion exercised over the tenantry of the country, has obtained the power of starving the mass of the people, by the continuation of laws exclusively protecting the landed interests, that is, the rent rolls of the aristocracy. These laws that party will uphold, rather than suffer the people to obtain cheap bread. The administration party in England wished to dissipate this odious system of exclusive legislation, and to give the mass of the people cheap bread. This the senator from Kentucky characterizes as ridiculous abstraction. And who are these tories of England? Do not the abolitionists constitute a large portion of that party? Those very abolitionists, who have more sympathy for the negroes of the West India Islands, than for the starving and oppressed white laborers of England. And why? Because it is the interest of the tory party to have high rents at home, and high tariff duties against the sugar of this country, for the protection of the owners of estates in the West India Islands. This is the party, the success of which, at the recent elections in Great Britain, has so elated the senator from Kentucky! The success of that party in England, and of the whig party here, is the success of the great money power, which concentrates the interests of the two parties, and identifies their principles. The struggle of both is a struggle for the ascendency of this great money power. When the whole subject is narrowly looked into, it is seen that the whole question at issue is that of the ascendency of this enormous and dangerous power, or that of popular rights. And this is a struggle which the opposition in this Capitol, to whom alone the people of this country can now look for protection against the measures threatened to be consummated here, will maintain to the last, regardless of the success of the tories abroad or their allies at home."

Mr. Clay did not meet these biting interrogatories. He did not undertake to show any injustice in classifying his modern whig party with the English high tory party, but hauled off, washing his hands of sympathy for that party—a retreat, for which Mr. Calhoun taunted him in his reply. Fact was, the old federal party—and I never refer to them as such in reproach—had become unpopular, and changed name without changing principles. They took that of whig, as having a seductive revolutionary odor, without seeming to perceive that it had not a principle in common with the whigs of the revolution which their adversaries had not also; and that in reality they occupied the precise ground in our political parties which the high tory party did in England. Mr. Calhoun drove this home to Mr. Clay with a point and power, and a closeness of application, which stuck, and required an exculpatory answer, if any could be given. But none such was attempted, either by Mr. Clay, or any of his friends; and the issue has shown the folly of taking a name without corresponding works. The name "whig" has been pretty well given up, without finding a better, and perhaps without saving the commendable principle of conservatism which was in it; and which, in its liberal and enlightened sense, is so essential in all governments. One thing both the disputants seemed to forget, though others did not; and that was, that Mr. Calhoun had acted with this party for ten years against President Jackson.

"Mr. Clay denied that he had made any boast of the success of the tories in the English elections. He had expressed no sympathy with that party. He cared nothing about their success, though he did hope that the tories would not come into power in this country. He had only adverted to their triumph in England as an evidence of the sense of the English nation on the subject of free trade. His argument was, that no matter what contending politicians said about abstract principles, when it came to the practical action of the whole nation on these principles, that action was found decisive against theories and in favor of the practice of

nations all over the globe. As to the success of the tories in England, he had frequently made the remark that this government had more to expect from the justice of a tory minister than a whig ministry, either in England or France, as the latter were afraid of being accused of being swayed by their liberal sentiments."

This was disavowing a fellow-feeling—not showing a difference; and Mr. Calhoun, seeing his advantage, followed it up with clinching vigor, and concluded with a taunt justified by the occasion.

"Mr. Calhoun said when there was a question at issue between the senator from Kentucky and himself, that senator was not the judge of its accuracy, nor was he; but he would leave it to the Senate, and to all present who had heard the argument, if he had not met it fairly. Did he not quote, in tones of exultation, the triumph of the tory party in England as the triumph of his principles over the principles of free trade? And when he (Mr. Calhoun) had noticed the points of identity in principle between the tory party of England and the whig party of this country, had the senator attempted to reply? Nay more, he had alluded to the striking coincidence between the party affinities in Great Britain and this country, and showed that this victory was not a tory victory only, but an abolitionist victory—the advocates of high taxes on sugar joining the advocates of high taxes on bread, and now the senator wishes to produce the impression that he had not fairly met the question, and tries to make a new issue. There was one trait in the senator's character, which he had often noticed. He makes his onslaughts with great impetuosity, not always thinking where they will carry him; and when he finds himself in difficulty, all his great ingenuity is taxed to make a skilful retreat. Like the French general, Moreau, he is more celebrated for the dexterity of his retreats than the fame of his battles."

Mr. Clay pleasantly terminated this interlude, which was certainly unprofitable to him, by recalling the Senate to the question before them, which was simply in relation to the free, or taxed importation of *sumach*: a word which he pronounced with an air and emphasis, peculiar to himself, and which had the effect of a satiric speech when he wished to make any thing appear contemptible, or ridiculous.

"Mr. Clay of Kentucky was not going into a dissertation on the political institutions of the British nation. He would merely recapitulate the facts with relation to the question at issue between the administration party in England and the tory party. Here Mr. Clay re-stated the position of both parties at the recent election, and the result; and concluded by declaring, that, after all, it was not a question now before the Senate, whether it was a tory victory in England and a whig victory here, but whether *sumach* was or was not to be admitted free of duty. He thought it would be just as well to revert to that question and let it be decided. For his part, he cared very little whether it was or was not. He would leave it to the Senate to decide the question just as it pleased."

The vote was taken: sumach was taxed: the foreign rival was discouraged—with what benefit to the American farmer, and the domestic grower of the article, the elaborate statistics of the decennial census has yet failed to inform us. But certainly so insignificant a weed has rarely been the occasion of such keen debate, between such eminent men, on a theatre so elevated. The next attempt to amend the bill was at a point of more concern to the American farmer: and appears thus in the Register of Debates:

"Mr. Allen had proposed to make salt a free article, which Mr. Walker had proposed to amend by adding gunny bags.

"Mr. Benton appealed to the senator from Mississippi to withdraw his amendment, and let the vote be taken on salt.

“Mr. King also appealed to the senator from Mississippi to withdraw his amendment.

“Mr. Walker said, at the suggestion of his friends, he should withdraw his amendment for the present, as it was supposed by some it might embarrass the original amendment.

“Mr. Huntington opposed the amendment as tending to a violation of the compromise act. It would result, also, in the annihilation of the extensive American works engaged in this manufacture, and would give the foreign manufacturers a monopoly in trade, which would tend to greatly increase the price of the article as it entered into the consumption of the country.

“Mr. King was in favor of the compromise act, so far as it could be maintained. The article of salt entered equally into the consumption of all classes—the poor as well as the rich. He should vote for this amendment. If the senator wished, he would vote to amend the proposition so that it should not take effect till the 30th of June, 1842; and that would prevent its interference with the compromise. He hoped the experiment would be made, and be ascertained whether revenue sufficient for the expenses of government could be raised by taxation on other articles which could better bear it. He should vote for the amendment.

“Mr. Bates said the duty on salt affected two great portions of the community in a very different manner—the interior of the country, which derived their supplies from the domestic manufacture, from salines, and those parts on the seaboard which were supplied with imported salt. The price of salt for the interior of the country, which was supplied with domestic salt, of which there was a great abundance, would not be affected by an imposition of duty, as the price was regulated by the law of nature, and could not be repealed or modified; but the price of salt on the seaboard, which was supplied by imports, and some manufactured from marine water, would, however gentlemen might be disposed to disbelieve it, be increased if the duty were taken off; as the manufactories of salt from marine water would be entirely suspended, since none would continue the investment of their capital in so uncertain a business—the foreign supply being quite irregular. Thus perhaps, a third of the supplies being cut off, a greater demand would arise, and the price be increased on the seaboard, while the interior would not be affected.

”Mr. Sevier wished to know how much revenue was collected from salt; he had heard it stated that the drawbacks amounted to more than the duty; if so, it would be better to leave it among the free articles.

“Mr. Clay did not recollect positively; he believed the duty was about $400,000, and the drawbacks near $260,000—the tax greatly exceeded the drawback.

“Mr. Calhoun said, individually there was, perhaps, no article which he would prefer to have exempted from duty than salt, but he was opposed, by any vote of his, to give a pretext for a violation of the compromise act hereafter. The duty on salt was going off gradually, and full as rapidly as was consistent with safety to commercial interests. No one could regard the bill before them as permanent. It was evident that the whole system would have to be revised under the compromise system.

“Mr. Walker was warmly in favor of the amendment. He regarded a tax on salt as inhuman and unjust. It was almost as necessary to human life as the air they breathed, and should be exempted from all burdens whatever.

“Mr. Allen then modified his amendment so as that it should not take effect until after the 3d of June, 1842.

“Mr. Clay spoke against the amendment; and said the very circumstance of the universality of its use, was a reason it should come in for its share of taxation. He never talked about

the *poor*, but he believed he felt as much, and probably more, than those who did. Who were the poor? Why we were all poor; and any attempt to select certain classes for taxation was absurd, as before the collector came round they might be poor. He expressed the hope that the tax might not be interfered with. This was a subject which Mr. Jefferson and Mr. Macon took under their peculiar care, and other gentlemen had since mounted the hobby, and literally rode it down. He could tell them, if they desired to preserve the compromise, they must leave the salt tax alone.

"The debate was further continued by Messrs. Walker, Benton, Calhoun, and Preston, when the question was taken on the adoption of the amendment, and decided in the negative, as follows:

"Yeas—Messrs. Allen, Benton, Buchanan, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Prentiss, Preston, Smith of Connecticut, Tappan, Walker, White, Woodbury, Wright, and Young—21.

"Nays—Messrs. Archer, Barrow, Bates, Berrien, Calhoun, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Ker, Mangum, Merrick, Miller, Porter, Smith of Indiana, Southard, Sturgeon, Tallmadge, and Woodbridge—23.

This odious and impious tax on salt has been kept up by a combination of private and political interests. The cod and mackerel fisheries of New England and the domestic manufacturers of salt on the Kenhawa and in New York, constituting the private interest; and the tariff-protective party constituting the political interest. The duty has been reduced, not abolished; and the injury has become greater to the Treasury in consequence of the reduction; and still remains considerable to the consumers. The salt duty, previous to the full taking effect of the compromise act of 1833, paid the fishing bounties and allowances founded upon it, and left a surplus for the Treasury: now, and since 1842, these bounties and allowances take the whole amount of the salt duty, and a large sum besides, out of the public Treasury. In five years (from 1848 to 1854), the duty produced from about $210,000, to $220,000; and the bounties and allowances during the same time, were from about $240,000, to $300,000; leaving the Treasury a loser to the amount of the difference: and, without going into figures, the same result may be predicated of every year since 1842. To the consumer the tax still remaining, although only one-fifth of the value, about doubles the cost of the article consumed to the consumer. It sends all the salt to the custom-house, and throws it into the hands of regraters; and they combine, and nearly double the price.

The next attempt to amend the bill was on Mr. Woodbury's motion to exempt tea and coffee from duty, which was successful by a large vote—39 to 10. The nays were: Messrs. Archer, Barrow, Berrien, Clay of Kentucky, Henderson, Leeds, Kerr, Merrick, Preston, Rives, Southard. The bill was then passed by a general vote, only eleven against it, upon the general ground that the government must have revenue: but those who voted against it thought the proper way to stop the land bill was to deny this supply until that was given up.

The compromise act of 1833—by a mere blunder, for it cannot be supposed such an omission could have been intentional—in providing for the reduction of duties on imported sugars, molasses, and salt, made no corresponding provision for the reduction of drawbacks when the sugars underwent refining and exportation; nor upon molasses when converted into rum and exported; nor on the fishing bounties and allowances, when the salt was re-exported on the fish which had been cured by it. This omission was detected at the time by members not parties to the compromise, but not allowed to be corrected by any one unfriendly to the compromise. The author of this View offered an amendment to that effect—which was rejected, by yeas and nays, as follows: Yeas—Messrs. Benton, Buckner, Calhoun, Dallas,

Dickerson, Dudley, Forsyth, Johnson, Kane, King, Rives, Robinson, Seymour, Tomlinson, Webster, White, Wilkins, and Wright. Nays—Messrs. Bell, Bibb, Black, Clay, Clayton, Ewing, Foot, Grundy, Hendricks, Holmes, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Tipton, Troup, and Tyler. Of those then voting against this provision, one (Mr. Ewing, as Secretary of the Treasury), now, in 1841, recommended its adoption, so far as it related to refined sugars and rum; another (Mr. Clay), supported his recommendation; a third (Mr. Tyler), approved the act which adopted it: but all this, after the injury had been going on for eight years, and had plundered the Treasury of one and a half millions of dollars. The new tariff act of this extra session made the corresponding reductions, and by a unanimous vote in each House; the writer of this View, besides his motion at the time, having renewed it, and in vain, almost every year afterwards—always rejected on the cry that the compromise was sacred and inviolable—had saved the Union at the time it was made, and would endanger it the day it was broken. Well! it was pretty well broken at this extra session: and the Union was just as much destroyed by its breaking as it had been saved by its making. In one case the reductions of drawback remained untouched—that of the bounties and allowances to the cod and mackerel fisheries, founded on the idea of returning to the fisherman, or the exporter, the amount of duty supposed to have been paid on the imported salt carried back out of the country on that part of the fish which was exported. The fisheries have so long possessed this advantage that they now claim it as a right—no such pretension being set up until it was attacked as an abuse. A committee of the Senate, in the year 1846, of which Mr. Benton was chairman, and Mr. John Davis of Massachusetts, and Mr. Alexander Anderson, were members, made a report which explored this abuse to its source; but without being able to get it corrected. The abuse commenced after the late war with Great Britain, and has taken since that time about six millions of dollars; and is now going at the rate of about three hundred thousand dollars per annum. In the earlier ages of the government, these bounties and allowances were always stated in the annual treasury report, according to their true nature in connection with the salt duties, and as dependent upon those duties: and the sums allowed were always carried out in bushels of salt: which would show how much salt was supposed to have been carried out of the country on the exported fish. A treasury statement of that kind at present, would show about one million three hundred thousand bushels of foreign salt (for it is only on the foreign that the bounties and allowances accrue), so exported, while there is only about one million of bushels imported—nineteen-twentieths of which is employed in other branches of business—beef and pork packing, and bacon curing, for example: and there can be no doubt but that these branches export far more foreign salt on the articles they send abroad, than is done on cod and mackerel exported. In viewing the struggles about these bounties and allowances, I have often had occasion to admire the difference between the legislators of the North and those of the South and West—the former always intent upon the benefits of legislation—the latter upon the honors of the government.

80. National Bank: First Bill

This was the great measure of the session, and the great object of the whig party, and the one without which all other measures would be deemed to be incomplete, and the victorious election itself little better than a defeat. Though kept out of view as an issue during the canvass, it was known to every member of the party to be the alpha and omega of the contest, and the crowning consummation of ten years labor in favor of a national bank. It was kept in the background for a reason perfectly understood. Both General Harrison and Mr. Tyler had been ultra against a national bank while members of the democratic party: they had both, as members of the House of Representatives voted in a small minority in favor of issuing a writ of *scire facias* against the late Bank of the United States soon after it was chartered; and this could be quoted in the parts of the country where a bank was unpopular. At the same time the party was perfectly satisfied with their present sentiments, and wanted no discussion which might scare off anti-bank men without doing any good on their own side. The bank, then, was the great measure of the session—the great cause of the called session—and as such taken by Mr. Clay into his own care from the first day. He submitted a schedule of measures for the consideration of the body, and for acting on which he said it might be understood the extraordinary session was convoked; he moved for a select committee to report a bill, of which committee he was of course to be chairman: and he moved a call upon the Secretary of the Treasury (Mr. Ewing) for the plan of a bank. It was furnished accordingly, and studiously contrived so as to avoid the President's objections, and save his consistency—a point upon which he was exceedingly sensitive. The bill of the select committee was modelled upon it. Even the title was made ridiculous to please the President, though not as much so as he wished. He objected to the name of bank, either in the title or the body of the charter, and proposed to style it "The Fiscal Institute;" and afterwards the "Fiscal Agent;" and finally the "Fiscal Corporation." Mr. Clay and his friends could not stand these titles; but finding the President tenacious on the title of the bill, and having all the properties of all sorts of banks—discount—deposit—circulation—exchange—all in the plan so studiously contrived, they yielded to the word Fiscal—rejecting each of its proposed addenda—and substituted bank. The title of the instrument then ran thus: "A Bill to incorporate the subscribers to the Fiscal Bank of the United States." Thus entitled, and thus arranged out of doors, it was brought into the Senate, not to be perfected by the collective legislative wisdom of the body, but to be carried through the forms of legislation, without alteration except from its friends, and made into law. The deliberative power of the body had nothing to do with it. Registration of what had been agreed upon was its only office. The democratic members resisted strenuously in order to make the measure odious. Successful resistance was impossible, and a repeal of the act at a subsequent Congress was the only hope—a veto not being then dreamed of. Repeal, therefore, was taken as the watchword, and formal notice of it proclaimed in successive speeches, that all subscribers to the bank should be warned in time, and deprived of the plea of innocence when the repeal should be moved. Mr. Allen, of Ohio, besides an argument in favor of the right of this repeal, produced a resolve from the House Journal of 1819, in which General Harrison, then a member of that body, voted with others for a resolve directing the Judiciary Committee to report a bill to repeal the then United States Bank charter—not to inquire into the expediency of repealing, but to repeal absolutely.

The bill was passed through both Houses—in the Senate by a close vote, 26 to 23—in the House by a better majority, 128 to 98. This was the sixth of August. All was considered finished by the democracy, and a future repeal their only alternative. Suddenly light began to dawn upon them. Rumors came that President Tyler would disapprove the act; which, in fact

he did: but with such expressions of readiness to approve another bill which should be free from the objections which he named, as still to keep his party together, and to prevent the explosion of his cabinet. But it made an explosion elsewhere. Mr. Clay was not of a temper to be balked in a measure so dear to his heart without giving expression to his dissatisfaction; and did so in the debate on the veto message; and in terms to assert that Mr. Tyler had violated his faith to the whig party, and had been led off from them by new associations. He said:

"On the 4th of April last, the lamented Harrison, the President of the United States, paid the debt of nature. President Tyler, who, as Vice-President, succeeded to the duties of that office, arrived in the city of Washington on the 6th of that month. He found the whole metropolis wrapt in gloom, every heart filled with sorrow and sadness, every eye streaming with tears, and the surrounding hills yet flinging back the echo of the bells which were tolled on that melancholy occasion. On entering the Presidential mansion he contemplated the pale body of his predecessor stretched before him, and clothed in the black habiliments of death. At that solemn moment, I have no doubt that the heart of President Tyler was overflowing with mingled emotions of grief, of patriotism and gratitude—above all, of gratitude to that country by a majority of whose suffrages, bestowed at the preceding November, he then stood the most distinguished, the most elevated, the most honored of all living whigs of the United States.

"It was under these circumstances, and in this probable state of mind, that President Tyler, on the 10th day of the same month of April, voluntary promulgated an address to the people of the United States. That address was in the nature of a coronation oath, which the chief of the State, in other countries, and under other forms, takes upon ascending the throne. It referred to the solemn obligations, and the profound sense of duty under which the new President entered upon the high trust which had devolved upon him, by the joint acts of the people and of Providence, and it stated the principles and delineated the policy by which he would be governed in his exalted station. It was emphatically a whig address from beginning to end—every inch of it was whig, and was patriotic.

"In that address the President, in respect to the subject-matter embraced in the present bill, held the following conclusive and emphatic language: 'I shall promptly give my sanction to any constitutional measure which, originating in Congress, shall have for its object the restoration of a sound circulating medium, so essentially necessary to give confidence in all the transactions of life, to secure to industry its just and adequate rewards, and to re-establish the public prosperity. In deciding upon the adaptation of any such measure to the end proposed, as well as its conformity to the Constitution, I shall resort to the fathers of the great republican school for advice and instruction, to be drawn from their sage views of our system of government, and the light of their ever glorious example.'

"To this clause in the address of the President, I believe but one interpretation was given throughout this whole country, by friend and foe, by whig and democrat, and by the presses of both parties. It was by every man with whom I conversed on the subject at the time of its appearance, or of whom I have since inquired, construed to mean that the President intended to occupy the Madison ground, and to regard the question of the power to establish a national bank as immovably settled. And I think I may confidently appeal to the Senate, and to the country, to sustain the fact that this was the contemporaneous and unanimous judgment of the public. Reverting back to the period of the promulgation of the address, could any other construction have been given to its language? What is it? 'I shall promptly give my sanction to any constitutional measure which, originating in Congress,' shall have certain defined objects in view. He concedes the vital importance of a sound circulating medium to industry

and to the public prosperity. He concedes that its origin must be in Congress. And, to prevent any inference from the qualification, which he prefixes to the measure, being interpreted to mean that a United States Bank was unconstitutional, he declares that, in deciding on the adaptation of the measure to the end proposed, and its conformity to the constitution, he will resort to the fathers of the great Republican school. And who were they? If the Father of his country is to be excluded, are Madison (the father of the constitution), Jefferson, Monroe, Gerry, Gallatin, and the long list of Republicans who acted with them, not to be regarded as among those fathers? But President Tyler declares not only that he should appeal to them for advice and instruction, but to the light of their ever glorious example. What example? What other meaning could have been possibly applied to the phrase, than that he intended to refer to what had been done during the administrations of Jefferson, Madison, and Monroe?

"Entertaining this opinion of the address, I came to Washington, at the commencement of the session, with the most confident and buoyant hopes that the Whigs would be able to carry all their prominent measures, and especially a Bank of the United States, by far that one of the greatest immediate importance. I anticipated nothing but cordial co-operation between the two departments of government; and I reflected with pleasure that I should find at the head of the Executive branch, a personal and political friend, whom I had long and intimately known, and highly esteemed. It will not be my fault if our amicable relations should unhappily cease, in consequence of any difference of opinion between us on this occasion. The President has been always perfectly familiar with my opinion on this bank question.

"Upon the opening of the session, but especially on the receipt of the plan of a national bank, as proposed by the Secretary of the Treasury, fears were excited that the President had been misunderstood in his address, and that he had not waived but adhered to his constitutional scruples. Under these circumstances it was hoped that, by the indulgence of a mutual spirit of compromise and concession, a bank, competent to fulfil the expectations and satisfy the wants of the people, might be established.

"Under the influence of that spirit, the Senate and the House agreed, 1st, as to the name of the proposed bank. I confess, sir, that there was something exceedingly *outré* and revolting to my ears in the term 'Fiscal Bank;' but I thought, 'What is there in a name? A rose, by any other name, would smell as sweet.' Looking, therefore, rather to the utility of the substantial faculties than to the name of the contemplated institution, we consented to that which was proposed."

In his veto message Mr. Tyler fell back upon his early opinions against the constitutionality of a national bank, so often and so publicly expressed; and recurring to these early opinions he now declared that it would be a crime and an infamy in him to sign the bill which had been presented to him. In this sense he thus expressed himself:

"Entertaining the opinions alluded to, and having taken this oath, the Senate and the country will see that I could not give my sanction to a measure of the character described without surrendering all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations; without an observance of which no government can be prosperous, and no people can be happy. It would be to commit a *crime* which I would not wilfully commit to gain any earthly reward, and which would *justly* subject me to the ridicule and scorn of all virtuous men."

Mr. Clay found these expressions of self-condemnation entirely too strong, showing too much sensibility in a President to personal considerations—laying too much stress upon early opinions—ignoring too completely later opinions—and not sufficiently deferring to those fathers of the government to whom, in his inaugural address, he had promised to look for

advice and instruction, both as to the constitutionality of a bank, and its adaptation to the public wants. And he thus animadverted on the passage:

"I must think, and hope I may be allowed to say, with profound deference to the Chief Magistrate, that it appears to me he has viewed with too lively sensibility the personal consequences to himself of his approval of the bill; and that, surrendering himself to a vivid imagination, he has depicted them in much too glowing and exaggerated colors, and that it would have been most happy if he had looked more to the deplorable consequences of a veto upon the hopes, the interests, and the happiness of his country. Does it follow that a magistrate who yields his private judgment to the concurring authority of numerous decisions, repeatedly and deliberately pronounced, after the lapse of long intervals, by all the departments of government, and by all parties, incurs the dreadful penalties described by the President? Can any man be disgraced and dishonored who yields his private opinion to the judgment of the nation? In this case, the country (I mean a majority), Congress, and, according to common fame, an unanimous cabinet, were all united in favor of the bill. Should any man feel himself humbled and degraded in yielding to the conjoint force of such high authority? Does any man, who at one period of his life shall have expressed a particular opinion, and at a subsequent period shall act upon the opposite opinion, expose himself to the terrible consequences which have been portrayed by the President? How is it with the judge, in the case by no means rare, who bows to the authority of repeated precedents, settling a particular question, whilst in his private judgment the law was otherwise? How is it with that numerous class of public men in this country, and with the two great parties that have divided it, who, at different periods, have maintained and acted on opposite opinions in respect to this very bank question?

"How is it with James Madison, the father of the constitution—that great man whose services to his country placed him only second to Washington—whose virtues and purity in private life—whose patriotism, intelligence, and wisdom in public councils, stand unsurpassed? He was a member of the national convention that formed, and of the Virginia convention that adopted the constitution. No man understood it better than he did. He was opposed in 1791 to the establishment of the Bank of the United States upon constitutional ground; and in 1816 he approved and signed the charter of the late Bank of the United States. It is a part of the secret history connected with the first Bank, that James Madison had, at the instance of General Washington, prepared a veto for him in the contingency of his rejection of the bill. Thus stood James Madison when, in 1815, he applied the veto to a bill to charter a bank upon considerations of expediency, but with a clear and express admission of the existence of a constitutional power in Congress to charter one. In 1816, the bill which was then presented to him being free from the objections applicable to that of the previous year, he sanctioned and signed it. Did James Madison surrender 'all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations?' Did the pure, the virtuous, the gifted James Madison, by his sanction and signature to the charter of the late Bank of the United States, commit a crime which justly subjected him 'to the ridicule and scorn of all virtuous men?'"

But in view of these strong personal consequences to his (Mr. Tyler's) own character in the event of signing the bill, Mr. Clay pointed out a course which the President might have taken which would have saved his consistency—conformed to the constitution—fulfilled his obligations to the party that elected him—and permitted the establishment of that sound currency, and that relief from the public distress, which his inaugural address, and his message to Congress, and his veto message, all so earnestly declared to be necessary. It was to have let the bill lie in his hands without approval or disapproval: in which case it would have become a law without any act of his. The constitution had made provision for the case in

that clause in which it declares that—"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law." In this case there was no danger of Congress adjourning before the lapse of the ten days; and Mr. Clay adverted to this course as the one, under his embarrassing circumstances the President ought to have adopted, and saved both his consistency and faith to his party. He urged it as a proper course—saying:

"And why should not President Tyler have suffered the bill to become a law without his signature? Without meaning the slightest possible disrespect to him (nothing is further from my heart than the exhibition of any such feeling towards that distinguished citizen, long my personal friend), it cannot be forgotten that he came into his present office under peculiar circumstances. The people did not foresee the contingency which has happened. They voted for him as Vice-President. They did not, therefore, scrutinize his opinions with the care which they probably ought to have done, and would have done, if they could have looked into futurity. If the present state of the fact could have been anticipated—if at Harrisburg, or at the polls, it had been foreseen that General Harrison would die in one short month after the commencement of his administration; that Vice-President Tyler would be elevated to the presidential chair; that a bill, passed by decisive majorities of the first whig Congress, chartering a national bank, would be presented for his sanction; and that he would veto the bill, do I hazard any thing when I express the conviction that he would not have received a solitary vote in the nominating convention, nor one solitary electoral vote in any State in the Union?"

Not having taken this course with the bill, Mr. Clay pointed out a third one, suggested by the conduct of the President himself under analogous circumstances, and which, while preserving his self-respect, would accomplish all the objects in view by the party which elected him, by simply removing the obstacle which stood between them and the object of their hopes; it was to resign the presidency. For this contingency—that of neither President nor Vice-President—the constitution had also made provision in declaring—"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of the removal, death, resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or a President shall be elected." Congress had acted under this injunction and had devolved the duties of President, first on the president of the Senate *pro tempore*; and if no such temporary president, then on the speaker of the House of Representatives; and requiring a new election to be held on the first Wednesday of the ensuing December if there was time before it for a notification of two months; and if not, then the new election to take place (if the vacant term had not expired on the third day of March after they happened) on the like Wednesday of the next ensuing month of December. Here was provision made for the case, and the new election might have been held in less than four months—the temporary president of the Senate, Mr. Southard, acting as President in the mean time. The legal path was then clear for Mr. Tyler's resignation, and Mr. Clay thus enforced the propriety of that step upon him:

"But, sir, there was still a third alternative, to which I allude not because I mean to intimate that it should be embraced, but because I am reminded of it by a memorable event in the life of President Tyler. It will be recollected that, after the Senate had passed the resolution declaring the removal of the deposits from the Bank of the United States to have been derogatory from the constitution and laws of the United States, for which resolution President (then senator) Tyler had voted, the General Assembly of Virginia instructed the senators from

that State to vote for the expunging of that resolution. Senator Tyler declined voting in conformity with that instruction, and resigned his seat in the Senate of the United States. This he did because he could not conform, and did not think it right to go counter to the wishes of those who had placed him in the Senate. If, when the people of Virginia, or the General Assembly of Virginia, were his only constituency, he would not set up his own particular opinion in opposition to theirs, what ought to be the rule of his conduct when the people of twenty-six States—a whole nation—compose his constituency? Is the will of the constituency of one State to be respected, and that of twenty-six to be wholly disregarded? Is obedience due only to the single State of Virginia? The President admits that the Bank question deeply agitated, and continues to agitate, the nation. It is incontestable that it was the great, absorbing, and controlling question, in all our recent divisions and exertions. I am firmly convinced, and it is my deliberate judgment, that an immense majority, not less than two-thirds of the nation, desire such an institution. All doubts in this respect ought to be dispelled by the recent decisions of the two Houses of Congress. I speak of them as evidence of popular opinion. In the House of Representatives, the majority was 131 to 100. If the House had been full, and but for the modification of the 16th fundamental condition, there would have been a probable majority of 47. Is it to be believed that this large majority of the immediate representatives of the people, fresh from amongst them, and to whom the President seemed inclined, in his opening message, to refer this very question, have mistaken the wishes of their constituents?"

The acting President did not feel it to be his duty to resign, although it may be the judgment of history (after seeing the expositions of his secretaries at the resignation of their places consequent upon a second veto to a second bank act), that he ought to have done so. In his veto message he seemed to leave the way open for his approval of a charter free from the exceptions he had taken; and rumor was positive in asserting that he was then engaged in arranging with some friends the details of a bill which he could approve. In allusion to this rumor, Mr. Clay remarked:

"On a former occasion I stated that, in the event of an unfortunate difference of opinion between the legislative and executive departments, the point of difference might be developed, and it would be then seen whether they could be brought to coincide in any measure corresponding with the public hopes and expectations. I regret that the President has not, in this message, favored us with a more clear and explicit exhibition of his views. It is sufficiently manifest that he is decidedly opposed to the establishment of a new Bank of the United States formed after two old models. I think it is fairly to be inferred that the plan of the Secretary of the Treasury could not have received his sanction. He is opposed to the passage of the bill which he has returned; but whether he would give his approbation to any bank, and, if any, what sort of a bank, is not absolutely clear. I think it may be collected from the message, with the aid of information derived through other sources, that the President would concur in the establishment of a bank whose operations should be limited to dealing in bills of exchange to deposits, and to the supply of a circulation, excluding the power of discounting promissory notes. And I understand that some of our friends are now considering the practicability of arranging and passing a bill in conformity with the views of President Tyler. Whilst I regret that I can take no active part in such an experiment, and must reserve to myself the right of determining whether I can or cannot vote for such a bill after I see it in its matured form, I assure my friends that they shall find no obstacle or impediment in me. On the contrary, I say to them, go on: God speed you in any measure which will serve the country, and preserve or restore harmony and concert between the departments of government. An executive veto of a Bank of the United States, after the sad experience of late years, is an event which was not anticipated by the political friends of the President; certainly

not by me. But it has come upon us with tremendous weight, and amidst the greatest excitement within and without the metropolis. The question now is, what shall be done? What, under this most embarrassing and unexpected state of things, will our constituents expect of us? What is required by the duty and the dignity of Congress? I repeat that if, after a careful examination of the executive message, a bank can be devised which will afford any remedy to existing evils, and secure the President's approbation, let the project of such a bank be presented. It shall encounter no opposition, if it should receive no support, from me."

The speech of Mr. Clay brought out Mr. Rives in defence of the President, who commenced with saying:

"He came to the Senate that morning to give a silent vote on the bill, and he should have contented himself with doing so but for the observations which had fallen from the senator from Kentucky in respect to the conduct of the President of the United States. Mr. R. had hoped the senator would have confined himself strictly to the merits of the question before the Senate. He told us, said Mr. R., that the question was this: the President having returned the bill for a fiscal bank with his exceptions thereto, the bill was such an one as ought to pass by the constitutional majority of two-thirds; and thus become a law of the land. Now what was the real issue before the Senate? Was it not the naked question between the bill and the objections to it, as compared with each other? I really had hoped that the honorable senator, after announcing to us the issue in this very proper manner, would have confined his observations to it alone; and if he had done so I should not have troubled the Senate with a single word. But what has been the course of the honorable senator? I do not reproach him with it. He, no doubt, felt it necessary, in order to vindicate his own position before the country, to inculpate the course taken by the President: and accordingly about two-thirds of his speech, howsoever qualified by expressions of personal kindness and respect, were taken up in a solemn arraignment of the President of the United States. Most of the allegations put forth by the senator seem to arrange themselves under the general charge of perfidy—of faithlessness to his party, and to the people."

Mr. Rives went on to defend the President at all points, declaring the question of a bank was not an issue in the election—repelling the imputation of perfidy—scouting the suggestions of resignation and of pocketing the bill to let it become law—arguing that General Harrison himself would have disapproved the same bill if he had lived and it had been presented to him. In support of this opinion he referred to the General's early opposition to the national bank of 1816, and to his written answer given during the canvass—"that he would not give his sanction to a Bank of the United States, unless by the failure of all other expedients, it should be demonstrated to be necessary to carry on the operations of government; and unless there should be a general and unequivocal manifestation of the will of the Union in favor of such an institution; and then only as a fiscal, and not as a commercial bank." But this authentic declaration seemed to prove the contrary of that for which it was quoted. It contained two conditions, on the happening of which General Harrison would sign a bank charter—first, the failure of all other plans for carrying on the financial operations of the government; and, secondly, the manifestation of public opinion in favor of it. That the first of these conditions had been fulfilled was well shown by Mr. Rives himself in the concluding passages of his speech where he said: "All previous systems have been rejected and condemned—the sub-treasury—the pet banks—an old-fashioned Bank of the United States—a new-fashioned fiscal agent." The second condition was fulfilled in the presidential election in the success of the whig party, whose first object was a bank; and in the election of members of the House and the Senate, where the majorities were in favor of a bank. The conditions were fulfilled then on which General Harrison was to approve a bank charter; and the writer of this View has no doubt that he would have given his signature to a usual bank

charter if he had lived; and from an obligatory sense of duty, and with no more dishonor than Mr. Madison had incurred in signing the act for the second bank charter after having been the great opponent of the first one; and for which signing, as for no act of his life, was dishonor imputed to him. The writer of this View believes that General Harrison would have signed a fair bank charter, and under its proper name; and he believes it, not from words spoken between them, but from public manifestations, seen by every body. 1. His own declaration, stating the conditions on which he would do it; and which conditions were fulfilled. 2. The fact that he was the presidential candidate of the party which was emphatically the bank party. 3. The selection of his cabinet, every member of which was in favor of a national bank. 4. The declaration of Mr. Clay at the head of the list of measures proposed by him for the consideration of Congress at its extra session, in which a national bank was included; and which measures he stated were probably those for which the extraordinary session had been convened by President Harrison—a point on which Mr. Clay must be admitted to be well informed, for he was the well reputed adviser of President Harrison on the occasion.

Mr. Clay rejoined to Mr. Rives, and became more close and pointed in his personal remarks upon Mr. Tyler's conduct, commencing with Mr. Rives' lodgment in the "half-way house," *i.e.* the pet bank system—which was supposed to have been a camping station in the transition from the democratic to the whig camp. He began thus:

"I have no desire, said he, to prolong this unpleasant discussion, but I must say that I heard with great surprise and regret the closing remark, especially, of the honorable gentleman from Virginia, as, indeed, I did many of those which preceded it. That gentleman stands in a peculiar situation. I found him several years ago in the half-way house, where he seems afraid to remain, and from which he is yet unwilling to go. I had thought, after the thorough riddling which the roof of the house had received in the breaking up of the pet bank system, he would have fled somewhere else for refuge; but, there he still stands, solitary and alone, shivering and pelted by the pitiless storm. The sub-treasury is repealed—the pet bank system is abandoned—the United States Bank bill is vetoed—and now, when there is as complete and perfect a reunion of the purse and the sword in the hands of the executive as ever there was under General Jackson or Mr. Van Buren, the senator is for doing nothing."

There was a whisper at this time that Mr. Tyler had an inner circle of advisers, some democratic and some whig, and most of whom had sojourned in the "half-way house," and who were more confidential and influential with the President than the members of his cabinet. To this Mr. Clay caustically adverted.

"Although the honorable senator professes not to know the opinions of the President, it certainly does turn out in the sequel that there is a most remarkable coincidence between those opinions and his own; and he has, on the present occasion, defended the motives and the course of the President with all the solicitude and all the fervent zeal of a member of his privy council. There is a rumor abroad that a cabal exists—a new sort of kitchen cabinet—whose object is the dissolution of the regular cabinet—the dissolution of the whig party—the dispersion of Congress, without accomplishing any of the great purposes of the extra session—and a total change, in fact, in the whole face of our political affairs. I hope, and I persuade myself, that the honorable senator is not, cannot be, one of the component members of such a cabal; but I must say that there has been displayed by the honorable senator to-day a predisposition, astonishing and inexplicable, to misconceive almost all of what I have said, and a perseverance, after repeated corrections, in misunderstanding—for I will not charge him with wilfully and intentionally misrepresenting—the whole spirit and character of the address which, as a man of honor and as a senator, I felt myself bound in duty to make to this body."

There was also a rumor of a design to make a third party, of which Mr. Tyler was to be the head; and, as part of the scheme, to make a quarrel between Mr. Tyler and Mr. Clay, in which Mr. Clay was to be made the aggressor; and he brought this rumor to the notice of Mr. Rives, repelling the part which inculpated himself, and leaving the rest for Mr. Rives to answer.

"Why, sir, what possible, what conceivable motive can I have to quarrel with the President, or to break up the whig party? What earthly motive can impel me to wish for any other result than that that party shall remain in perfect harmony, undivided, and shall move undismayed, boldly, and unitedly forward to the accomplishment of the all-important public objects which it has avowed to be its aim? What imaginable interest or feeling can I have other than the success, the triumph, the glory of the whig party? But that there may be designs and purposes on the part of certain other individuals to place me in inimical relations with the President, and to represent me as personally opposed to him, I can well imagine—individuals who are beating up for recruits, and endeavoring to form a third party, with materials so scanty as to be wholly insufficient to compose a decent corporal's guard. I fear there are such individuals, though I do not charge the senator as being himself one of them. What a spectacle has been presented to this nation during this entire session of Congress! That of the cherished and confidential friends of John Tyler, persons who boast and claim to be *par excellence*, his exclusive and genuine friends, being the bitter, systematic, determined, uncompromising opponents of every leading measure of John Tyler's administration! Was there ever before such an example presented, in this or any other age, in this or any other country? I have myself known the President too long, and cherished towards him too sincere a friendship, to allow my feelings to be affected or alienated by any thing which has passed here to-day. If the President chooses—which I am sure he cannot, unless falsehood has been whispered into his ears or poison poured into his heart—to detach himself from me, I shall deeply regret it, for the sake of our common friendship and our common country. I now repeat, what I before said, that, of all the measures of relief which the American people have called upon us for, that of a National Bank and a sound and uniform currency has been the most loudly and importunately demanded."

Mr. Clay reiterated his assertion that bank, or no bank, was the great issue of the presidential canvass wherever he was, let what else might have been the issue in Virginia, where Mr. Rives led for General Harrison.

"The senator says that the question of a Bank was not the issue made before the people at the late election. I can say, for one, my own conviction is diametrically the contrary. What may have been the character of the canvass in Virginia, I will not say; probably gentlemen on both sides were, every where, governed in some degree by considerations of local policy. What issues may therefore have been presented to the people of Virginia, either above or below tide water, I am not prepared to say. The great error, however, of the honorable senator, is in thinking that the sentiments of a particular party in Virginia are always a fair exponent of the sentiments of the whole Union. I can tell the senator, that, wherever I was—in the great valley of the Mississippi, in Kentucky, in Tennessee, in Maryland—in all the circles in which I moved, every where, 'Bank or no Bank' was the great, the leading, the vital question."

In conclusion, Mr Clay apostrophized himself in a powerful peroration as not having moral courage enough (though he claimed as much as fell to the share of most men) to make himself an obstacle to the success of a great measure for the public good; in which the allusion to Mr. Tyler and his veto was too palpable to miss the apprehension of any person.

"The senator says that, if placed in like circumstances, I would have been the last man to avoid putting a direct veto upon the bill, had it met my disapprobation; and he does me the honor to attribute to me high qualities of stern and unbending intrepidity. I hope that in all

that relates to personal firmness—all that concerns a just appreciation of the insignificance of human life—whatever may be attempted to threaten or alarm a soul not easily swayed by opposition, or awed or intimidated by menace—a stout heart and a steady eye, that can survey, unmoved and undaunted, any mere personal perils that assail this poor transient, perishing frame—I may, without disparagement, compare with other men. But there is a sort of courage which, I frankly confess it, I do not possess—a boldness to which I dare not aspire—a valor which I cannot covet. I cannot lay myself down in the way of the welfare and happiness of my country. That I cannot, I have not the courage to do. I cannot interpose the power with which I may be invested—a power conferred not for my personal benefit, not for my aggrandizement, but for my country's good—to check her onward march to greatness and glory. I have not courage enough, I am too cowardly for that. I would not, I dare not, in the exercise of such a trust, lie down, and place my body across the path that leads my country to prosperity and happiness. This is a sort of courage widely different from that which a man may display in his private conduct and personal relations. Personal or private courage is totally distinct from that higher and nobler courage, which prompts the patriot to offer himself a voluntary sacrifice to his country's good. Apprehensions of the imputation of the want of firmness sometimes impel us to perform rash and inconsiderate acts. It is the greatest courage to be able to bear the imputation of the want of courage. But pride, vanity, egotism, so unamiable and offensive in private life, are vices which partake of the character of crimes in the conduct of public affairs. The unfortunate victim of these passions cannot see beyond the little, petty, contemptible circle of his own personal interests. All his thoughts are withdrawn from his country, and concentrated on his consistency, his firmness, himself. The high, the exalted, the sublime emotions of a patriotism, which, soaring towards Heaven, rises far above all mean, low, or selfish things, and is absorbed by one soul-transporting thought of the good and the glory of one's country, are never felt in his impenetrable bosom. That patriotism which, catching its inspiration from the immortal God, and leaving at an immeasurable distance below, all lesser, grovelling, personal interests and feelings, animates and prompts to deeds of self-sacrifice, of valor, of devotion, and of death itself—that is public virtue—that is the noblest, the sublimest of all public virtues!"

Mr. Rives replied to Mr. Clay, and with respect to the imputed cabal, the privy council, and his own zealous defence of Mr. Tyler, said:

"The senator has indulged his fancy in regard to a certain cabal, which he says it is alleged by rumor (an authority he seems prone to quote of late) has been formed for the wicked purpose of breaking up the regular cabinet, and dissolving the whig party. Though the senator is pleased to acquit me of being a member of the supposed cabal, he says he should infer, from the zeal and promptitude with which I have come forward to defend the motives and conduct of the President, that I was at least a member of his privy council! I thank God, Mr. President, that in his gracious goodness he has been pleased to give me a heart to repel injustice and to defend the innocent, without being laid under any special engagement, as a privy councillor or otherwise, to do justice to my fellow-man; and if there be any gentleman who cannot find in the consciousness of his own bosom a satisfactory explanation of so natural an impulse, I, for one, envy him neither his temperament nor his philosophy. If Mr. Tyler, instead of being a distinguished citizen of my own State, and filling at this moment, a station of the most painful responsibility, which entitles him to a candid interpretation of his official acts at the hands of all his countrymen, had been a total stranger, unknown to me in the relations of private or political friendship, I should yet have felt myself irresistibly impelled by the common sympathies of humanity to undertake his defence, to the best of my poor ability, when I have seen him this day so powerfully assailed for an act, as I verily believe, of conscientious devotion to the constitution of his country and the sacred obligation of his high trust."

With respect to the half-way house, Mr. Rives admitted his sojourn there, and claimed a sometime companionship in it with the senator from Kentucky, just escaped from the lordly mansion, gaudy without, but rotten and rat-eaten within (the Bank of the United States); and glad to shelter in this humble but comfortable stopping place.

"The senator from Kentucky says he found me several years ago in this half-way house, which, after the thorough riddling the roof had received in the breaking up of the pet bank system, he had supposed I would have abandoned. How could I find it in my heart, Mr. President, to abandon it when I found the honorable senator from Kentucky (even after what he calls the riddling of the roof) so anxious to take refuge in it from the ruins of his own condemned and repudiated system, and where he actually took refuge for four long years, as I have already stated. When I first had the honor to meet the honorable senator in this body, I found him not occupying the humble but comfortable half-way house, which has given him shelter from the storm for the last four years, but a more lordly mansion, gaudy to look upon, but altogether unsafe to inhabit; old, decayed, rat-eaten, which has since tumbled to the ground with its own rottenness, devoted to destruction alike by the indignation of man and the wrath of heaven. Yet the honorable senator, unmindful of the past, and heedless of the warnings of the present, which are still ringing in his ears, will hear of nothing but the instant reconstruction of this devoted edifice."

Mr. Rives returned to the imputed cabal, washed his hands of it entirely, and abjured all desire for a cabinet office, or any public station, except a seat in the Senate: thus:

"I owe it to myself, Mr. President, before I close, to say one or two words in regard to this gorgon of a cabal, which the senator tells us, upon the authority of dame Rumor, has been formed to break up the cabinet, to dissolve the whig party, and to form a new or third party. Although the senator was pleased to acquit me of being a member of this supposed cabal, he yet seemed to have some lurking jealousies and suspicions in his mind on the subject. I will tell the honorable senator, then, that I know of no such cabal, and I should really think that I was the last man that ought to be suspected of any wish or design to form a new or third party. I have shown myself at all times restive under mere party influence and control from any quarter. All party, in my humble judgment, tends, in its modern degeneracy, to tyranny, and is attended with serious hazard of sacrificing an honest sense of duty, and the great interests of the country, to an arbitrary lead, directed by other aims. I desire, therefore, to take upon myself no new party bonds, while I am anxious to fulfil, to the fullest extent that a sense of duty to the country will permit, every honorable engagement implied in existing ones. In regard to the breaking up of the cabinet, I had hoped that I was as far above the suspicion of having any personal interest in such an event as any man. I have never sought office, but have often declined it; and will now give the honorable senator from Kentucky a full quit-claim and release of all cabinet pretensions now and for ever. He may rest satisfied that he will never see me in any cabinet, under this or any other administration. During the brief remnant of my public life, the measure of my ambition will be filled by the humble, but honest part I may be permitted to take on this floor in consultations for the common good."

Mr. Rives finished with informing Mr. Clay of a rumor which he had heard—the rumor of a dictatorship installed in the capitol, seeking to govern the country, and to intimidate the President, and to bend every thing to its own will, thus:

"Having disposed of this rumor of a cabal, to the satisfaction, I trust, of the honorable senator, I will tell him of another rumor I have heard, which, I trust, may be equally destitute of foundation. Rumor is busy in alleging that there is an organized dictatorship, in permanent session in this capitol, seeking to control the whole action of the government, in both the legislative and executive branches, and sending deputation after deputation to the President of

the United States to teach him his duty, and bring him to terms. I do not vouch for the correctness of this rumor. I humbly hope it may not be true; but if it should unfortunately be so, I will say that it is fraught with far more danger to the regular and salutary action of our balanced constitution, and to the liberties of the people, than any secret cabal that ever has existed or ever will exist."

The allusion, of course, was to Mr. Clay, who promptly disavowed all knowledge of this imputed dictatorship. In this interlude between Mr. Clay and Mr. Rives, both members of the same party, the democratic senators took no part; and the subject was dropped, to be followed by a little conversational debate, of kindred interest, growing out of it, between Mr. Archer of Virginia, and Mr. Clay—which appears thus in the Register of Debates:

"Mr. Archer, in rising on the present occasion, did not intend to enter into a discussion on the subject of the President's message. He thought enough had been said on the subject by the two senators who had preceded him, and was disposed, for his part, to let the question be taken without any more debate. His object in rising was to call the attention of the senator from Kentucky to a certain portion of his remarks, in which he hoped the senator, upon reflection, would see that the language used by him had been too harsh. His honorable friend from Kentucky had taken occasion to apply some very harsh observations to the conduct of certain persons who he supposed had instigated the President of the United States in the course he had taken in regard to the bill for chartering the Fiscal Bank of the United States. The honorable senator took occasion to disclaim any allusion to his colleague [Mr. Rives], and he would say beforehand that he knew the honorable senator would except him also.

"Mr. Clay said, certainly, sir!"

This was not a parliamentary disclaimer, but a disclaimer from the heart, and was all that Mr. Archer could ask on his own account; but he was a man of generous spirit as well as of high sense of honor, and taking up the case of his colleagues in the House, who seemed to be implicated, and could not appear in the chamber and ask for a disclaimer, Mr. Archer generously did so for them; but without getting what he asked for. The Register says:

"Mr. *Archer*. He would say, however, that the remarks of the senator, harsh as they were, might well be construed as having allusion to his colleagues in the other House. He (Mr. A.) discharged no more than the duty which he knew his honorable colleagues in the other House would discharge towards him were an offensive allusion supposed to be made to him where he could not defend himself, to ask of the honorable senator to make some disclaimer as regarded them.

"Mr. *Clay* here said, no, no.

"Mr. Archer. The words of the senator were: 'A low, vulgar, and profligate cabal;' which the senator also designated as a kitchen cabinet, had surrounded the President, and were endeavoring to turn out the present cabinet. Now, who would the public suppose to be that low and infamous cabal? Would the people of the United States suppose it to be composed of any other than those who were sent here by the people to represent them in Congress? He asked the senator from Kentucky to say, in that spirit of candor and frankness which always characterized him, who he meant by that cabal, and to disclaim any allusion to his colleagues in the other House, as he had done for his colleague and himself in this body.

"Mr. Clay said, if the honorable senator would make an inquiry of him, and stop at the inquiry, without going on to make an argument, he would answer him. He had said this and he would repeat it, and make no disclaimer—that certain gentlemen, professing to be the friends, *par excellence*, of the President of the United States, had put themselves in opposition to all the leading measures of his administration. He said that rumor stated that a

cabal was formed, for the purpose of breaking down the present cabinet and forming a new one; and that that cabal did not amount to enough to make a corporal's guard. He did not say who they were; but he spoke of rumor only. Now, he would ask his friend from Virginia [Mr. Archer] if he never heard of that rumor? If the gentleman would tell him that he never heard of that rumor, it would give him some claims to an answer.

"Mr. Archer confessed that he had heard of such a rumor, but he never heard of any evidence to support it.

"Mr. Clay. I repeat it here, in the face of the country, that there are persons who call themselves, *par excellence*, the friends of John Tyler, and yet oppose all the leading measures of the administration of John Tyler. I will say that the gentleman himself is not of that cabal, and that his colleague is not. Farther than that, this deponent saith not, and will not say.

"Mr. Archer. The gentleman has not adverted to the extreme harshness of the language he employed when he was first up, and he would appeal to gentlemen present for the correctness of the version he (Mr. A.) had given of it. The gentleman said there was a cabal formed—a vile kitchen cabinet—low and infamous, who surrounded the President and instigated him to the course he had taken. That was the language employed by the honorable senator. Now suppose language such as this had been used in the other branch of the national legislature, which might be supposed to refer to him (Mr. A.) where he had not an opportunity of defending himself; what would be the course of his colleagues there? The course of those high-minded and honorable men there toward him, would be similar to that he had taken in regard to them.

"Mr. Clay. Mr. President, did I say one word about the colleagues of the gentleman? I said there was a cabal formed for the purpose of breaking down the present cabinet, and that that cabal did not number a corporal's guard; but I did not say who that cabal was, and do not mean to be interrogated. Any member on this floor has a right to ask me if I alluded to him; but nobody else has. I spoke of rumor only.

"Mr. Archer said a few words, but he was not heard distinctly enough to be reported.

"Mr. Clay. I said no such thing. I said there was a rumor—that public fame had stated that there was a cabal formed for the purpose of removing the cabinet, and I ask the gentleman if he has not heard of that rumor?

"Mr. Archer, after some remarks too low to be heard in the gallery, said it was not the words the gentleman had quoted to which he referred. It was the remark of the gentleman that there was a low and infamous cabal—a vile kitchen cabinet—and the gentleman knew that to his view there could not be a more odious phrase used than kitchen cabinet—and that it was these expressions that he wished an explanation of.

"Mr. Berrien said it was the concurrent opinion of all the senators around him, that the senator from Kentucky had spoken of the cabal as a rumor, and as not coming within his own knowledge. He hoped the senator would understand him in rising to make this explanation.

"Mr. Archer said he was glad to hear the disclaimer made by the gentleman from Georgia, and he would therefore sit down, under the conviction that the gentleman from Kentucky had made no such blow at his colleagues of the other House, as he had supposed."

Mr. Clay could not disclaim for the Virginia members of the House—that is to say, for all those members. Rumor was too loud with respect to some of them to allow him to do that. He rested upon the rumor; and public opinion justified him in doing so. He named no one, nor was it necessary. They soon named themselves by the virulence with which they attacked him.

The vote was taken on the bill over again, as required by the constitution, and so far from receiving a two-thirds vote, it barely escaped defeat by a simple majority. The vote was 24 to 24; and the yeas and nays were:

"Yeas—Messrs. Barrow, Bates, Bayard, Berrien, Choate, Clay of Kentucky, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, Woodbridge.

"Nays—Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Clayton, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright, Young."

The rejection of the bank bill gave great vexation to one side, and equal exultation to the other. Hisses resounded from the galleries of the Senate: the President was outraged in his house, in the night, by the language and conduct of a disorderly crowd assembled about it. Mr. Woodbury moved an inquiry into the extent of these two disturbances, and their authors; and a committee was proposed to be charged with the inquiry: but the perpetrators were found to be of too low an order to be pursued, and the proceeding was dropped. Some manifestations of joy or sorrow took place, however, by actors of high order, and went into the parliamentary debates. Some senators deemed it proper to make a complimentary visit to Mr. Tyler, on the night of the reception of the veto message, and to manifest their satisfaction at the service which he had rendered in arresting the bank charter; and it so happened that this complimentary visit took place on the same night on which the President's house had been beset and outraged. It was doubtless a very consolatory compliment to the President, then sorely assailed by his late whig friends; and very proper on the part of those who paid it, though there were senators who declined to join in it—among others, the writer of this View, though sharing the exultation of his party. On the other hand the chagrin of the whig party was profound, and especially that of Mr. Clay, its chief—too frank and impetuous to restrain his feelings, and often giving vent to them—generally bitterly, but sometimes playfully. An occasion for a display of the latter kind was found in the occasion of this complimentary visit of democratic senators to the President, and in the offering of Mr. Woodbury's resolution of inquiry into the disturbances; and he amusingly availed himself of it in a brief speech, of which some extracts are here given:

"An honorable senator from New Hampshire [Mr. Woodbury] proposed some days ago a resolution of inquiry into certain disturbances which are said to have occurred at the presidential mansion on the night of the memorable 16th of August last. If any such proceedings did occur, they were certainly very wrong and highly culpable. The chief magistrate, whoever he may be, should be treated by every good citizen with all becoming respect, if not for his personal character, on account of the exalted office he holds for and from the people. And I will here say, that I read with great pleasure the acts and resolutions of an early meeting, promptly held by the orderly and respectable citizens of this metropolis, in reference to, and in condemnation of, those disturbances. But, if the resolution had been adopted, I had intended to move for the appointment of a select committee, and that the honorable senator from New Hampshire himself should be placed at the head of it, with a majority of his friends. And will tell you why, Mr. President. I did hear that about eight or nine o'clock on that same night of the famous 16th of August, there was an irruption on the President's house of the whole loco foco party in Congress; and I did not know but that the alleged disorders might have grown out of or had some connection with that fact. I understand that the whole party were there. No spectacle, I am sure, could have been more supremely amusing and ridiculous. If I could have been in a position in which, without being seen, I could have witnessed that most extraordinary reunion, I should have had an

enjoyment which no dramatic performance could possibly communicate. I think that I can now see the principal *dramatis personæ* who figured in the scene. There stood the grave and distinguished senator from South Carolina—

[“Mr. Calhoun here instantly rose, and earnestly insisted on explaining; but Mr. Clay refused to be interrupted or to yield the floor.]

“Mr. Clay. There, I say, I can imagine stood the senator from South Carolina—tall, careworn, with furrowed brow, haggard, and intensely gazing, looking as if he were dissecting the last and newest abstraction which sprung from metaphysician’s brain, and muttering to himself, in half-uttered sounds, ‘This is indeed a real crisis!’ Then there was the senator from Alabama [Mr. King], standing upright and gracefully, as if he were ready to settle in the most authoritative manner any question of order, or of etiquette, that might possibly arise between the high assembled parties on that new and unprecedented occasion. Not far off stood the honorable senators from Arkansas and from Missouri [Mr. Sevier and Mr. Benton], the latter looking at the senator from South Carolina, with an indignant curl on his lip and scorn in his eye, and pointing his finger with contempt towards that senator [Mr. Calhoun], whilst he said, or rather seemed to say, ‘He call himself a statesman! why, he has never even produced a decent humbug!’

[“Mr. Benton. The senator from Missouri was not there.”]

Mr. Clay had doubtless been informed that the senator from Missouri was one of the senatorial procession that night, and the readiness with which he gave his remarks an imaginative turn with respect to him, and the facility with which he went on with his scene, were instances of that versatility of genius, and presence of mind, of which his parliamentary life was so full, and which generally gave him the advantage in sharp encounters. Though refusing to permit explanations from Mr. Calhoun, he readily accepted the correction from Mr. Benton—(probably because neither Mr. Benton, nor his immediate friends, were suspected of any attempt to alienate Mr. Tyler from his whig friends)—and continued his remarks, with great apparent good humor, and certainly to the amusement of all except the immediate objects of his attention.

“Mr. Clay. I stand corrected; I was only imagining what you would have said if you had been there. Then there stood the senator from Georgia [Mr. Cuthbert], conning over in his mind on what point he should make his next attack upon the senator from Kentucky. On yonder ottoman reclined the other senator from Missouri on my left [Mr. Linn], indulging, with smiles on his face, in pleasing meditations on the rise, growth, and future power of his new colony of Oregon. The honorable senator from Pennsylvania [Mr. Buchanan], I presume, stood forward as spokesman for his whole party; and, although I cannot pretend to imitate his well-known eloquence, I beg leave to make an humble essay towards what I presume to have been the kind of speech delivered by him on that august occasion:

“May it please your Excellency: A number of your present political friends, late your political opponents, in company with myself, have come to deposit at your Excellency’s feet the evidences of our loyalty and devotion; and they have done me the honor to make me the organ of their sentiments and feelings. We are here more particularly to present to your Excellency our grateful and most cordial congratulations on your rescue of the country from a flagrant and alarming violation of the constitution, by the creation of a Bank of the United States; and also our profound acknowledgments for the veto, by which you have illustrated the wisdom of your administration, and so greatly honored yourself. And we would dwell particularly on the unanswerable reasons and cogent arguments with which the notification of the act to the legislature had been accompanied. We had been, ourselves, struggling for days

and weeks to arrest the passage of the bill, and to prevent the creation of the monster to which it gives birth. We had expended all our logic, exerted all our ability, employed all our eloquence; but in spite of all our utmost efforts, the friends of your Excellency in the Senate and House of Representatives proved too strong for us. And we have now come most heartily to thank your Excellency, that you have accomplished for us that against your friends, which we, with our most strenuous exertions, were unable to achieve."

After this pleasant impersonation of the Pennsylvania senator, Mr. Clay went on with his own remarks.

"I hope the senator will view with indulgence this effort to represent him, although I am but too sensible how far it falls short of the merits of the original. At all events he will feel that there is not a greater error than was committed by the stenographer of the Intelligencer the other day, when he put into my mouth a part of the honorable senator's speech. I hope the honorable senators on the other side of the chamber will pardon me for having conceived it possible that, amidst the popping of champagne, the intoxication of their joy, the ecstasy of their glorification, they might have been the parties who created a disturbance, of which they never could have been guilty had they waited for their '*sober second thoughts*.' I have no doubt the very learned ex-Secretary of the Treasury, who conducted that department with such distinguished ability, and such happy results to the country, and who now has such a profound abhorrence of all the taxes on tea and coffee, though, in his own official reports, he so distinctly recommended them, would, if appointed chairman of the committee, have conducted the investigation with that industry which so eminently distinguishes him; and would have favored the Senate with a report, marked with all his accustomed precision and ability, and with the most perfect lucid clearness."

Mr. Buchanan, who had been made the principal figure in Mr. Clay's imaginary scene, took his satisfaction on the spot, and balanced the account by the description of another night scene, at the east end of the avenue, not entirely imaginary if Dame Rumor may be credited on one side of the question, as well as on the other. He said:

"The honorable senator has, with great power of humor, and much felicity of description, drawn for us a picture of the scene which he supposes to have been presented at the President's house on the ever-memorable evening of the veto. It was a happy effort; but, unfortunately, it was but a fancy sketch—at least so far as I am concerned. I was not there at all upon the occasion. But, I ask, what scenes were enacted on that eventful night at this end of the avenue? The senator would have no cause to complain if I should attempt, in humble imitation of him, to present a picture, true to the life, of the proceedings of himself and his friends. Amidst the dark and lowering clouds of that never-to-be-forgotten night, a caucus assembled in one of the apartments of this gloomy building, and sat in melancholy conclave, deploring the unhappy fate of the whig party. Some rose, and advocated vengeance; 'their voice was still for war.' Others, more moderate, sought to repress the ardent zeal of their fiery compatriots, and advised to peace and prudence. It was finally concluded that, instead of making open war upon Captain Tyler, they should resort to stratagem, and, in the elegant language of one of their number, that they should endeavor 'to head' him. The question was earnestly debated by what means they could best accomplish this purpose; and it was resolved to try the effect of the 'Fiscality' now before us. Unfortunately for the success of the scheme, 'Captain Tyler' was forewarned and forearmed, by means of a private and confidential letter, addressed by mistake to a Virginia coffee-house. It is by means like this that 'enterprises of great pith and moment' often fail. But so desperately intent are the whig party still on the creation of a bank, that one of my friends on this side of the House told me

that a bank they would have, though its exchanges should be made in bacon hams, and its currency be small patatoes."

Other senators took the imaginary scene, in which they had been made to act parts, in perfect good temper; and thus the debate on the first Fiscal Bank charter was brought to a conclusion with more amicability than it had been conducted with.

In the course of the consideration of this bill in the Senate, a vote took place which showed to what degree the belief of corrupt practices between the old bank and members of Congress had taken place. A motion was made by Mr. Walker to amend the Fiscal Bank bill so as to prevent any member of Congress from borrowing money from that institution. The motion was resisted by Mr. Clay, and supported by democratic senators on the grounds of the corruptions already practised, and of which repetitions might be expected. Mr. Pierce, of New Hampshire, spoke most fully in favor of the motion, and said:

"It was idle—if it were not offensive, he would say absurd—for gentlemen to discourse here upon the *incorruptibility* of members of Congress. They were like other men—and no better, he believed no worse. They were subject to like passions, influenced by like motives, and capable of being reached by similar *appliances*. History affirmed it. The experience of past years afforded humiliating evidence of the fact. Were we wiser than our fathers? Wiser than the most sagacious and patriotic assemblage of men that the world ever saw? Wiser than the framers of the constitution? What protection did they provide for the country against the *corruptibility* of members of Congress? Why, that no member should hold any office, however humble, which should be created, or the emoluments of which should be increased, during his term of service. How could the influence of a petty office be compared with that of the large *bank accommodations* which had been granted and would be granted again? And yet they were to be told, that in proposing this guard for the whole people, they were fixing an ignominious brand upon themselves and their associates. It seemed to him, that such remarks could hardly be serious; but whether sincere or otherwise, they were not legislating for themselves—not legislating for *individuals*—and he felt no apprehension that the mass, whose rights and interests were involved, would consider themselves aggrieved by such a *brand*.

"The senator from Pennsylvania [Mr. Buchanan] while pressing his unanswerable argument in favor of the provision, remarked, that should this bill become a law, no member of Congress 'having a proper sense of delicacy and honor,' with the question of *repeal* before him, could accept a loan from the Bank. That question of 'delicacy and honor' was one to which he (Mr. P.) did not choose now to address himself. He would, however, be guided by the light of experience, and he would take leave to say, that that light made the path before him, upon this proposition, perfectly luminous. By no vote of his should a provision be stricken from this bill, the omission of which would tend to establish a corrupt and corrupting influence—secret and intangible—in the very bosom of the two Houses whose province and duty it would be to pass upon that great question of *repeal*. What had taken place was liable to occur again. Those who were now here and those who would succeed to their places, were not more virtuous, not more secure from the approach of venality, not more elevated above the influence of *certain appliances*, than their predecessors. Well, what did history teach in relation to the course of members of Congress during that most extraordinary struggle between the Bank and the people for supremacy, which convulsed the whole continent from 1831 to 1834?

"He rose chiefly to advert to that page of history, and whether noticed here or not, it would be noticed by his constituents, who, with their children, had an infinitely higher stake in this absorbing question than members of Congress, politicians, or bankers.

“He read from the bank report presented to the Senate in 1834, by the present President of the United States, ‘Senate Documents, second session, twenty-third Congress,’ p. 320. From that document it appeared that in 1831 there was loaned to fifty-nine members of Congress, the sum of three hundred and twenty-two thousand one hundred and ninety-nine dollars. In 1832, the year when the bank charter was arrested by the veto of that stern old man who occupied the house and hearts of his countrymen, there was loaned to fifty-four members of Congress, the sum of four hundred and seventy-eight thousand and sixty-nine dollars. In 1833, the memorable panic year, there was loaned to fifty-eight members, three hundred and seventy-four thousand seven hundred and sixty-six dollars. In 1834, hope began to decline with the Bank, and so, also, did its line of discounts to members of Congress; but even in that year the loan to fifty-two members amounted to two hundred and thirty-eight thousand five hundred and eighty-six dollars.

“Thus in four years of unparalleled political excitement, growing out of a struggle with the people for the mastery, did that institution grant accommodations to two hundred and twenty-three of the people’s representatives, amounting to the vast sum of one million four hundred and thirteen thousand six hundred and twenty dollars. He presented no argument on these facts. He would regard it not merely as supererogation, but an insult to the intelligence of his countrymen. A tribunal of higher authority than the executive and Congress combined, would pass upon the question of ‘delicacy and honor,’ started by the senator from Pennsylvania, and it would also decide whether in the bank to loan was dangerous or otherwise. He indulged no fears as to the decision of the tribunal in the last resort—the sovereign people.”

Mr. Clay remarked that the greater part of these loans were made to members opposed to the bank. Mr. Buchanan answered, no doubt of that. A significant smile went through the chamber, with inquiries whether any one had remained opposed? The yeas and nays were called upon the question—and it was carried; the two Virginia senators, Messrs. Archer and Rives, and Mr. Preston, a Virginian by birth, voting with the democracy, and making the vote 25 yeas to 24 nays. The yeas were: Messrs. Allen, Archer, Benton, Buchanan, Calhoun, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Preston, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Williams, Woodbury, Wright and Young. The nays were: Messrs. Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntingdon, Leeds Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Southard, Tallmadge, White, Woodbridge. This vote, after the grounds on which the question was put, was considered an explicit senatorial condemnation of the bank for corrupt practices with members of Congress.

81. Second Fiscal Agent: Bill Presented: Passed: Disapproved By The President

This second attempt at a fiscal bill has two histories—one public and ostensible—the other secret and real: and it is proper to write them both, for their own sakes, and also to show in what manner the government is worked. The public history will be given first, and will be given exclusively from a public source—the debates of Congress. We begin with it as it begins there—an extemporaneous graft upon a neglected bill lying on the table of the House of Representatives. Early in the session a bill had been brought in from a select committee on the "currency," which had not been noticed from the time of its introduction. It seemed destined to sleep undisturbed upon the table to the end of the session, and then to expire quietly upon lapse of time. Soon after the rejection of the first fiscal under the qualified veto of the President, Mr. Sergeant of Pennsylvania moved the House (when in that state which is called Committee of the Whole) to take up this bill for consideration: which was done as moved. Mr. Sergeant then stated that, his intention was to move to amend that bill by striking out the whole of it after the enacting clause, and inserting a new bill, which he would move to have printed. Several members asked for the reading of the new bill, or a statement of its provisions; and Mr. Sergeant, in compliance with these requests, stood up and said:

"That, as several inquiries had been made of him with regard to this bill, he would now proceed to make a short statement, to show in what respects it differed from that recently before this House. He would say, first, that there were two or three verbal errors in this bill, and there were words, in two or three places, which he thought had better have been left out, and which were intended to have been omitted by the committee. There were several gentlemen in the present Congress who entertained extreme hostility to the word 'bank,' and, as far as he was concerned, he felt every disposition to indulge their feelings; and he had therefore endeavored throughout this bill to avoid using the word 'bank.' If that word anywhere remained as applicable to the being it was proposed to create by this law, let it go out—let it go out. Now the word 'corporation' sounded well, and he was glad to perceive it gave pleasure to the House. At all events, they had a new *word* to fight against. Now the difference between this bill and that which passed this House some days ago, would be seen by comparison. The present differed from the other principally in three or four particulars, and there were some other parts of the bill which varied, in minor particulars, from that which had been before the House a few days ago. Those differences gentlemen would have no difficulty in discovering and understanding when the bill should have been printed. He would now proceed to answer the inquiries of gentlemen in reference to this bill. Mr. S. then stated the following as the substantial points of difference between the two bills:

"1. The capital in the former bill was thirty millions, with power to extend it to fifty millions. In this bill twenty-one millions, with power to extend it to thirty-five millions. 2. The former bill provided for offices of discount and deposit. In this there are to be agencies only. 3. The dealings of the corporation are to be confined to buying and selling foreign bills of exchange, including bills drawn in one State or territory, and payable in another. There are to be no discounts. 4. The title of the corporation is changed."

This was Friday, the 20th of August. The next day—the bill offered in amendment by Mr. Sergeant having been printed and the House gone into committee—that member moved that all debate upon it in committee of the whole should cease at 4 o'clock that afternoon, and then proceed to vote upon the amendments which might be offered, and report those agreed

upon to the House. And having moved this in writing, he immediately moved the previous question upon it. This was sharp practice, and as new as sharp. It was then past 12 o'clock. Such rapidity of proceeding was a mockery upon legislation, and to expose it as such, Mr. Roosevelt of New York moved to amend the time by substituting, instanter, for 4 o'clock, remarking that they might as well have no time for discussion as the time designated. Several members expressing themselves to the same effect, Mr. Sergeant extended the time to 4 o'clock on Monday evening. The brevity of the time was still considered by the minority, and justly, as a mockery upon legislation; and their opinions to that effect were freely expressed. Mr. Cave Johnson asked to be excused from voting on Mr. Sergeant's resolution, giving for the reason that the amendment was a new bill just laid upon the table of members, and that it would be impossible for them to act understandingly upon it in the short time proposed. Mr. Charles Brown of Pennsylvania also asked to be excused from voting, saying that the amendment was a bill of thirty-eight printed pages—that it had only been laid upon their tables ten minutes when the motion to close the debate at 4 o'clock was made—and that it was impossible to act upon it with the care and consideration due to a legislative act, and to one of this momentous importance, and which was to create a great fiscal corporation with vast privileges, and an exclusive charter for twenty years. Mr. Rhett of South Carolina asked to be in like manner excused, reducing his reasons to writing, in the form of a protest. Thus:

"1. Because the rule by which the resolution is proposed is a violation of the spirit of the Constitution of the United States, which declares that the freedom of speech and of the press shall not be abridged by any law of Congress. 2. Because it destroys the character of this body as a deliberative assembly: a *right* to deliberate and discuss measures being no longer in Congress, but with the majority only. 3. Because it is a violation of the rights of the people of the United States, through their representatives, inherited from their ancestors, and enjoyed and practised time immemorial, to speak to the taxes imposed on them, when taxes are imposed. 4. Because by the said rule, a bill may be taken up in Committee of the Whole, be immediately reported to the House, and, by the aid of the previous question, be passed into a law, without one word of debate being permitted or uttered. 5. Because free discussion of the laws by which the people are governed, is not only essential to right legislation, but is necessary to the preservation of the constitution, and the liberties of the people; and to fear or supress it is the characteristic of tyrannies and tyrants only. 6. Because the measure proposed to be forced through the House within less than two days' consideration is one which deeply affects the integrity of the constitution and the liberties of the people; and to pass it with haste, and without due deliberation, would evince a contemptuous disregard of either, and may be a fatal violation of both."

Besides all other objections to this rapid legislation, it was a virtual violation of the rules of the House, made under the constitution, to prevent hasty and inconsiderate, or intemperate action; and which requires a bill to be read three times, each time on a different day, and to be voted upon each time. Technically an amendment, though an entire new bill, is not a bill, and therefore, is not subject to these three readings and votings: substantially and truly, such an amendment is a bill; and the reason of the rule would require it to be treated as such.

Other members asked to be excused from voting; but all being denied that request by an inexorable majority, Mr. Pickens of South Carolina stood up and said: "It is now manifest that the House does not intend to excuse any member from voting. And as enough has been done to call public attention to the odious resolution proposed to be adopted, our object will have been attained: and I respectfully suggest to our friends to go no further in this proceeding!" Cries of "agreed! agreed!" responded to this appeal; and the motion of Mr. Sergeant was adopted. He, himself, then spoke an hour in support of the new bill—one hour of the brief time which was allowed for discussion. Mr. Wise occupied the remainder of the

evening against the bill. On Monday, on resuming its consideration, Mr. Turney of Tennessee moved to strike out the enacting clause—which, if done, would put an end to the bill. The motion failed. Some heated discussion took place, which could hardly be called a debate on the bill; but came near enough to it to detect its fraudulent character. It was the old defunct Bank of the United States, in disguise, to come to life again in it. That used-up concern was then in the hands of justice, hourly sued upon its notes, and the contents collected upon execution; and insolvency admitted. It could not be named in any charter: no reference could be made to it by name. But there was a provision in the amended bill to permit it to slip into full life, and take the whole benefit of the new charter. Corporations were to be allowed to subscribe for the stock: under that provision she could take all the stock—and be herself again. This, and other fraudulent provisions were detected: but the clock struck four! and the vote was taken, and the bill passed—125 to 94. The title of the original bill was then amended to conform to its new character; and, on the motion of Mr. Sergeant was made to read in this wise: "*An act to provide for the better collection, safe keeping, and disbursement of the public revenue, by means of a corporation to be styled the Fiscal Corporation of the United States.*" Peals of laughter saluted the annunciation of this title; and when it was carried to the Senate, as it immediately was, for the concurrence of that body, and its strange title was read out, ridicule was already lying in wait for it; and, under the mask of ridicule, an attack was made upon its real character, as the resuscitation of Mr. Biddle's bank: and Mr. Benton exclaimed—

"Heavens what a name! long as the moral law—half sub-treasury, and half national bank—and all fraudulent and deceptive, to conceal what it is; and entirely too long. The name is too long. People will never stand it. They cannot go through all that. We must have something shorter—something that will do for every day use. Corporosity! that would be a great abridgment; but it is still too long. It is five syllables, and people will not go above two syllables, or three at most, and often hang at one, in names which have to be incontinently repeated. They are all economical at that, let them be as extravagant as they may be in spending their money. They will not spend their breath upon long names which have to be repeated every day. They must have something short and pointed; and, if you don't give it to them, they will make it for themselves. The defunct Fiscal Bank was rapidly taking the title of fiscality; and, by alliteration, rascality; and if it had lived, would soon have been compendiously and emphatically designated by some brief and significant title. The Fiscal Corporation cannot expect to have better luck. It must undergo the fate of all great men and of all great measures, overburdened with titles—it must submit to a short name. There is much virtue in a name; and the poets tell us there are many on whose conception Phœbus never smiled, and at whose birth no muse, or grace, was present. In that predicament would seem to be this intrusive corporosity, which we have received from the other House, and sent to our young committee, and which has mutation of title without alteration of substance, and without accession of euphony, or addition of sense. Some say a name is nothing—that a rose by any other name would smell as sweet. So it will; and a thorn by any other name would stick as deep. And so of these fiscals, whether to be called banks or corporations. They will still be the same thing—a thorn in our side—but a short name they must have. This corporosity must retrench its extravagance of title.

"I go for short names, and will give reasons for it. The people will have short names, although they may spoil a fine one; and I will give you an instance. There was a most beautiful young lady in New Orleans some years ago, as there always has been, and still are many such. She was a *Creole*, that is to say, born in this country, of parents from Europe. A gentleman who was building a superb steamboat, took it into his head to honor this young lady, by connecting her name with his vessel; so he bestowed upon it the captivating

designation of La Belle Creole. This fine name was painted in golden letters on the sides of his vessel; and away she went, with three hundred horse power, to Kentucky and Ohio. The vessel was beautiful, and the name was beautiful, and the lady was beautiful; but all the beauty on earth could not save the name from the catastrophe to which all long titles are subjected. It was immediately abbreviated, and, in the abbreviation, sadly deteriorated. At first, they called her the *bell*—not the French *belle*, which signifies fine or beautiful—but the plain English *bell*, which in the Holy Scriptures, was defined to be a tinkling cymbal. This was bad enough; but worse was coming. It so happens that the vernacular pronunciation of *creole*, in the Kentucky waters, is cre-owl; so they began to call this beautiful boat the *cre-owl*! but things did not stop here. It was too extravagant to employ two syllables when one would answer as well, and be so much more economical; so the first half of the name was dropped, and the last retained; and thus *La Belle Creole*—the beautiful creole—sailed up and down the Mississippi all her life by the name, style, title, and description of, The Owl! (Roars of laughing in the Senate, with exclamations from several, that it was a good name for a bank—that there was an Owl-Creek Bank in Ohio once, now dead and insolvent, but, in its day, as good as the best.)

"Mr. B. continued. I do not know whether owl will do for this child of long name, and many fathers; but we must have a name, and must continue trying till we get one. Let us hunt far and wide. Let us have recourse to the most renowned Æsop and his fables, and to that one of his fables which teaches us how an old black cat succeeded in getting at the rats again after having eaten up too many of them, and become too well known, under her proper form, to catch any more. She rolled herself over in a meal tub—converted her black skin into white—and walked forth among the rats as a new and innocent animal that they had never seen before. All were charmed to see her! but a quick application of teeth and claws to the throats and bellies of the rats, let them see that it was their old acquaintance, the black cat; and that whitening the skin did not alter the instincts of the animal, nor blunt the points of its teeth and claws. The rats, after that, called her the meal-tub cat, and the mealy cat. May we not call this corporosity the meal-tub bank? A cattish name would certainly suit it in one particular; for, like a cat, it has many lives, and a cat, you know, must be killed nine times before it will die; so say the traditions of the nursery; and of all histories the traditions of children are the most veracious. They teach us that cats have nine lives. So of this bank. It has been killed several times, but here it is still, scratching, biting, and clawing. Jackson killed it in 1832; Tyler killed it last week. But this is only a beginning. Seven times more the *Fates* must cut the thread of its hydra life before it will yield up the ghost.

"The meal tub! No insignificant, or vulgar name. It lives in history, and connects its fame with kings and statesmen. We all know the Stuarts of England—an honest and bigoted race in the beginning, but always unfortunate in the end. The second Charles was beset by plots and cabals. There were many attempts, or supposed attempts to kill him; many plots against him, and some very ridiculous; among the rest one which goes by the name of the meal-tub plot; because the papers which discovered it were found in the meal-tub where the conspirators, or their enemies, had hid them.

"Sir, I have given you a good deal of meal this morning; but you must take more yet. It is a *fruitful* theme, and may give us a good name before we are done with it. I have a reminiscence, as the novel writers say, and I will tell it. When a small boy, I went to school in a Scotch Irish neighborhood, and learnt many words and phrases which I have not met with since, but which were words of great pith and power; among the rest shake-poke.
(Mr. Archer: I never heard that before.) Mr. Benton: but you have heard of poke. You know the adage: do not buy a pig in the poke; that is to say, in the bag; for poke signifies bag, or wallet, and is a phrase much used in the north of England, and among the Scotch Irish in

America. A pig is carried to market in a poke, and if you buy it without taking it out first, you may be 'taken in.' So corn is carried to a mill in a poke, and when brought home, ground into meal, the meal remains in the poke, in the houses of poor families, until it is used up. When the bag is nearly empty, it is turned upside down, and shaken; and the meal that comes out is called the shake-poke, that is to say, the last shake of the bag. By an easy and natural metaphor, this term is also applied to the last child that is born in a family; especially if it is puny or a rickety concern. The last child, like the last meal, is called a shake-poke; and may we not call this *fiscalous corporation* a shake-poke also, and for the same reason? It is the last—the last at all events for the session! it is the last meal in their bag—their shake-poke! and it is certainly a rickety concern.

"I do not pretend to impose a name upon this bantling; that is a privilege of paternity, or of sponsorship, and I stand in neither relation to this babe. But a name of brevity—of brevity and significance—it must have; and, if the fathers and sponsors do not bestow it, the people will: for a long name is abhorred and eschewed in all countries. Remember the fate of John Barebone, the canting hypocrite in Cromwell's time. He had a very good name, John Barebone; but the knave composed a long verse, like Scripture, to sanctify himself with it, and intituled himself thus:—'Praise God, Barebone, for if Christ had not died for you, you would be damned, Barebone.' Now, this was very sanctimonious; but it was too long—too much of a good thing—and so the people cut it all off but the last two words, and called the fellow '*damned Barebone*,' and nothing else but damned Barebone, all his life after. So let this corporosity beware: it may get itself damned before it is done with us, and Tyler too."

The first proceeding in the Senate was to refer this bill to a committee, and Mr. Clay's select committee would naturally present itself as the one to which it would go: but he was too much disgusted at the manner in which his own bill had been treated to be willing to take any lead with respect to this second one; and, in fact, had so expressed himself in the debate on the veto message. A motion was made to refer it to another select committee, the appointing of which would be in the President of the Senate—Mr. Southard, of New Jersey. Mr. Southard, like Mr. Sergeant, was the fast friend of the United States Bank, to be revived under this bill; and like him conducted the bill to the best advantage for that institution. Mr. Sergeant had sprung the bill, and rushed it through, backed by the old bank majority, with a velocity which distanced shame in the disregard of all parliamentary propriety and all fair legislation. He had been the attorney of the bank for many years, and seemed only intent upon its revivification—no matter by what means. Mr. Southard, bound by the same friendship to the bank, seemed to be animated by the same spirit, and determined to use his power in the same way. He appointed exclusively the friends of the bank, and mostly of young senators, freshly arrived in the chamber. Mr. King, of Alabama, the often President of the Senate *pro tempore*, and the approved expounder of the rules, was the first—and very properly the first—to remark upon the formation of this one-sided committee; and to bring it to the attention of the Senate. He exposed it in pointed terms.

"Mr. King observed, that in the organization of committees by Congress, the practice had been heretofore invariable—the usage uniform. The first business, on the meeting of each House, after the selection of officers and organizing, was to appoint the various standing committees. In designating those to whom the various subjects to which it is proposed to call the attention of Congress shall be referred, the practice always has been to place a majority of the friends of the administration on each committee. This is strictly correct, in order to insure a favorable consideration of the various measures which the administration may propose to submit to their examination and decision. A majority, however, of the friends of the administration, is all that has heretofore been considered either necessary or proper to be placed on those committees; and in every instance a minority of each committee consists of

members supposed to be adverse to the measures of the dominant party. The propriety of such an arrangement cannot fail to strike the mind of every senator. All measures should be carefully examined; objections suggested; amendments proposed; and every proposition rendered as perfect as practicable before it is reported to the House for its action. This neither can, nor will, be controverted. In the whole of his [Mr. King's] congressional experience, he did not know of a single instance in which this rule had been departed from, until now. But there has been a departure from this usage, sanctioned by justice and undeviating practice, which had given to it the force and obligation of law; and he [Mr. King] felt it to be his duty to call the attention of the Senate to this most objectionable innovation. Yesterday a bill was reported from the House of Representatives for the chartering of a fiscal corporation. It was immediately taken up, read twice on the same day, and, on the motion of the senator from Georgia, ordered to be referred to a select committee. This bill embraced a subject of the greatest importance, one more disputed upon constitutional grounds, as well as upon the grounds of expediency, than any other which has ever agitated this country. This bill, of such vast importance, fraught with results of the greatest magnitude, in which the whole country takes the liveliest interest, either for or against its adoption, has been hurried through the other House in a few days, almost without discussion, and, as he [Mr. K.], conceived, in violation of the principles of parliamentary law, following as it did, immediately on the heels of a similar bill, which had, most fortunately for the country, received the veto of the President, and ultimately rejected by the Senate. The rules of the Senate forbade him to speak of the action of the other House on this subject as he could wish. He regretted that he was not at liberty to present their conduct plainly to the people, to show to the country what it has to expect from the dominant party here, and what kind of measures may be expected from the mode of legislation which has been adopted. The fiscal corporation bill has, however, come to us, and he [Mr. King] and his friends, much as they were opposed to its introduction or passage, determined to give it a fair and open opposition. No objection was made to the motion of the senator from Georgia to send it to a select committee, and that that committee should be appointed by the presiding officer. The President of the Senate made the selection; but, to his [Mr. K.'s] great surprise, on reading the names this morning in one of the public papers, he found they were all members of the dominant party: not one selected for this most important committee belongs to the minority in this body opposed to the bill. Why was it, he [Mr. King] must be permitted to ask, that the presiding officer had departed from a rule which, in all the fluctuations of party, and in the highest times of party excitement, had never before been departed from?

"There must have been a motive in thus departing from a course sanctioned by time, and by every principle of propriety. It will be for the presiding officer to state what that motive was. Mr. King must be permitted to repeat, the more to impress it on the minds of senators, that during more than twenty years he had been in Congress, he had never known important committees to be appointed, either standing or select, in which some member of the then minority did not constitute a portion, until this most extraordinary selection of a committee, to report on this most important bill. Would it not [said Mr. King] have been prudent, as well as just, to have given to the minority a fair opportunity of suggesting their objections in committee? The friends of the measure would then be apprised of those objections, and could prepare themselves to meet them. He [Mr. King] had not risen to make a motion, but merely to present this extraordinary proceeding to the view of the Senate, and leave it there; but, he believed, in justice to his friends, and to stamp this proceeding with condemnation, he would move that two additional members be added to the committee."

The President of the Senate, in answer to the remarks of Mr. King, read a rule from Jefferson's Manual in which it is said that, a bill must be committed to its friends to improve

and perfect it, and not to its enemies who would destroy it. And under this rule Mr. Southard said he had appointed the committee. Mr. Benton then stood up, and said:

"That is the *Lex Parliamentaria* of England from which you read, Mr. President, and is no part of our rules. It is English authority—very good in the British Parliament, but not valid in the American Senate. It is not in our rules—neither in the rules of the House nor in those of the Senate; and is contrary to the practice of both Houses—their settled practice for fifty years. From the beginning of our government we have disregarded it, and followed a rule much more consonant to decency and justice, to public satisfaction, and to the results of fair legislation, and that was, to commit our business to mixed committees—committees consisting of friends and foes of the measure, and of both political parties—always taking care that the friends of the measure should be the majority; and, if it was a political question, that the political party in power should have the majority. This is our practice; and a wise and good practice it is, containing all the good that there is in the British rule, avoiding its harshness, and giving both sides a chance to perfect or to understand a measure. The nature of our government—its harmonious and successful action—requires both parties to have a hand in conducting the public business, both in the committees and the legislative halls; and this is the first session at which committee business, or legislative business, has been confined, or attempted to be confined, to one political party. The clause which you read, Mr. President, I have often read myself; not for the purpose of sending a measure to a committee of exclusive friends, but to prevent it from going to a committee of exclusive enemies—in fact to obtain for it a mixed committee—such as the democracy has always given when in power—such as it will again give when in power—and such as is due to fair, decent, satisfactory, and harmonious legislation."

Mr. Benton, after sustaining Mr. King in his view of the rules and the practice, told him that he was deceived in his memory in supposing there had never been a one-sided committee in the Senate before: and remarked:

"That senator is very correct at all times; but he will not take it amiss if I shall suggest to him that he is in error now—that there has been one other occasion in which a one-sided committee was employed—and that in a very important case—concerning no less a power than Mr. Biddle's bank, and even Mr. Biddle himself. I speak of the committee which was sent by this Senate to examine the Bank of the United States in the summer of 1834, when charged with insolvency and criminality by General Jackson—charges which time have proved to be true—and when the whole committee were of one party, and that party opposed to General Jackson, and friendly to the bank. And what became then of the rule of British parliamentary law, which has just been read? It had no application then, though it would have cut off every member of the committee; for not one of them was favorable to the inquiry, but the contrary; and the thing ended as all expected. I mention this as an instance of a one-sided committee, which the senator from Alabama has overlooked, and which deserves to be particularly remembered on this occasion, for a reason which I will mention; and which is, that both these committees were appointed in the same case—for the same Bank of the United States—one to whitewash it—which it did; the other to smuggle it into existence under a charter in which it cannot be named. And thus, whenever that bank is concerned, we have to look out for tricks and frauds (to say no more), even on the high floors of national legislation."

Mr. Buchanan animadverted with justice and severity upon the tyranny with which the majority in the House of Representatives had forced the bill through, and marked the fact that not a single democratic member had succeeded in getting an opportunity to speak against it. This was an unprecedented event in the history of parties in America, or in England, and

shows the length to which a bank party would go in stifling the right of speech. In all great measures, before or since, and in all countries possessing free institutions, the majority has always allowed to the adversary the privilege of speaking to the measures which were to be put upon them: here for the first time it was denied; and the denial was marked at the time, and carried at once into parliamentary history to receive the reprobation due to it. This was the animadversion of Mr. Buchanan:

"The present bill to establish a fiscal corporation was hurried through the House of Representatives with the celerity, and, so far as the democracy was concerned, with the silence of despotism. No democratic member had an opportunity of raising his voice against it. Under new rules in existence there, the majority had predetermined that it should pass that body within two days from the commencement of the discussion. At first, indeed, the determination was that it should pass the first day; but this was felt to be too great an outrage; and the mover was graciously pleased to extend the time one day longer. Whilst the bill was in Committee of the Whole, it so happened that, in the struggle for the floor, no democratic member succeeded in obtaining it; and at the destined hour of four in the afternoon of the second day, the committee rose, and all further debate was arrested by the previous question. The voice of that great party in this country to which I am proud to belong, was, therefore, never heard through any of its representatives in the House against this odious measure. Not even one brief hour, the limit prescribed by the majority to each speaker, was granted to any democratic member."

The bill went to the committee which had been appointed, without the additional two members which Mr. King had suggested; and which suggestion, not being taken up by the majority, was no further pressed. Mr. Berrien, chairman of that committee, soon reported it back to the Senate—without alteration; as had been foreseen. He spoke two hours in its favor—concluding with the expression that the President would give it his approval—founding that opinion on the President's message at the commencement of the session—on his veto message of the first fiscal bill—on the report of the Secretary of the Treasury—and on this Secretary's subsequent plan for a bank framed with the view to avoid his constitutional objections. Mr. Clay declared his intention to vote for the bill, not that it went as far as he could wish, but that it would go a good distance—would furnish a sound national currency, and regulate exchanges. Mr. Archer, who had voted against the first bank, and who was constitutionally opposed to a national bank, made a speech chiefly to justify his vote in favor of the present bill. It was well known that no alteration would be permitted in the bill—that it had been arranged out of doors, and was to stand as agreed upon: but some senators determined to offer amendments, merely to expose the character of the measure, to make attacks upon the most vulnerable points; and to develope the spirit which conducted it. In this sense Mr. Benton acted in presenting several amendments, deemed proper in themselves, and which a foreknowledge of their fate would not prevent him from offering. The whole idea of the institution was, that it was to be a treasury bank; and hence the pertinacity with which "fiscal," synonymous with treasury, was retained in all the titles, and conformed to in all its provisions: and upon this idea the offered amendments turned.

"Mr. Benton said he had an amendment to offer, which the Senate would presently see was of great importance. It was, to strike out from the ninth line of the first section the word 'States.' It was in that provision assigning seventy thousand shares to individual companies, corporations, or *States*. This was a new kind of stockholders: a new description of co-partners with stockjobbers in a banking corporation. States had no right to be seduced into such company; he would therefore move to have them struck out: let the word "States" be taken out of that line. To comprehend the full force and bearing of this amendment it would be

necessary to keep in view that the sixteenth section of this charter designates the Fiscal Corporation the Treasury of the United States. It expressly says that—

"'All public moneys in deposit in said corporation, or standing on its books to the credit of the *Treasurer*, shall be taken and deemed to be *in the Treasury of the United States*, and all payments made by the Treasurer shall be in checks drawn on said corporation.'

"Yes, sir! this *Fisc* is to be the Treasury of the United States; and the Treasury of the United States is to be converted into a corporation, and not only forced into partnership with individuals, companies, and corporations, but into joint stock co-partnership with the States. The general government is to appoint three directors, and the rest of the partners will have the appointment of the other six. The corporators will be two to one against the general government, and they will of course have the control of the Treasury of this Union in their hands. Now he was for sticking to the constitution, not only in spirit and meaning, but to the letter; and the constitution gives no authority to individuals, companies, corporations, and States, to take the public Treasury of the Union out of the hands of the general government. The general government alone, and acting independently of any such control, is required by the constitution to manage its own fiscal affairs. Here it is proposed to retain only one-third of the control of this Treasury in the hands of the general government—the other two-thirds may fall exclusively into the hands of the States, and thus the Treasury of the whole Union may be at the disposal of such States as can contrive to possess themselves of the two-thirds of the stock they are authorized to take. If it is the object to let those States have the funds of the Treasury to apply to their own use, the scheme is well contrived to attain that end. He, however, was determined not to let that plan be carried without letting the people know who were its supporters; he should, therefore, demand the yeas and nays on his amendment."

"Mr. Berrien explained that the objection raised against the sixteenth section was merely technical. The words did not convert the bank into the United States Treasury; they merely provided for a conformity with laws regulating the lodgment and withdrawal of Treasury funds. The question was then taken on the amendment, which was rejected as follows: Yeas—Messrs. Allen, Benton, Buchanan, Clay of Alabama, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—18. Nays—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—28."

Mr. Benton then moved to strike out "corporations" from the enumeration of persons and powers which should possess the faculty of becoming stockholders in this institution, with the special view of keeping out the Pennsylvania Bank of the United States, and whose name could not be presented openly for a charter, or re-charter:

"The late United States Bank had means yet to keep a cohort of lawyers, agents, cashiers, and directors, who would not lose sight of the hint, and who were panting to plunge their hands into Uncle Sam's pocket. There was nothing to prevent the corporators of the late United States Bank becoming the sole owners of these two-thirds of the stock in the new Fiscality. The sixteenth fundamental rule of the eleventh section is the point where we are to find the constitutionality of this Fiscality. The little pet banks of every State may be employed as agents. This is a tempting bait for every insolvent institution in want of Treasury funds to strain every nerve and resort to every possible scheme for possessing themselves of the control of the funds of the United States. This object was to defeat such machinations. On this amendment he would demand the yeas and nays. The question was then taken on the amendment, and decided in the negative as follows: Yeas—Messrs. Allen, Benton,

Buchanan, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—21. Nays—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—26."

Mr. Rives objected to the exchange dealings which this fiscal corporation was to engage in, as being discounts when the exchange had some time to run. He referred to his former opinions, and corrected a misapprehension of Mr. Berrien. He was opposed to discounts in every form; while this bill authorizes discounts to any amount on bills of exchange. He offered no amendment, but wished to correct the misunderstanding of Mr. Berrien, who held that this bill, in this particular, was identical with the amendment offered to the first bill by Mr. Rives, and that it was in strict conformity with the President's message.

"Mr. Benton fully concurred with the senator from Virginia [Mr. Rives], that cashing bills of exchange was just as much a discounting operation as discounting promissory notes; it was, in fact, infinitely worse. It was the greatest absurdity in the world, to suppose that the flimsy humbug of calling the discounting of bills of exchange—gamblers' kites, and race-horse bills of exchange—a 'dealing in exchanges' within the meaning of the terms used in the President's veto message. As if the President could be bamboozled by such a shallow artifice. Only look at the operation under this bill. A needy adventurer goes to one of these agencies, and offers his promissory note with securities, in the old-fashioned way, but is told it cannot be discounted—the law is against it. The law, however, may be evaded if he put his note into another shape, making one of his sureties the drawer, and making the other, who lives beyond the State line, his drawee, in favor of himself, as endorser; and in that shape the kite will be *cashed*, deducting the interest and a per centage besides in the shape of exchange. Here is discount added to usury; and is not that worse than discounting promissory notes?"

The President had dwelt much upon "local discounts," confining the meaning of that phrase to loans obtained on promissory notes. He did not consider money obtained upon a bill of exchange as coming under that idea—nor did it when it was an exchange of money—when it was the giving of money in one place for money in another place. But that true idea of a bill of exchange was greatly departed from when the drawer of the bill had no money at the place drawn on, and drew upon time, and depended upon getting funds there in time; or taking up the bill with damages when it returned protested. Money obtained that way was a discount obtained, and on far worse terms for the borrower, and better for the bank, than on a fair promissory note: and the rapacious banks forced their loans, as much as possible into this channel. So that this fiscal bank was limited to do the very thing it wished to do, and which was so profitable to itself and so oppressive to the borrower. This, Mr. Tappan, of Ohio, showed in a concise speech.

"Mr. Tappan said, when senators on the other side declare that this bank bill is intended to withhold from the corporation created by it the power of making loans and discounts, he felt himself bound to believe that such was their honest construction of it. He was, however, surprised that any man, in the slightest degree acquainted with the banking business of the country, who had read this bill, should suppose that, under its provisions, the company incorporated by it would not have unlimited power to loan their paper and to discount the paper of their customers. The ninth fundamental article says, that 'the said corporation shall not, directly or indirectly, deal or trade in any thing except foreign bills of exchange, *including bills or drafts drawn in one State or Territory and payable in another*.' This bill, in this last clause, sanctioned a mode of discounting paper, and making loans

common in the Western country. He spoke of a mode of doing business which he had full knowledge of, and he asked senators, therefore, to look at it. A man who wants a loan from a bank applies to the directors, and is told, we can lend you the money, but we do not take notes for our loans—you must give us a draft; but, says the applicant, I have no funds any where to draw upon; no matter, say the bankers, if your draft is not met, or expected to be met, because you have no funds, that need make no difference; you may pay it here, *with the exchange*, when the time it has to run is out; so the borrower signs a draft or bill of exchange on somebody in New York, Philadelphia, or Baltimore, and pays the discount for the time it has to run; when that time comes round, the borrower pays into the bank the amount of his draft, with two, four, six, or ten per cent., whatever the rate of exchange may be, and the affair is settled, and he gets a renewal for sixty days, by further paying the discount on the sum borrowed; and if it is an accommodation loan, it it renewed from time to time by paying the discount and exchange. Very few of the Western banks, he believed, discounted notes; they found it much more profitable to deal in exchange, as it is called; but this dealing in exchange enables the banks to discount as much paper, and to loan as much of their own notes, as the old-fashioned mode of discounting; it is a difference in form merely, with this advantage to the banks, that it enables them to get from their customers ten or twelve per cent. on their loans, instead of six, to which, in discounting notes, they are usually restricted. How then, he asked, could senators say that this bill did not give the power to make loans and discounts? He had shown them how, under this law, both loans and discounts will be made without limitation."

Mr. Benton then went on with offering his amendments, and offered one requiring all the stockholders in this corporation Fisc (which was to be the Treasury of the United States), to be citizens of the United States, for the obvious reason of preventing the national treasury from falling under the control of foreigners. M. Berrien considered the amendment unnecessary, as there was already a provision that none but citizens of the United States should take the original stock; and the only effect of the provision would be to lessen the value of the stock. Mr. Benton considered this provision as a fraudulent contrivance to have the appearance of excluding foreigners from being stockholders while not doing so. The prohibition upon them as original subscribers was nothing, when they were allowed to become stockholders by purchase. His amendment was intended to make the charter what it fraudulently pretended to be—a bank owned by American citizens. The word "original" would be a fraud unless the prohibition was extended to assignees. And he argued that the senator from Georgia (Mr. Berrien), had admitted the design of selling to foreigners by saying that the value of the stock would be diminished by excluding foreigners from its purchase. He considered the answer of the senator double, inconsistent, and contradictory. He first considered the amendment unnecessary, as the charter already confined original subscriptions to our own citizens; and then considered it would injure the price of the stock to be so limited. That was a contradiction. The fact was, he said, that this bill was to resurrect, by smuggling, the old United States Bank, which was a British concern; and that the effect would be to make the British the governors and masters of our treasury: and he asked the yeas and nays on his motion, which was granted, and they stood—19 to 26, and were: Yeas—Messrs. Allen, Benton, Buchanan, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—19. Nays—Messrs. Archer, Barrow, Bates, Berrien, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Tallmadge, White, and Woodbridge—26. Considering this a vital question, and one on which no room should be left for the majority to escape the responsibility of putting the United States Treasury in the hands of foreigners—even alien enemies in time of war, as well as rival

commercial competitors in time of peace—Mr. Benton moved the same prohibition in a different form. It was to affix it to the eleventh fundamental rule of the eleventh section of the bill, which clothes the corporation with power to make rules to govern the assignment of stock: his amendment was to limit these assignments to American citizens. That was different from his first proposed amendment, which included both original subscribers and assignees. The senator from Georgia objected to that amendment as unnecessary, because it included a class already prohibited as well as one that was not. Certainly it was unnecessary with respect to one class, but necessary with respect to the other—necessary in the estimation of all who were not willing to see the United States Treasury owned and managed by foreigners. He wished now to hear what the senator from Georgia could say against the proposed amendment in this form. Mr. Berrien answered: "He hoped the amendment would not prevail. The original subscribers would be citizens of the United States. To debar them from transferring their stock, would be to lessen the value of the stock, which they rendered valuable by becoming the purchasers of it." Mr. Benton rejoined, that his amendment did not propose to prevent the original subscribers from selling their stock, or any assignee from selling; the only design of the amendment was to limit all these sales to American citizens; and that would be its only effect if adopted. And as to the second objection, a second time given, that it would injure the value of the stock, he said it was a strange argument, that the paltry difference of value in shares to the stockholders should outweigh the danger of confiding the Treasury of the United States to foreigners—subjects of foreign potentates. He asked the yeas, which were granted—and stood—21 to 27: the same as before, with the addition of some senators who had come in. These several proposed amendments, and the manner in which they were rejected, completed the exposure of the design to resuscitate the defunct Bank of the United States, just as it had been, with its foreign stockholders, and extraordinary privileges. It was to be the old bank revived, disguised, and smuggled in. It was to have the same capital as the old one—thirty-five millions: for while it said the capital was to be twenty-one millions, there was a clause enabling Congress to add on fourteen millions—which it would do as soon as the bill passed. Like the old bank, it was to have the United States for a partner, owning seven millions of the stock. The stock was all to go to the old Bank of the United States; for the subscriptions were to be made with commissioners appointed by the Secretary of the Treasury—who, it was known, would appoint the friends of the old bank; so that the whole subscription would be in her hands; and a charter for her fraudulently and deceptiously obtained. The title of the bill was fraudulent, being limited to the management of the "*public*" moneys, while the body of it conferred all the privileges known to the three distinct kinds of banks:—1. Circulation. 2. Exchange. 3. Discount and deposit—the discount being in the most oppressive and usurious form on inland and mere neighborhood bills of exchange, declared by the charter to be foreign bills for the mere purpose of covering these local loans.

"Mr. Walker moved an amendment, requiring that the bills in which the Bank should deal should be drawn at short dates, and on goods already actually shipped. It was negatived by yeas and nays, as follows:—Yeas—Messrs. Allen, Benton, Buchanan, Calhoun, Clay of Alabama, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Rives, Sevier, Smith of Connecticut, Sturgeon, Tappan, Walker, Woodbury, Wright, and Young—21. Nays—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—27. Mr. Allen moved an amendment to make the directors, in case of suspension, personally liable for the debts of the bank. This was negatived as follows: Yeas—Messrs. Allen, Benton, Buchanan, Clay of Alabama, Cuthbert, Fulton, King, Linn, McRoberts, Mouton, Nicholson, Pierce, Sevier, Smith of Connecticut, Sturgeon, Tappan,

Walker, Woodbury, Wright, and Young—20. Nays—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clay of Kentucky, Clayton, Dixon, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Prentiss, Preston, Rives, Simmons, Smith of Indiana, Southard, Tallmadge, White, and Woodbridge—28."

The character of the bill having been shown by the amendments offered and rejected, there was no need to offer any more, and the democratic senators ceased opposition, that the vote might be taken on the bill: it was so; and the bill was passed by the standing majority. Concurred in by the Senate without alteration, it was returned to the House, and thence referred to the President for his approval, or disapproval. It was disapproved, and returned to the House, with a message stating his objections to it; where it gave rise to some violent speaking, more directed to the personal conduct of the President than to the objections to the bill stated in his message. In this debate Mr. Botts, of Virginia, was the chief speaker on one side, inculpating the President: Mr. Gilmer of Virginia, and Mr. Proffit of Indiana, on the other were the chief respondents in his favor. The vote being taken there appeared 103 for the bill, 80 against it—which not being a majority of two-thirds, the bill was rejected: and so ends the public and ostensible history of the second attempt to establish a national bank at this brief session under the guise, and disguise, of a misnomer: and a long one at that.

The negative votes, when rejected on the final vote for want of two-thirds of the House, were:

"Messrs. Archibald H. Arrington, Charles G. Atherton, Linn Banks, Benjamin A. Bidlack, Linn Boyd, David P. Brewster, Aaron V. Brown, Charles Brown, William O. Butler, Patrick C. Caldwell, John Campbell, Reuben Chapman, James G. Clinton, Walter Coles, Richard D. Davis, John B. Dawson, Ezra Dean, Andrew W. Doig, Ira A. Eastman, John C. Edwards, Joseph Egbert, Charles G. Ferris, John G. Floyd, Charles A. Floyd, Joseph Fornance, James Gerry, Thomas W. Gilmer, William O. Goode, Amos Gustine, William A. Harris, John Hastings, Samuel L. Hays, Isaac E. Holmes, George W. Hopkins, Jacob Houck, jr., George S. Houston, Edmund W. Hubard, Robert M. T. Hunter, Charles J. Ingersoll, William W. Irwin, William Jack, Cave Johnson, John W. Jones, George M. Keim, Andrew Kennedy, Dixon H. Lewis, Abraham McClellan, Robert McClellan, James J. McKay, John McKeon, Francis Mallory, Albert G. Marchand, John Thompson Mason, James Mathews, William Medill, John Miller, Peter Newhard, William Parmenter, Samuel Patridge, Wm. W. Payne, Arnold Plumer, George H. Proffit, John Reynolds, R. Barnwell Rhett, Lewis Riggs, James Rogers, Tristram Shaw, Benjamin G. Shields, John Snyder, Lewis Steenrod, George Sweney, Hopkins L. Turney, John Van Buren, Aaron Ward, Harvey M. Watterson, John B. Weller, John Westbrook, James W. Williams, Henry A. Wise, Fernando Wood."

82. Secret History Of The Second Bill For A Fiscal Agent, Called Fiscal Corporation: Its Origin With Mr. Tyler: Its Progress Through Congress Under His Lead: Its Rejection Under His Veto

Soon after the meeting of Congress in this extra session—in the course of the first week of it—Mr. Gilmer, of Virginia, held a conversation with a whig member of the House, in which he suggested to him that "a couple of gentlemen of about their size," might become important men in this country—leading men—and get the control of the government. An explanation was requested—and given. It was to withdraw Mr. Tyler from the whig party, and make him the head of a third party, in which those who did it would become chiefs, and have control in the administration. This was the explanation; and the scheme was based, not upon any particular circumstances, but upon a knowledge of Mr. Tyler's character and antecedents: and upon a calculation that he would be dazzled with the idea of being the head of a party, and let the government fall into the hands of those who pleased him—his indolence, and want of business habits disqualifying him for the labors of administration. Democratic doctrines were to be the basis of the new party, especially opposition to a national bank: but recruits from all parties received. The whig member to whom this suggestion for the third party was made, declined to have any thing to do with it: nor was he further consulted. But his eyes were opened, and he had to see; and he saw other whigs do what he would not. And he had received a clue which led to the comprehension of things which he did not see, and had got an insight that would make him observant. But his lips were sealed under an injunction; and remained so, as far as the public was concerned. I never heard him quoted for a word on the subject; but either himself, or some one equally well informed, must have given Mr. Clay exact information; otherwise he could not have hit the nail on the head at every lick, as he did in his replies to Mr. Rives and Mr. Archer in the debate on the first veto message: as shown in the preceding chapter.

The movement went on: Mr. Tyler fell into it: the new party germinated, microscopically small; but potent in the President's veto power. A national bank was the touchstone; and that involved a courtship with the democracy—a breach with the whigs. The democracy rejoiced, and patted Mr. Tyler on the shoulder—even those who despised the new party: for they deemed it fair to avail themselves of a treachery of which they were not the authors; and felt it to be a retributive justice to deprive the whigs of the fruits of a victory which they had won by log-cabin, coonskin, and hard cider tactics; and especially to effect the deprivation in the person of one whom they had taken from the democratic camp, and set up against his old friends—the more annoying to them because he could tell of their supposed misdeeds when he was one of them. To break their heads with such a stick had retribution in it, as well as gratification: and Mr. Tyler was greatly extolled. To the whigs, it was a galling and mortifying desertion, and ruinous besides. A national bank was their life—the vital principle—without which they could not live as a party—the power which was to give them power: which was to beat down their adversaries—uphold themselves—and give them the political and the financial control of the Union. To lose it, was to lose the fruits of the election, with the prospect of losing the party itself. Indignation was their pervading feeling; but the stake was too great to be given up in a passion; and policy required the temporizing expedient of conciliation—the proud spirit of Mr. Clay finding it hard to bend to it; but yielding a little at first. The breach with the whigs was resolved on: how to effect it without

too much rudeness—without a violence which would show him an aggressor as well as a deserter—was the difficulty; and indirect methods were taken to effect it. Newspapers in his interest—the *Madisonian* at Washington and *Herald* at New York—vituperated the whig party, and even his cabinet ministers. Slights and neglects were put upon those ministers: the bank question was to complete the breach; but only after a long management which should have the appearance of keeping faith with the whigs, and throwing the blame of the breach upon them. This brings us to the point of commencing the history of the second fiscal bank bill, ending with a second veto, and an open rupture between the President and the whigs.

The beginning of the second bill was laid in the death of the first one; as the seed of a separation from his cabinet was planted in the same place. The first veto message, in rejecting one bill, gave promise to accept another, and even defined the kind of bill which the President could approve: this was encouraging to the whigs. But that first veto was resolved upon, and the message for it drawn, without consultation with his cabinet—without reference to them; and without their knowledge—except from hearsay and accident. They first got wind of it in street rumor, and in paragraphs in the *Madisonian*, and in letters to the *New York Herald*: and got the first knowledge of it from coming in upon the President while he was drawing it. This was a great slight to his cabinet, and very unaccountable to ministers who, only two short months before, had been solicited to remain in their places—had been saluted with expressions of confidence; and cheered with the declaration that their advice and counsel would be often wanted. They felt the slight of the neglected consultation, as well as the disappointment in the rejected bill; but the President consoled them for the disappointment (saying nothing about the slight) by showing himself ready, and even impatient for another bill. This readiness for another bill is thus related by Mr. Ewing, the Secretary of the Treasury, in his letter of resignation of his office addressed to the President; dated Sept. 11th, 1841:

"On the morning of the 16th of August I called at your chamber, and found you preparing the first veto message, to be despatched to the Senate. The Secretary of War came in also, and you read a portion of the message to us. He observed that though the veto would create a great sensation in Congress, yet he thought the minds of our friends better prepared for it than they were some days ago, and he hoped it would be calmly received, especially as it did not shut out all hope of a bank. To this you replied, that you really thought that there ought to be no difficulty about it; that you had sufficiently indicated the kind of a bank you would approve, and that Congress might, if they saw fit, pass such a bill in three days."

Mr. Bell, the Secretary of War, referred to in the foregoing statement of Mr. Ewing, thus gives his account of the same interview:

"I called on the President on official business on the morning of Monday the 16th of August, before the first veto message was sent in. I found him reading the message to the Secretary of the Treasury. He did me the honor to read the material passages to me. Upon reading that part of it which treats of the superior importance and value of the business done by the late Bank of the United States in furnishing exchanges between different States and sections of the Union, I was so strongly impressed with the idea that he meant to intimate that he would have no objection to a bank which should be restricted to dealing in exchanges, that I interrupted him in the reading, and asked if I was to understand (by what he had just read) that he was prepared to give his assent to a bank in the District of Columbia, with offices or agencies in the States, having the privilege, without their assent, to deal in exchanges between them, and in foreign bills. He promptly replied that he thought experience had shown the necessity of such a power in the government. And (after some further remarks favorable to such a bill)

expressed the opinion that nothing could be more easy than to pass a bill which would answer all necessary purposes—that it could be done in three days."

Such are the concurrent statements of two of the cabinet; and Mr. Alexander A. Stuart, a member of the House of Representatives from Virginia, thus gives his statement to the same effect in his account of the readiness of the President, amounting to anxiety, for the introduction and passage of a second bill.

"After the adjournment of the House (on the 16th of August), Mr. Pearce of Maryland (then a representative in Congress, now a senator) called at my boarding-house, and informed me that he was induced to believe that there was still some hope of compromising the difficulties between Congress and the President, by adopting a bank bill on the basis of a proposition which had been submitted by Mr. Bayard (Richard H.) in the Senate, modified so as to leave out the last clause which authorized the conversion of the agencies into offices of discount and deposit on certain contingencies. He produced to me a portion of the Senate journal, containing that proposition, with the obnoxious clause crossed out with ink; and requested me to visit the President and see if we could not adjust the difficulty. At first I declined, but at length yielded to his desire, and promised to do so. About 5 o'clock, I drove to the President's house, but found him engaged with a distinguished *democratic* senator. This I thought rather a bad omen; but I made known my wish for a private audience; which in a few minutes was granted. This was the first occasion on which I had ventured to approach the President on the subject. I made known to him at once the object of my visit, and expressed the hope that some measure might be adopted to heal the division between himself and the whig party in Congress. I informed him of the existence of the committee to which I referred, and mentioned the names of those who composed it, and relied on their age and known character for prudence and moderation, as the best guarantees of the conciliatory spirit of the whig party in Congress. He seemed to meet me in the proper temper, and expressed the belief that a fair ground of compromise might yet be agreed upon. I then made known what I had heard of his opinions in regard to Mr. Bayard's proposition. He asked me if I had it with me? I replied in the affirmative, and produced the paper, which had been given to me by Mr. Pearce with the clause struck out, as above stated. He read it over carefully, and said it would do, making no objection whatever to the clause in regard to the establishment of agencies in the several States without their assent. But he said the capital was too large, and referred to Mr. Appleton and Mr. Jaudon as authority to prove that ten or fifteen millions would be enough. I objected that it might hereafter be found insufficient; and as the charter had twenty years to run, it might be as well to provide against a contingency which would leave the government dependent on the bank for permission to enlarge the capital; and to obviate the difficulty I suggested the propriety of giving to Congress the power to increase it as the public exigencies should require. To this he assented; and by his direction I made the note on the margin of the paper; 'capital to be 15 millions of dollars—to be increased at the option of Congress when public interests require.' The President then said: 'Now if you will send me this bill I will sign it in twenty-four hours.' (After informing the President that there was a statute in Virginia against establishing agencies of foreign banks in the State, he said), 'This must be provided for:' and he then took the paper and wrote on the margin the following words, which were to come in after the word 'or,' and before the word 'bank' in the first line of the proposition of Mr. Bayard, (the blank line in this paper), 'In case such agencies are forbidden by the laws of the State.' I remonstrated against this addition as unnecessary, and not meeting the objection; but he said: 'Let it stand for the present; I will think about it.'—The President then instructed me to go to Mr. Webster, and have the bill prepared at once; and as I rose to leave him, after cautioning me not to expose him to the charge of dictating to Congress, he held my right hand in his left, and raising his right hand upwards, exclaimed

with much feeling: ‘Stuart! if you can be instrumental in passing this bill through Congress, I will esteem you the best friend I have on earth.’”

The original paper of Mr. Bayard, here referred to, with the President’s autographic emendations upon it, were in the possession of Mr. Benton, and burnt in the conflagration of his house, books and papers, in February, 1855.

These statements from Messrs. Ewing, Bell, and Stuart are enough (though others might be added) to show that Mr. Tyler, at the time that he sent in the first veto message, was in favor of a second bill—open and earnest in his professions for it—impatient for its advent—and ready to sign it within twenty-four hours. The only question is whether these professions were sincere, or only phrases to deceive the whigs—to calm the commotion which raged in their camp—and of which he was well informed—and to avert the storm which was ready to burst upon him; trusting all the while to the chapter of contingencies to swamp the bill in one of the two Houses, or to furnish pretexts for a second veto if it should come back to his hands. The progress of the narrative must solve the problem; and, therefore, let it proceed.

The 18th of August—the day on which Mr. Clay was to have spoken in the Senate on the first veto message, and which subject was then postponed on the motion of Mr. Berrien for reasons which he declined to state—Mr. Tyler had a meeting with his cabinet, in which the provisions of the new bill were discussed, and agreed upon—the two members picked out (one in each House—Mr. Sergeant and Mr. Berrien) to conduct it—the cabinet invited to stand by him (the President) and see that the bill passed. Mr. Ewing gives this account, of this days’ work, in his letter of resignation addressed to the President.

“I then said to you, ‘I have no doubt that the House having ascertained your views will pass a bill in conformity to them, provided they can be satisfied that it would answer the purposes of the Treasury, and relieve the country.’ You then said, ‘cannot my cabinet see that this is brought about? You must stand by me in this emergency. Cannot you see that a bill passes Congress such as I can approve without inconsistency?’ I declared again my belief that such a bill might be passed. And you then said to me, ‘what do you understand to be my opinions? State them: so that I may see that there is no misapprehension about them.’ I then said that I understood you to be of opinion that Congress might charter a bank in the District of Columbia, giving it its location here. To this you assented. That they might authorize such bank to establish offices of discount and deposit in the several States, with the assent of the States. To this you replied, ‘don’t name discounts: they have been the source of the most abominable corruptions, and are wholly unnecessary to enable the bank to discharge its duties to the country and the government.’ I observed in reply that I was proposing nothing, but simply endeavoring to state what I had understood to be your opinion as to the powers which Congress might constitutionally confer on a bank; that on that point I stood corrected. I then proceeded to say that I understood you to be of opinion that Congress might authorize such bank to establish agencies in the several States, with power to deal in bills of exchange, without the assent of the States, to which you replied, ‘yes, if they be foreign bills, or bills drawn in one State and payable in another. That is all the power necessary for transmitting the public funds and regulating exchanges and the currency.’ Mr. Webster then expressed, in strong terms, his opinion that such a charter would answer all just purposes of government and be satisfactory to the people; and declared his preference for it over any which had been proposed, especially as it dispensed with the assent of the States to the creation of an institution necessary for carrying on the fiscal operations of government. He examined it at some length, both as to its constitutionality and its influence on the currency and exchanges, in all which views you expressed your concurrence, desired that such a bill should be introduced, and especially that it should go into the hands of some of your *friends*. To my

inquiry whether Mr. Sergeant would be agreeable to you, you replied that he would. You especially requested Mr. Webster and myself to communicate with Messrs. Berrien and Sergeant on the subject, to whom you said you had promised to address a note, but you doubted not that this personal communication would be equally satisfactory. You desired us, also, in communicating with those gentlemen, not to commit you personally, lest, this being recognized as your measure, it might be made a subject of comparison to your prejudice in the course of discussion. You and Mr. Webster then conversed about the particular wording of the 16th fundamental article, containing the grant of power to deal in exchanges, and of the connection in which that grant should be introduced; you also spoke of the name of the institution, desiring that *that* should be changed. To this I objected, as it would probably be made a subject of ridicule, but you insisted that there was much in a name, and this institution ought not to be called a bank. Mr. Webster undertook to adapt it in this particular to your wishes. Mr. Bell then observed to Mr. Webster and myself that we had no time to lose; that if this were not immediately attended to, another bill, less acceptable, might be got up and reported. We replied that we would lose no time. Mr. Webster accordingly called on Messrs. Berrien and Sergeant immediately, and I waited on them by his appointment at 5 o'clock on the same day, and agreed upon the principles of the bill in accordance with your expressed wishes. And I am apprised of the fact, though it did not occur in my presence, that after the bill was drawn up, and before it was reported, it was seen and examined by yourself; that your attention was specially called to the 16th fundamental article: that on full examination you concurred in its provisions: that at the same time its name was so modified as to meet your approbation: and the bill was reported and passed, in all essential particulars, as it was when it came through your hands."

The sixteenth fundamental article, here declared to have been especially examined and approved by the President, was the part of the bill on which he afterwards rested his objections to its approval, and the one that had been previously adjusted to suit him in the interview with Mr. Stuart: Mr. Sergeant, and Mr. Berrien (mentioned as the President's choice to conduct the bill through the two Houses), were the two members that actually did it; and they did it with a celerity which subjected themselves to great censure; but which corresponded with the President's expressed desire to have it back in three days. Every part of the bill was made to suit him. The title, about which he was so solicitous to preserve his consistency, and about which his cabinet was so fearful of incurring ridicule, was also adjusted to his desire. Mr. Bell says of this ticklish point: "A name, he (the President) said, was important. What should it be? Fiscal Institute would do." It was objected to by a member of the cabinet, and Fiscal Bank preferred. He replied, "there was a great deal in a name, and he did not want the word bank to appear in the bill." Finally, Fiscal Corporation was agreed upon. Other members of the cabinet, in their letters of resignation, who were present on the 18th, when the bill was agreed upon, corroborated the statement of Mr. Ewing, in all particulars. Mr. Badger said, "It was then distinctly stated and understood that such an institution (the plan before the cabinet) met the approbation of the President, and was deemed by him free from constitutional objections; that he desired (if Congress should deem it necessary to act upon the subject during the session) that such an institution should be adopted by that body, and that the members of his cabinet should aid in bringing about that result: and Messrs. Webster and Ewing were specially requested by the President to have a communication on the subject with certain members of Congress. In consequence of what passed at this meeting I saw such friends in Congress as I deemed it proper to approach, and urged upon them the passage of a bill to establish such an institution (the one agreed upon), assuring them that I did not doubt it would receive the approbation of the President. Mr. Bell is full and particular in his statement, and especially on the point of constitutionality in the 16th fundamental article—the reference to Mr. Webster on that point—his affirmative

opinion, and the concurrence of the President in it. A part of the statement is here given—enough for the purpose."

"The President then gave the outline of such a bank, or fiscal institution, as he thought he could sanction. It was to be in the District of Columbia, to have the privilege of issuing its own notes, receive moneys on deposit, and to deal in bills of exchange between the States, and between the United States and foreign states. But he wished to have the opinion of his cabinet upon it. His own consistency and reputation must be looked to. He considered his cabinet his friends, who must stand by and defend whatever he did upon the subject. He appealed particularly to Mr. Webster, for his opinion on the point of consistency; and whether there was not a clear distinction between the old bank of the United States—a bank of discount and deposit—and the one he now thought of proposing; and whether the constitutional question was not different. He reminded us that in all his former speeches and reports, he had taken the ground that Congress had no constitutional power to charter a bank which had the power of local discount. Mr. Webster pointed out the distinction between the two plans, which appeared to be satisfactory to him."

On the point of having himself understood, and all chance for misunderstanding obviated, the President was very particular, and requested Mr. Ewing to repeat what he (the President) had said. Mr. Ewing did so; and having at one point deviated from the President's understanding, he was stopped—corrected—set right; and then allowed to go on to the end. Mr. Bell's own words must tell the rest.

"The President said he was then understood. He requested Mr. Webster particularly to communicate with the gentlemen (Messrs. Sergeant and Berrien), who had waited upon him that morning, and to let them know the conclusions to which he had come. He also requested Mr. Ewing to aid in getting the subject properly before Congress. He requested that they would take care not to commit him by what they said to members of Congress, to any intention to dictate to Congress. They might express their confidence and belief that such a bill as had just been agreed upon would receive his sanction; but it should be as matter of inference from his veto message and his general views. He thought he might request that the measure should be put into the hands of some friend of his own upon whom he could rely. Mr. Sergeant was named, and he expressed himself satisfied that he should have charge of it. He also expressed a wish to see the bill before it was presented to the House, if it could be so managed."

Thus instructed and equipped, the members of the cabinet went forth as requested, and had such success in preparing a majority of the members of each House for the reception of this Fiscal Corporation bill, and for its acceptance also that it was taken up to the exclusion of all business, hurried along, and passed incontinently—as shown in the public history of the bill in the preceding chapter; and with such disregard of decent appearances, as drew upon the President's two conductors of the bill (Messrs. Sergeant and Berrien) much censure at the time—to be vetoed, like the first; and upon objections to that 16th fundamental rule, which had been the subject of such careful consideration—of autographic correction—clear understanding—and solemn ratification. And here the opportunity occurs, and the occasion requires, the correction of a misapprehension into which senators fell (and to the prejudice of Mr. Berrien), the day he disappointed the public and the Senate in putting off the debate on the first veto message, and taking up the bankrupt bill. He declined to give a reason for that motion, and suspicion assigned it to an imperious requisition on the part of the senators who had taken the bankrupt act to their bosoms, and who held the fate of Mr. Clay's leading measures in their hands. It was afterwards known that this was a mistake, and that this postponement, as well as the similar one the day before, were both yielded to conciliate Mr.

Tyler—to save him from irritation (for he had a nervous terror of Mr. Clay's impending speech) while the new bill was in process of concoction. This process was commenced on the 16th of August, continued on the 17th, and concluded on the 18th. Mr. Clay consented to the postponement of his anti-veto speech both on the 17th and on the 18th, not to disturb this concoction; and spoke on the 19th—being the day after the prepared bill had been completed, and confided to its sponsors in the House and the Senate. All this is derived from Mr. Alexander A. Stuart's subsequent publication, to comprehend which fully, his account of his connection with the subject must be taken up from the moment of his leaving the President's house, that night of the 16th; and premising, that the whig joint committee of which he speaks, was a standing little body of eminent whigs, whose business it was to fix up measures for the action of the whole party in Congress. With this preliminary view, the important statement of Mr. Stuart will be given.

"Upon leaving the President, I took a hack, and drove immediately to Mr. Webster's lodgings, which were at the opposite end of the city; but, unfortunately he was not at home. I then returned to my boarding-house, where I told what had transpired to my messmates, Mr. Summers, and others. After tea I went to the meeting of the joint committee, of which I have already spoken. I there communicated to Mr. Sergeant, before the committee was called to order, what had occurred between the President and myself. When the committee was first organized there was a good deal of excitement, and difference of opinion; and an animated debate ensued on various propositions which were submitted. Finally I was invited by Mr. Sergeant to state to the committee what had passed between the President and myself; which I did, accompanied by such remarks as I thought would have a tendency to allay excitement, and lead to wise and dispassionate conclusions. After much deliberation, the committee concluded to recommend to the whig party, in both Houses of Congress, to accede to the President's views. A difficulty was then suggested, that the veto message had been made the order of the day at noon, and Mr. Clay had the floor; and it was supposed that the debate might possibly assume such a character as to defeat our purposes of conciliation. Mr. Mangum at once pledged himself that Mr. Clay should offer no obstacle to the adjustment of our difficulties; and engaged to obtain his assent to the postponement of the orders of the day, until we should have an opportunity of reporting to a general meeting of the whig party, and ascertaining whether they would be willing to accept a bank on the basis agreed on by Mr. Tyler and myself—with this understanding the committee adjourned. On the next day (17th of August) Mr. Mangum, with Mr. Clay's assent, moved the postponement of the discussion of the veto, and it was agreed to (see Senate Journal, p. 170): and on the 18th of August the subject was again, with Mr. Clay's concurrence, postponed, on the motion of Mr. Berrien. (Senate Journal, p. 173.) During this time the whigs held their general meeting, and agreed to adopt a bill on the President's plan; and Mr. Sergeant and Mr. Berrien were requested to see that it was properly drawn; and, if necessary, to seek an interview with the President to be certain that there was no misunderstanding as to his opinions. From this statement, confirmed by the journals of the Senate, it will be seen with how much truth Mr. Tyler has charged Mr. Clay with an intolerant and dictatorial spirit, and a settled purpose to embarrass his administration. So far from such being the fact, I state upon my own personal knowledge, that Mr. Clay made every sacrifice consistent with honor and patriotism, to avoid a rupture with Mr. Tyler. The result of the labors of Messrs. Sergeant and Berrien, was the second bank bill, which these distinguished jurists supposed to be in conformity with the President's views."

From this array of testimony it would seem certain that the President was sincerely in favor of passing this second bill: but this account has a *per contra* side to it; and it is necessary to give the signs and facts on the other side which show him against it from the beginning. These items are:—1. The letters in the *New York Herald*; which, from the accuracy with which they

told beforehand what the President was to do, had acquired a credit not to be despised; and which foreshadowed the veto, lauding the President and vituperating his cabinet. 2. A sinister rumor to that effect circulating in the city, and countenanced by the new friends who were intimate with the President. 3. The concourse of these at his house. 4. The bitter opposition to it from the same persons in the House and the Senate; a circumstance on which Mr. Clay often remarked in debate, with a significant implication. 5. What happened to Mr. Bell; and which was this: on the 17th day of August Mr. Tyler requested him to make up a statement from the operations of the war department (its receipts and disbursements) to show the advantage of such a bank as they had agreed upon, and to be used as an argument for it. Mr. Bell complied with alacrity, and carried the statement to the President himself the same evening—expecting to be thanked for his zeal and activity. Quite the contrary. "He received the statements which I gave him (writes Mr. Bell) with manifest indifference, and alarmed me by remarking that he began to doubt whether he would give his assent (as I understood him) to any bill." 6. What happened to Mr. Webster and Mr. Ewing, and which is thus related by the latter in his letter of resignation to the President: "You asked Mr. Webster and myself each to prepare and present you an argument touching the constitutionality of the bill (as agreed upon); and before those arguments could be prepared and read by you, you declared, as I heard and believe, to gentlemen, members of the House, that you would cut off your right hand rather than approve it." 7. What passed between Mr. Wise and Mr. Thompson of Indiana in the debate on the veto of this bill, and which thus appears on the Congress Register: "Mr. Wise rose and said, that he had *always* felt perfectly assured that the President would not sign a bank: that if he had been waked up at any hour of the night he would have declared his opposition to a bank." To which Mr. Thompson: "Then why not tell us so at once? Why all this subterfuge and prevarication—this disingenuous and almost criminal concealment? What labor, care, and anxiety he would have saved us." 8. Rumors that Mr. Tyler was endeavoring to defeat the bill while on its passage. 9. Proof *point blanc* to that effect. As this is a most responsible allegation, it requires a clear statement and exact proof; and they shall both be given. On the 25th of August, after the bill had passed the House and was still before the Senate, Mr. Webster wrote a letter to Messrs. Choate and Bates (the two senators from Massachusetts) in which, speaking in the interest of the President, and of his personal knowledge, he informed them that the President had seen the rapid progress of the bill in the House with regret, and wished it might have been postponed;—and advised the whigs to press it no further; and justified this change in the President on Mr. Botts' letter, which had just appeared. This is the allegation, and here is the proof in the letter itself—afterwards furnished for publication by Mr. Webster to the editors of the *Madisonian*:

"Gentlemen:—As you spoke last evening of the general policy of the whigs, under the present posture of affairs, relative to the bank bill, I am willing to place you in full possession of my opinion on that subject.

"It is not necessary to go further back, into the history of the past, than the introduction of the present measure into the House of Representatives.

"That introduction took place, within two or three days, after the President's disapproval of the former bill; and I have not the slightest doubt that it was honestly and fairly intended as a measure likely to meet the President's approbation. I do not believe that one in fifty of the whigs had any sinister design whatever, if there was an individual who had such design.

"But I know that the President had been greatly troubled, in regard to the former bill, being desirous, on one hand, to meet the wishes of his friends, if he could, and on the other, to do justice to his own opinions.

"Having returned this first bill with objections, a new one was presented in the House, and appeared to be making rapid progress.

"*I know the President regretted this, and wished the whole subject might have been postponed.* At the same time, I believed he was disposed to consider calmly and conscientiously whatever other measure might be presented to him. But in the mean time Mr. Botts' very extraordinary letter made its appearance. Mr. Botts is a whig of eminence and influence in our ranks. I need not recall to your mind the contents of the letter. It is enough to say, that it purported that the whigs designed to circumvent their own President, to 'head him' as the expression was and to place him in a condition of embarrassment. From that moment, I felt that it was the duty of the whigs to forbear from pressing the bank bill further, at the present time. I thought it was but just in them to give decisive proof that they entertained no such purpose, as seemed to be imputed to them. And since there was reason to believe, that the President would be glad of time, for information and reflection, before being called on to form an opinion on another plan for a bank—a plan somewhat new to the country—I thought his known wishes ought to be complied with. I think so still. I think this is a course, just to the President, and wise on behalf of the whig party. *A decisive rebuke ought, in my judgment, to be given to the intimation, from whatever quarter, of a disposition among the whigs to embarrass the President.* This is the main ground of my opinion; and such a rebuke, I think, would be found in the general resolution of the party to postpone further proceedings on the subject to the next session, now only a little more than three months off.

"The session has been fruitful of important acts.—The wants of the Treasury have been supplied; provisions have been made for fortifications, and for the navy; the repeal of the sub-treasury has passed; the bankrupt bill, that great measure of justice and benevolence, has been carried through; and the land bill seems about to receive the sanction of Congress.

"In all these measures, forming a mass of legislation, more important, I will venture to say, than all the proceedings of Congress for many years past, the President has cordially concurred.

"I agree, that the currency question is, nevertheless, the great question before the country; but considering what has already been accomplished, in regard to other things; considering the difference of opinion which exists upon this remaining one; and, considering, especially, that it is the duty of the whigs effectually to repel and put down any supposition, that they are endeavoring to put the President in a condition, in which he must act under restraint or embarrassment, I am fully and entirely persuaded, that the bank subject should be postponed to the next session. I am gentlemen, your friend and obedient servant. (Signed, Daniel Webster, and addressed to Messrs. Choate and Bates, senators from Massachusetts, and dated, August 25th, 1841.)"

This is the proof, and leaves it indisputable that the President undertook to defeat his own bill. No more can be said on that point. The only point open to remark, and subject to examination, is the reason given by Mr. Webster for this conduct in the President; and this reason is found in Mr. Botts' letter—which had just made its appearance. That letter might be annoyance—might be offensive—might excite resentment: but it could not change a constitutional opinion, or reverse a state policy, or justify a President in breaking his word to his cabinet and to the party that had elected him. It required a deeper reason to work such results; and the key to that reason is found in the tack taken in the first eight or nine days of the session to form a third party, breaking with the whigs, settling back on the democracy, and making the bank veto the point of rupture with one, the cement with the other, the rallying points of the recruits, and the corner-stone of the infant Tyler party. That was the reason: and all the temporizing and double-dealing—pushing the bill forward with one hand,

and pulling back with the other—were nothing but expedients to avert or appease the storm that was brewing, and to get through the tempest of his own raising with as little damage to himself as possible. The only quotable part of this letter was the phrase, "*Head Captain Tyler, or die:*" a phrase quoted by the public to be laughed at—by Mr. Webster, to justify Mr. Tyler's attempt to defeat his own bill, so solemnly prepared and sent to the whigs, with a promise to sign it in twenty-four hours if they would pass it. The phrase was fair though it presented a ridiculous image. This "heading," applied to a person signifies to check, or restrain; applied to animals (which is its common use in the South and the West) is, to turn one round which is running the wrong way, and make it go back to the right place. Taken in either sense, the phrase is justifiable, and could only mean checking Mr. Tyler in his progress to the new party, and turning him back to the party that elected him Vice-president. As for the "dying," that could imply no killing of persons, nor any death of any kind to "Captain Tyler," but only the political death of the whigs if their President left them. All this Mr. Webster knew very well, for he was a good philologist, and knew the meaning of words. He was also a good lawyer, and knew that an odious meaning must be given to an innocent word when it is intended to make it offensive. The phrase was, therefore, made to signify a design to circumvent the President with a view to embarrass him—Mr. Clay being the person intended at the back of Mr. Botts in this supposed circumvention and embarrassment. But circumvent was not the word of the letter, nor its synonyme; and is a word always used in an evil sense—implying imposition, stratagem, cheat, deceit, fraud. The word "heading" has no such meaning: and thus the imputed offence, gratuitously assumed, makes its exit for want of verity. Embarrassment is the next part of the offence, and its crowning part, and fails like the other. Mr. Clay had no such design. That is proved by Mr. Stuart, and by his own conduct—twice putting off his speech—holding in his proud spirit until chafed by Mr. Rives—then mollifying indignant language with some expressions of former regard to Mr. Tyler. He had no design or object in embarrassing him. No whig had. And they all had a life and death interest (political) in conciliating him, and getting him to sign: and did their best to do so. The only design was to get him to sign his own bill—the fiscal corporation bill—which he had fixed up himself, title and all—sent out his cabinet to press upon Congress—and desired to have it back in three days, that he might sign it in twenty-four hours. The only solution is, that he did not expect it to come back—that he counted on getting some whigs turned against it, as tried without avail on Messrs. Choate and Bates; and that he could appease the whig storm by sending in the bill, and escape the performance of his promise by getting it defeated. This is the only solution; and the fact is that he would have signed no bank bill, under any name, after the eighth or ninth day of the session—from the day that he gave into the scheme for the third party, himself its head, and settling back upon his *ci-devant* democratic character. From that day a national bank of any kind was the Jonas of his political ship—to be thrown overboard to save the vessel and crew.

And this is the secret history of the birth, life and death of the second fiscal bank, called fiscal corporation—doomed from the first to be vetoed—brought forward to appease a whig storm—sometimes to be postponed—commended to the nursing care of some—consigned to the strangling arts of others: but doomed to be vetoed when it came to the point as being the corner-stone in the edifice of the new party, and the democratic baptismal regeneration of Mr. Tyler himself.

83. The Veto Message Hissed In The Senate Galleries

The Senate chamber, and its galleries, were crowded to their utmost capacity to hear the reading of the veto message, and to witness the proceedings to which it would give rise. The moment the reading was finished hisses broke forth, followed by applauses. Both were breaches of order, and contempts of the Senate; but the hisses most so, as being contemptuous in themselves, independent of the rule which forbids them, and as being also the causes of the applauses, which are only contemptuous by virtue of the rule which forbids manifestations of satisfaction as well as of dissatisfaction at any thing done in the Senate: and because a right to applaud would involve a right to judge; and, by implication, to condemn as well as to approve. The President of the Senate heard a disturbance, and gave the raps on the table to restore order: but Mr. Benton, who was on the look-out for the outrage, was determined that it should not go off with raps upon the table: he thought there ought to be raps on the offenders, and immediately stood up and addressed the Chair.

“Mr. President, there were hisses here, at the reading of the presidential message. I heard them, sir, and I feel indignant that the American President shall be insulted. I have been insulted by the hisses of ruffians in this gallery, when opposing the old Bank of the United States. While I am here, the President shall never be insulted by hisses in this hall. I ask for no such thing as clearing the galleries, but let those who have made the disturbance be pointed out to the sergeant-at-arms, and be turned out from the galleries. Those who have dared to insult our form of government—for in insulting this message they have insulted the President and our form of government—those ruffians who would not have dared to insult the King, surrounded by his guard, have dared to insult the American President in the American Senate; and I move that the sergeant-at-arms be directed to take them into custody.”

This motion of Mr. Benton was opposed by several senators, some because they did not hear the disturbance, some because it was balanced, being as much clapping as hissing; some because they were in doubt about the power to punish for a contempt; and some from an amiable indisposition to disturb the people who had disturbed the Senate, and who had only yielded to an ebullition of feeling. This sort of temporizing with an outrage to the Senate only stimulated Mr. Benton to persevere in his motion; which he did until the object was accomplished. The Register of Debates shows the following remarks and replies; which are given here to show the value of perseverance in such a case, and to do justice to the Senate which protected itself:

“Mr. Rives regretted that any disturbance had taken place. He doubted not but the senator thought he heard it, but must say, in all sincerity, he did not hear the hiss. At all events, it was so slight and of short duration, that the majority of the Senate scarcely heard it. He hoped that no proceedings of this kind would take place, and that this manifestation of disturbance, when so deep an interest was felt, and which was so immediately quieted, would be passed over. The general opinion of the senators around him was, that the honorable senator was mistaken.

“Mr. Benton. I am not mistaken—I am not.

“Mr. Rives. He hoped they would pass it by, as one of those little ebullitions of excitement which were unavoidable, and which was not offered to insult this body, or the President of the United States.

"Mr. Benton heard the hisses, and heard them distinctly; if a doubt was raised on it, he would bring the matter to a question of fact, 'true or not true.' No man should doubt whether he heard them or not. He came here this day prepared to see the American President insulted by bank bullies; and he told his friends that it had been done, and that they never could proceed in action on a bank, when the American Senate would not be insulted, either by hissing on one side, or clapping on the other. He told them, if it was done, as sure as the American President should be insulted this day, by bank ruffians, just so sure he should rise in his place and move to have those disturbers of the honor and dignity of the Senate brought to the bar of the Senate. He would not move to clear the galleries, for a thousand orderly people were there, who were not to be turned out for the disturbance of a few ruffians. He would tell the senator from Virginia that he (the senator) should hang no doubt on his declaration; and if it were doubted, he would appeal to senators near him. [Mr. Walker. I will answer, most directly, that I heard it, and I believe the same bully is going on now.] A national bank (continued Mr. B.) is not, as yet, our master, and shall not be; and he would undertake to vindicate the honor of the Senate, from the outrages perpetrated on it by the myrmidons of a national bank. Were the slaves of a national bank to have the privilege of insulting the Senate, just as often as a vote passed contrary to their wishes? It was an audacity that must be checked—and checked before they went with arms in their hands to fire on those who gave votes contrary to their wishes, or assassinate them on their way home. He put the whole at defiance—the entire bank, and its myrmidons.

"Mr. Preston said if any thing had occurred in the gallery out of order, it should be strictly inquired into and punished. He himself did not hear the manifestations of disapprobation, alluded to by the senators on the other side; but it was sufficient for him that the senators heard it, or supposed that they heard it. [Mr. Benton. We did not *suppose* we heard it; we knew it.] In this case (continued Mr. P.), a formal investigation should take place. It was a contempt of the Senate, and, as a member of the Senate, he desired to see an investigation—to see the charge fixed on some person, and if properly sustained, to see punishment awarded. Manifestations of praise or censure were eminently wrong, and eminently dangerous; and it was due to every member of the Senate that they should preserve the dignity of the body by checking it. He hoped, therefore, if a formal motion was made, it would be discovered who had caused the disturbance, and that they would be properly punished.

"Mr. Buchanan said this was a very solemn and momentous occasion, which would form a crisis, perhaps, in the politics of the country; and he should hope, as he believed that every American citizen present in the galleries would feel the importance of this crisis, and feel deeply sensible of the high character to which every man, blessed with birth in this free country, should aim. He heard, distinctly heard, the hiss referred to by the senator from Missouri [Mr. Benton], but he was bound to say it was not loud and prolonged, but was arrested in a moment, he believed partly from the senator rising, and partly from the good sense and good feeling of the people in the galleries. Under these circumstances, as it only commenced and did not proceed, if he had the power of persuasion, he would ask the senator from Missouri to withdraw his motion.

"[Mr. Benton. I never will, so help me God.]

"He thought it better, far better, that they proceed to the important business before them, under the consideration that they should not be disturbed hereafter; and if they were, he would go as far as the senator from Missouri in immediately arresting it. He would much rather go on with the business in hand.

"Mr. Linn reminded the Senate that when the bank bill had passed the Senate there was a loud manifestation of approbation in the gallery, of which no notice was taken. He believed

on the present occasion there was approbation as well as hisses; but both were instantly suppressed. He had distinctly heard both. No doubt it was the promptness with which his colleague had got up to check the disturbance, which had prevented it from going further. He had no doubt some law ought to be passed making it punishable to commit any outrage of this kind on either House of Congress.

“Mr. Merrick thought with the senator from Pennsylvania, that this was a very solemn occasion. There had been tokens of assent and dissent. The President of the Senate at the moment rapped very hard till order was restored. The disorder was but momentary. He trusted some allowance would be made for the excitement so natural on the occasion.

“Mr. King suggested the difficulty that might arise out of pursuing the matter further. He had witnessed something of the kind once before, and when the offender was brought to the bar, great embarrassment was created by not knowing how to get rid of him. He thought it would be better to pass over the matter and proceed to the consideration of the message, or to the appointment of a time for its consideration.

“The Chair explained that having heard some noise, without considering whether it was approbation or disapprobation, he had called the Senate to order; but could not say that he had or had not heard hisses.

“Mr. Rives explained that he did not mean to say the senator from Missouri did not hear the hisses, but that he himself did not hear them, and he believed many gentlemen around him did not hear any. But as the senator from Missouri had avowedly come prepared to hear them, no doubt he did, more sensitively than others. He would ask the senator to be satisfied with the crush which the mother of monsters had got, and not to bear too hard on the solitary bank ruffian, to use his own expression, who had disapproved of the monster’s fate. He hoped the senator would withdraw the motion.

“Mr. Linn observed that the senator from Virginia, by his own remarks, doubting that there were any hisses, had forced the senator from Missouri to persist in having the proof. However, he now understood that point was settled; and the object being accomplished, he hoped his colleague would withdraw the motion.

“Mr. Preston again expressed his concurrence in the propriety of the motion, and hoped effectual steps would be taken to prevent the recurrence of such a scene.

“Mr. Allen made some appropriate remarks, and concluded by stating that he understood the offender was in custody, and expressed his sorrow for having done what he was not at the time aware was an offence; as, therefore, all the ends had been accomplished which his friend had in view when he refused to withdraw his motion, he hoped he would now withdraw it.

“Mr. Walker said, when the senator from Missouri [Mr. Benton] pledged himself not to withdraw his motion to arrest the individual who had insulted the Senate and the country by hissing the message of the President of the United States, that pledge arose from the doubt expressed by the senator from Virginia [Mr. Rives] whether the hissing had taken place. That doubt was now solved. When the senator from Missouri appealed to his friends as to the truth of the fact stated by him, he [Mr. Walker] had risen, and pointed to that portion of the gallery from which the hissing proceeded. Our assistant Sergeant-at-Arms had proceeded to that quarter of the gallery designated by him [Mr. W.], and this officer had now in his possession one of the offenders, who acknowledged his indecent conduct, and who was prepared to point out many of those who had joined him. The object of the senator was, therefore, now accomplished; the fact of the indecorum was established, and the offender, as moved by the senator from Missouri, was now in custody. This, Mr. W. hoped, would be sufficient punishment, especially as Mr. W. understood the offender expressed his penitence for the act,

as one of sudden impulse. As, then, the formal trial of this individual would occupy much time, Mr. W. hoped the matter would be dropped here, and let us proceed, as required by the Constitution, to consider the message of the President returning the bank bill, with his objections. This message, Mr. W. said, he regarded as the most important which ever emanated from an American President, and under circumstances the most solemn and imposing. The President, in perfect and glorious consistency with a long life of usefulness and honor, has placed his veto upon the charter of a National Bank, and, Mr. W. said, his heart was too full of gratitude to the Giver of all good for this salvation of the country, and rescue of the Constitution, to engage in the business of inflicting punishment upon an individual, said to be respectable, and who had in part atoned for his offence by the expression of his repentance. Let him go, then, and sin no more, and let us proceed to the consideration of that Veto Message, which he, Mr. W. had confidently predicted at the very commencement of this session, and recorded that opinion at its date in the journals of the day. Many then doubted the correctness of this prediction, but, he, Mr. W. whilst he stated at the time that he was not authorized to speak for the President of the United States, based his conviction upon his knowledge of Mr. Tyler as a man and a senator, and upon his long and consistent opposition to the creation of any such bank, as was now proposed to be established.

"Mr. Benton said he had been informed by one of the officers of the Senate [Mr. Beale] that one of the persons who made the disorder in the gallery had been seized by him, and was now in custody and in the room of the Sergeant-at-Arms. This the officers had very properly done of their own motion, and without waiting for the Senate's order. They had done their duty, and his motion had thus been executed. His motion was to seize the disorderly, and bring them to the bar of the Senate. One had been seized; he was in custody in an adjoining room; and if he was still acting contemptuously to the Senate, he should move to bring him to the bar; but that was not the case. He was penitent and contrite. He expressed his sorrow for what he had done, and said he had acted without ill design, and from no feelings of contempt to the President or Senate. Under these circumstances, all was accomplished that his motion intended. The man is in custody and repentant. This is sufficient. Let him be discharged, and there is an end of the affair. His motion now was that the President direct him to be discharged. Mr. B. said he had acted from reflection, and not from impulse, in this whole affair. He expected the President to be insulted: it was incident to the legislation on national bank charters. When they were on the carpet, the Senate, the President, and the American people must all be insulted if the bank myrmidons are disappointed. He told his family before he left home, that the Senate and the President would be insulted by hisses in the gallery this day, and that he would not let it pass—that it would be an insult, not merely to the President and Senate, but to the whole American people, and to their form of government—and that it should not pass. He came here determined to nip this business in the bud—and to prevent an insult to the President in this chamber from being made a precedent for it elsewhere. We all know the insolence of the national bank party—we know the insolence of their myrmidons—we know that President Tyler, who has signed this veto message, is subject to their insults—beginning here, and following him wherever he goes. He [Mr. B.] was determined to protect him here, and, in doing so, to set the example which would be elsewhere followed. He repeated: an insult to the President for an official act, was not an insult to the man, but to the whole American people, and to their form of government. Would these bank myrmidons insult a king, surrounded by his guards? Not at all. Then they should not insult an American President with impunity whenever he was present. In the Senate or out of it, he would defend the President from personal outrage and indignity. As to the numerous and respectable auditory now present, his motion did not reach them. He had not moved to clear the galleries; for that would send out the respectable audience, who had conducted themselves with

propriety. The rule of order was "*to clear the galleries*;" but he had purposely avoided that motion, because the disorder came from a few, and the respectable part of the audience ought not to suffer for an offence in which they had no share. Mr. B. said the man being in custody, his motion was executed and superseded; its object was accomplished, and, he being contrite, he would move to discharge him.

"The President of the Senate ordered him to be discharged."

84. Resignation Of Mr. Tyler's Cabinet

This event, with the exception of Mr. Webster who was prevailed upon to remain, took place on the 11th day of September—being two days after the second veto message—the one on the fiscal corporation bill—had been sent to the House of Representatives. It was a thing to take place in consequence of the President's conduct in relation to that bill; but the immediate cause, or rather, the circumstance which gave impulse to the other causes, was the appearance of a letter from Washington city in the New York Herald in which the cabinet was much vituperated—accused of remaining in their places contrary to the will of the President, and in spite of the neglects and slights which he put upon them with a view to make them resign. Appearing in that paper, which had come to be considered as the familiar of the President, and the part in relation to the slights and neglects being felt to be true, it could not escape the serious attention of those to whom it referred. But there was something else in it which seemed to carry its origin directly to the President himself. There was an account of a cabinet meeting in it, in which things were told which were strictly confidential between the President and his ministers—which had actually occurred; and which no one but themselves or the President could have communicated. They conferred together: the conviction was unanimous that the President had licensed this communication: and this circumstance authorized them to consider the whole letter as his, of course by subaltern hand. To this letter Mr. Ewing alluded in his letter of resignation when he said to the President: "The very secrets of our cabinet councils made their appearance in an infamous paper, printed in a neighboring city, the columns of which were daily charged with flattery of yourself and foul abuse of your cabinet." There was no exception in the letter in favor of any one. All were equally included: all took their resolutions together (Mr. Granger excepted who was not present), and determined to resign at once, and in a body, and to publish their reasons—the circumstances under which they acted justifying, in their opinion, this abrupt and unceremonious separation from their chief. All carried this resolve into effect, except Mr. Webster, who was induced to re-consider his determination, and to remain. The reasons for this act should be given, so far as they are essential, in the words of the retiring ministers themselves: and, accordingly here they are; and first from Mr. Ewing:

"This bill, framed and fashioned according to your own suggestions, in the initiation of which I and another member of your cabinet were made by you the agents and negotiators, was passed by large majorities through the two Houses of Congress, and sent to you, and you rejected it. Important as was the part which I had taken, at your request, in the origination of this bill, and deeply as I was committed for your action upon it, you never consulted me on the subject of the veto message. You did not even refer to it in conversation, and the first notice I had of its contents was derived from rumor. And to me, at least, you have done nothing to wipe away the personal indignity arising out of the act. I gathered, it is true, from your conversation, shortly after the bill had passed the House, that you had a strong purpose to reject it; but nothing was said like softening or apology to me, either in reference to myself or to those with whom I had communicated at your request, and who had acted themselves and induced the two Houses to act upon the faith of that communication. And, strange as it may seem, the veto message attacks in an especial manner the very provisions which were inserted at your request; and even the name of the corporation, which was not only agreed to by you, but especially changed to meet your expressed wishes, is made the subject of your criticism. Different men might view this transaction in different points of light, but, under these circumstances, as a matter of personal honor, it would be hard for me to remain of your counsel, to seal my lips and leave unexplained and undisclosed where lies in this transaction

the departure from straightforwardness and candor. So far indeed from admitting the encouragement which you gave to this bill in its inception, and explaining and excusing your sudden and violent hostility towards it, you throw into your veto message an interrogatory equivalent to an assertion that it was such a bill as you had already declared could not receive your sanction. Such is the obvious effect of the first interrogatory clause on the second page. It has all the force of an assertion without its open fairness. I have met and refuted this, the necessary inference from your language, in my preceding statement, the correctness of which you I am sure will not call in question."

Of the cause assigned for the President's change in relation to the bill, namely Mr. Botts' letter, Mr. Ewing thus expresses himself:

"And no doubt was thrown out on the subject (veto of the fiscal corporation bill) by you, in my hearing, or within my knowledge, until the letter of Mr. Botts came to your hands. Soon after the reading of that letter, you threw out strong intimations that you would veto the bill if it were not postponed. That letter I did and do most unequivocally condemn, but it did not effect the constitutionality of the bill, or justify you in rejecting it on that ground; it could affect only the expediency of your action; and, whatever you may now believe as to the scruples existing in your mind, in this and in a kindred source there is strong ground to believe they have their origin."

Mr. Badger, Secretary of the Navy:

"At the cabinet meeting held on the 18th of August last (the attorney-general and the postmaster-general being absent), the subject of an exchange bank, or institution, was brought forward by the President himself, and was fully considered. Into the particulars of what passed I do not propose now to enter. It will be sufficient to say that it was then distinctly stated and understood that such an institution met the approbation of the President, and was deemed by him free of constitutional objections; that he desired (if Congress should deem it necessary to act upon the subject during the session) that such an institution should be adopted by that body, and that the members of his cabinet would aid in bringing about that result; and Messrs. Webster and Ewing were specially requested by the President to have a communication upon the subject with certain members of Congress. In consequence of what passed at this meeting, I saw such friends in Congress as I deemed it proper to approach, and urged upon them the passage of a bill to establish such an institution, assuring them that I did not doubt it would receive the approbation of the President. The bill was passed, as the public know, and was met by the veto. Now, if the President, after the meeting of the 18th August, had changed his mind as to the constitutional power of Congress, and had come to doubt or deny what he had admitted in that meeting (which is the most favorable interpretation that can be put upon his conduct), it was, in my opinion, a plain duty on his part to have made known to the gentlemen concerned this change of sentiment—to have offered them an apology for the unpleasant situation in which they were placed by his agency—or, at least, to have softened, by a full explanation of his motives, his intended veto of a measure in promoting the success of which they, at his request, had rendered their assistance. But this the President did not do. Never, from the moment of my leaving his house on the 18th, did he open his lips to me on the subject. It was only from the newspapers, from rumor, from hearsay, I learned that he had denied the constitutionality of the proposed institution, and had made the most solemn asseverations that he would never approve a measure which I knew was suggested by himself, and which had been, at his own instance, introduced into Congress. It is scarcely necessary to say that I have not supposed, and do not now suppose, that a difference merely between the President and his cabinet, either as to the constitutionality or the expediency of a bank, necessarily interposes any obstacles to a full

and cordial co-operation between them in the general conduct of his administration; and therefore deeply as I regretted the veto of the first bill, I did not feel myself at liberty to retire on that account from my situation. But the facts attending the initiation and disapproval of the last bill made a case totally different from that—one it is believed without a parallel in the history of our cabinets; presenting, to say nothing more, a measure embraced and then repudiated—efforts prompted and then disowned—services rendered and then treated with scorn or neglect. Such a case required, in my judgment, upon considerations, private and public, that the official relations subsisting between the President and myself should be immediately dissolved."

Mr. Bell, Secretary at War.

"I called to see the President on official business on the morning (Monday, 16th August) before the first veto message was sent in. I found him reading the message to the Secretary of the Treasury. He did me the honor to read the material passages to me. Upon reading that part of it which treats of the superior importance and value of the business done by the late bank of the United States in furnishing exchanges between the different States and sections of the Union, I was so strongly impressed with the idea that he meant to intimate that he would have no objection to a bank which should be restricted in dealing in exchanges, that I interrupted him in the reading, and asked if I was to understand, by what he had just read, that he was prepared to give his assent to a bank in the District of Columbia, with offices or agencies in the States, having the privilege, without their assent, to deal in exchanges between them, and in foreign bills. He promptly replied that he thought experience had shown the necessity of such a power in the government. I could not restrain the immediate expression of my gratification upon hearing this avowal. I said to the President at once, that what I had feared would lead to fatal dissension among our friends, I now regarded as rather fortunate than otherwise; that his veto of the bill then before him (the first one), would lead to the adoption of a much better one. I also congratulated him upon the happy circumstance of the delay which had taken place in sending in his veto message. The heat and violence which might have been expected if the veto had been sent in immediately upon the passage of the bill, would now be avoided. Time had been given for cool reflection, and as the message did not exclude the idea of a bank in some form, no unpleasant consequences would be likely to follow. He expressed his great surprise that there should be so much excitement upon the subject; said that he had had his mind made up on the bill before him from the first, but had delayed his message that there should be time for the excitement to wear off; that nothing could be more easy than to pass a bill which would answer all necessary purposes; that it could be done in three days. The next day, having occasion to see the President again, he requested me to furnish him with such information as the war department afforded of the embarrassments attending the transfer and disbursement of the public revenue to distant points on the frontier, in Florida, &c. He at the same time requested me to draw up a brief statement of my views upon the subject, showing the practical advantages and necessity of such a fiscal institution as he had thought of proposing. Such information as I could hastily collect from the heads of the principal disbursing bureaus of the department I handed to him on the evening of the same day, knowing that time was of the utmost importance in the state in which the question then was. He received the statements I gave him with manifest indifference, and alarmed me by remarking that he began to doubt whether he would give his assent (as I understood him) to any bank."

This was Mr. Bell's first knowledge of the second bill—all got from the President himself, and while he was under nervous apprehension of the storm which was to burst upon him. He goes on to detail the subsequent consultations with his cabinet, and especially with Mr.

Webster, as heretofore given; and concludes with expressing the impossibility of his remaining longer in the cabinet.

Mr. Crittenden, the attorney-general, resigned in a brief and general letter, only stating that circumstances chiefly connected with the fiscal agent bills, made it his duty to do so. His reserve was supposed to be induced by the close friendly relation in which he stood with respect to Mr. Clay. Palliation for Mr. Tyler's conduct was attempted to be found by some of his friends in the alleged hostility of Mr. Clay to him, and desire to brow-beat him, and embarrass him. No doubt Mr. Clay was indignant, and justly so, at the first veto, well knowing the cause of it as he showed in his replies to Mr. Rives and Mr. Archer: but that was after the veto. But even then the expression of his indignation was greatly restrained, and he yielded to his friends in twice putting off his speech on that first veto, that he might not disturb Mr. Tyler in his preparation of the second bill. The interest at stake was too great—no less than the loss of the main fruits of the presidential election—for him to break voluntarily with Mr. Tyler. He restrained himself, and only ceased his self-restraint, when temporizing would no longer answer any purpose; and only denounced Mr. Tyler when he knew that he had gone into the embraces of a third party—taken his stand against any national bank as a means of reconciling himself to the democracy—and substituted "*a secret cabal*" (which he stigmatized as "*a kitchen cabinet*") in place of his constitutional advisers.

Two days after the appearance of those letters of resignation, the whole of which came out in the National Intelligencer, Mr. Webster published his reasons for not joining in that act with his colleagues: and justice to him requires this paper to be given in his own words. It is dated September 13th, and addressed to Messrs. Gales and Seaton, the well reliable whig editors in Washington.

"Lest any misapprehension should exist, as to the reasons which have led me to differ from the course pursued by my late colleagues, I wish to say that I remain in my place, first, because I have seen no sufficient reasons for the dissolution of the late cabinet, by the voluntary act of its own members. I am perfectly persuaded of the absolute necessity of an institution, under the authority of Congress, to aid revenue and financial operations, and to give the country the blessings of a good currency and cheap exchanges. Notwithstanding what has passed, I have confidence that the President will co-operate with the legislature in overcoming all difficulties in the attainment of these objects; and it is to the union of the whig party—by which I mean the whole party, the whig President, the whig Congress, and the whig people—that I look for a realization of our wishes. I can look nowhere else. In the second place, if I had seen reasons to resign my office, I should not have done so, without giving the President reasonable notice, and affording him time to select the hands to which he should confide the delicate and important affairs now pending in this department."

Notwithstanding the tone of this letter, it is entirely certain that Mr. Webster had agreed to go out with his colleagues, and was expected to have done so at the time they sent in their resignations; but, in the mean while, means had been found to effect a change in his determination, probably by disavowing the application of any part of the New York Herald letter to him—certainly (as it appears from his letter) by promising a co-operation in the establishment of a national bank (for that is what was intended by the blessings of a sound currency and cheap exchanges): and also equally certain, from the same letter, that he was made to expect that he would be able to keep all whiggery together—whig President Tyler, whig members of Congress, and whig people, throughout the Union. The belief of these things shows that Mr. Webster was entirely ignorant of the formation of a third party, resting on a democratic basis; and that the President himself was in regular march to the democratic camp. But of all this hereafter.

The reconstruction of his cabinet became the immediate care of the President, and in the course of a month it was accomplished. Mr. Walter Forward, of Pennsylvania, was appointed Secretary of the Treasury; the department of War was offered to Mr. Justice McLean of the Supreme Court of the United States, and upon his refusal to accept the place, it was conferred upon John C. Spencer, Esq., of New York; Mr. Abel P. Upshur, of Virginia, was appointed Secretary of the Navy—Hugh S. Legare, Esq., of South Carolina, Attorney-General—Charles A. Wickliffe, Esq., of Kentucky, Postmaster-General. This cabinet was not of uniform political complexion. Mr. Webster had been permanently of that party which, under whatsoever name, had remained antagonistic to the democracy. Mr. Forward came into public life democratic, and afterwards acted with its antagonists: the same of Mr. Wickliffe and Mr. Spencer: Mr. Upshur a whig, classed with Mr. Calhoun's political friends—Mr. Legare the contrary, and democratic, and distinguished for opposition to nullification, secession, and disunion.

85. Repudiation Of Mr. Tyler By The Whig Party: Their Manifesto: Counter Manifesto By Mr. Caleb Cushing

The conduct of Mr. Tyler in relation to a national bank produced its natural effect upon the party which had elected him—disgust and revolt. In both Houses of Congress individual members boldly denounced and renounced him. He seemed to be crushed there, for his assailants were many and fierce—his defenders few, and feeble. But a more formal act of condemnation, and separation was wanted—and had. On the 11th day of September—the day of the cabinet resignations, and two days after the transmission of the second veto message—the whigs of the two Houses had a formal meeting to consider what they should do in the new, anomalous, and acephalous condition in which they found themselves. The deliberations were conducted with all form. Mr. Senator Dixon of Rhode Island and Mr. Jeremiah Morrow of Ohio—both of them men venerable for age and character—were appointed presidents; and Messrs. Kenneth Rayner of North Carolina, Mr. Christopher Morgan of New York, and Richard W. Thompson of Indiana—all members of the House—were appointed secretaries. Mr. Mangum of North Carolina, then offered two resolutions:

"1. That it is expedient for the whigs of the Senate and House of Representatives of the United States to publish an address to the people of the United States, containing a succinct exposition of the prominent proceedings of the extra session of Congress, of the measures that have been adopted, and those in which they have failed, and the causes of such failure; together with such other matters as may exhibit truly the condition of the whig party and whig prospects.

"2. That a committee of three on the part of the Senate, and five on the part of the House, be appointed to prepare such address, and submit it to a meeting of the whigs on Monday morning next, the 13th inst., at half past 8 o'clock."

Both resolutions were unanimously adopted, and Messrs. Berrien of Georgia, Tallmadge of New York, and Smith of Indiana were appointed on the part of the Senate; and Messrs. Everett of Vermont, Mason of Ohio, Kennedy of Maryland, John C. Clark of New York, and Rayner of North Carolina, on the part of the House.

At the appointed time the meeting reassembled, and the committee made their report. Much of it was taken up with views and recommendations in relation to the general policy of the party: it is only of what relates to the repudiation of Mr. Tyler that this history intends to speak: for government with us is a struggle of parties: and it is necessary to know how parties are put up, and put down, in order to understand how the government is managed. An opening paragraph of the address set forth that, for twelve years the whigs had carried on a contest for the regulation of the currency, the equalization of exchanges, the economical administration of the finances, and the advancement of industry—all to be accomplished by means of a national bank—declaring these objects to be misunderstood by no one—and the bank itself held to be secured in the presidential election, and its establishment the main object of the extra session. The address then goes on to tell how these cherished hopes were frustrated:

"It is with profound and poignant regret that we find ourselves called upon to invoke your attention to this point. Upon the great and leading measure touching this question, our anxious endeavors to respond to the earnest prayer of the nation have been frustrated by an

act as unlooked for as it is to be lamented. We grieve to say to you that by the exercise of that power in the constitution which has ever been regarded with suspicion, and often with odium, by the people—a power which we had hoped was never to be exhibited on this subject, by a whig President—we have been defeated in two attempts to create a fiscal agent, which the wants of the country had demonstrated to us, in the most absolute form of proof, to be eminently necessary and proper in the present emergency. Twice have we, with the utmost diligence and deliberation, matured a plan for the collection, safe-keeping and disbursing of the public moneys through the agency of a corporation adapted to that end, and twice has it been our fate to encounter the opposition of the President, through the application of the veto power. The character of that veto in each case, the circumstances in which it was administered, and the grounds upon which it has met the decided disapprobation of your friends in Congress, are sufficiently apparent in the public documents and the debates relating to it. This subject has acquired a painful interest with us, and will doubtless acquire it with you, from the unhappy developments with which it is accompanied. We are constrained to say, that we find no ground to justify us in the conviction that the veto of the President has been interposed on this question solely upon conscientious and well-considered opinions of constitutional scruple as to his duty in the case presented. On the contrary, too many proofs have been forced upon our observation to leave us free from the apprehension, that the President has permitted himself to be beguiled into an opinion that, by this exhibition of his prerogative, he might be able to divert the policy of his administration into a channel which should lead to new political combinations, and accomplish results which must overthrow the present divisions of party in the country; and finally produce a state of things which those who elected him, at least, have never contemplated. We have seen from an early period of the session, that the whig party did not enjoy the confidence of the President. With mortification we have observed that his associations more sedulously aimed at a free communion with those who have been busy to prostrate our purposes, rather than those whose principles seemed to be most identified with the power by which he was elected. We have reason to believe that he has permitted himself to be approached, counselled and influenced by those who have manifested least interest in the success of whig measures. What were represented to be his opinions and designs have been freely and even insolently put forth in certain portions, and those not the most reputable, of the public press, in a manner that ought to be deemed offensive to his honor, as it certainly was to the feelings of those who were believed to be his friends. In the earnest endeavor manifested by the members of the whig party in Congress to ascertain specifically the President's notions in reference to the details of such a bill relating to a fiscal agent as would be likely to meet his approbation, the frequent changes of his opinion, and the singular want of consistency in his views, have baffled his best friends, and rendered the hope of adjustment with him impossible."

"The plan of an exchange bank, such as was reported after the first veto, the President is understood by more than one member of Congress to whom he expressed his opinion, to have regarded as a favorite measure. It was in view of this opinion, suggested as it is in his first veto, and after using every proper effort to ascertain his precise views upon it, that the committee of the House of Representatives reported their second bill. It made provision for a bank without the privilege of local discounting, and was adapted as closely as possible to that class of mercantile operations which the first veto message describes with approbation, and which that paper specifically illustrates by reference to the 'dealings in the exchanges' of the Bank of the United States in 1833, which the President affirms 'amounted to upwards of one hundred millions of dollars.' Yet this plan, when it was submitted to him, was objected to on a new ground. The last veto has narrowed the question of a bank down to the basis of the sub-treasury scheme, and it is obvious from the opinions of that message that the country is not to expect any thing better than the exploded sub-treasury, or some measure of the same

character, from Mr. Tyler. In the midst of all these varieties of opinion, an impenetrable mystery seemed to hang over the whole question. There was no such frank interchange of sentiment as ought to characterize the intercourse of a President and his friends, and the last persons in the government who would seem to have been intrusted with his confidence on those embarrassing topics were the constitutional advisers which the laws had provided for him. In this review of the position into which the late events have thrown the whig party, it is with profound sorrow we look to the course pursued by the President. He has wrested from us one of the best fruits of a long and painful struggle, and the consummation of a glorious victory; he has even perhaps thrown us once more upon the field of political strife, not weakened in numbers, nor shorn of the support of the country, but stripped of the arms which success had placed in our hands, and left again to rely upon that high patriotism which for twelve years sustained us in a conflict of unequalled asperity, and which finally brought us to the fulfilment of those brilliant hopes which he has done so much to destroy."

Having thus shown the loss, by the conduct of the President, of all the main fruits of a great victory after a twelve years' contest, the address goes on to look to the future, and to inquire what is to be the conduct of the party in such unexpected and disastrous circumstances? and the first answer to that inquiry is, to establish a permanent separation of the whig party from Mr. Tyler, and to wash their hands of all accountability for his acts.

"In this state of things, the whigs will naturally look with anxiety to the future, and inquire what are the actual relations between the President and those who brought him into power; and what, in the opinion of their friends in Congress, should be their course hereafter. On both of these questions we feel it to be our duty to address you in perfect frankness and without reserve, but, at the same time, with due respect to others. In regard to the first, we are constrained to say that the President, by the course he has adopted in respect to the application of the veto power to two successive bank charters, each of which there was just reason to believe would meet his approbation; by his withdrawal of confidence from his real friends in Congress and from the members of his cabinet; by his bestowal of it upon others notwithstanding their notorious opposition to leading measures of his administration, has voluntarily separated himself from those by whose exertions and suffrages he was elevated to that office through which he reached his present exalted station. The existence of this unnatural relation is as extraordinary as the annunciation of it is painful and mortifying. What are the consequences and duties which grow out of it? The first consequence is, that those who brought the President into power can be no longer, in any manner or degree, justly held responsible or blamed for the administration of the executive branch of the government; and that the President and his advisers should be exclusively hereafter deemed accountable."

Then comes the consideration of what they are to do? and after inculcating, in the ancient form, the laudable policy of supporting their obnoxious President when he was '*right*,' and opposing him when he was '*wrong*'—phrases repeated by all parties, to be complied with by none—they go on to recommend courage and unity to their discomfited ranks—to promise a new victory at the next election; and with it the establishment of all their measures, crowned by a national bank.

"The conduct of the President has occasioned bitter mortification and deep regret. Shall the party, therefore, yielding to sentiments of despair, abandon its duty, and submit to defeat and disgrace? Far from suffering such dishonorable consequences, the very disappointment which it has unfortunately experienced should serve only to redouble its exertions, and to inspire it with fresh courage to persevere with a spirit unsubdued and a resolution unshaken, until the prosperity of the country is fully re-established, and its liberties firmly secured against all

danger from the abuses, encroachments or usurpations of the executive department of the government."

This was the manifesto, so far as it concerns the repudiation of Mr. Tyler, which the whig members of Congress put forth: it was answered (under the name of an address to his constituents) by Mr. Cushing, in what may be called a counter manifesto: for it was on the same subject as the other, and counter to it at all points—especially on the fundamental point of, *which party the President was to belong to!* the manifesto of the whig members assigning him to the democracy—the counter manifesto claiming him for the whigs! In this, Mr. Cushing followed the lead of Mr. Webster in his letter of resignation: and, in fact, the whole of his pleading (for such it was) was an amplification of Mr. Webster's letter to the editors of the National Intelligencer, and of the one to Messrs. Bates and Choate, and of another to Mr. Ketchum, of New York. The first part of the address of Mr. Cushing, is to justify the President for changing his course on the fiscal corporation bill; and this attempted in a thrust at Mr Clay thus:

"A caucus dictatorship has been set up in Congress, which, not satisfied with ruling that body to the extinguishment of individual freedom of opinion, seeks to control the President in his proper sphere of duty, denounces him before you for refusing to surrender his independence and his conscience to its decree, and proposes, through subversion of the fundamental provisions and principles of the constitution, to usurp the command of the government. It is a question, therefore, in fact, not of legislative measures, but of revolution. What is the visible, and the only professed, origin of these extraordinary movements? The whig party in Congress have been extremely desirous to cause a law to be enacted at the late session, incorporating a national bank. Encountering, in the veto of the President, a constitutional obstacle to the enactment of such a law at the late session, a certain portion of the whig party, represented by the caucus dictatorship, proceeds then, in the beginning, to denounce the President. Will you concur in this denunciation of the President?"

This was the accusation, first hinted at by Mr. Rives in the Senate, afterwards obscurely intimated in Mr. Webster's letter to the two Massachusetts senators; and now broadly stated by Mr. Cushing; without, however, naming the imputed dictator; which was, in fact, unnecessary. Every body knew that Mr. Clay was the person intended; with what justice, not to repeat proofs already given, let the single fact answer, that these caucus meetings (for such there were) were all subsequent to Mr. Tyler's change on the bank question! and in consequence of it! and solely with a view to get him back! and that by conciliation until after the second veto. In this thrust at Mr. Clay Mr. Cushing was acting in the interest of Mr. Webster's feelings as well as those of Tyler; for since 1832 Mr. Clay and Mr. Webster had not been amicable, and barely kept in civil relations by friends, who had frequently to interpose to prevent, or compose outbreaks; and even to make in the Senate formal annunciation of reconciliation effected between them. But the design required Mr. Clay to be made the cause of the rejection of the bank bills; and also required him to be crippled as the leader of the anti-administration whigs. In this view Mr. Cushing resumes:

"When Lord Grenville broke up the whig party of England, in 1807, by the unseasonable pressure of some great question, and its consequent loss, 'Why,' said Sheridan, 'did they not put it off as Fox did? I have heard of men running their heads against a wall; but this is the first time I ever heard of men building a wall, and squaring it, and clamping it, for the express purpose of knocking out their brains against it.' This *bon mot* of Sheridan's will apply to the whig party in Congress, if, on account of the failure of the bank bill at the late session, they secede from the administration, and set up as a *Tertium Quid* in the government, neither administration nor opposition."

Having presented this spectacle of their brains beaten out against a wall of their own raising, if the whig party should follow Mr. Clay into opposition to the Tyler-Webster administration, Mr. Cushing took the party on another tack—that of the bird in the hand, which is worth two in the bush; and softly commences with them on the profit of using the presidential power while they had it:

"Is it wise for the whig party to throw away the actuality of power for the current four years? If so, for what object? For some contingent *possibility* four years hence? If so, what one? Is the contingent possibility of advancing to power four years hence any one particular man in its ranks, whoever he may be, and however eminently deserving, a sufficient object to induce the whig party to abdicate the power which itself as a body possesses now?"

And changing again, and from seduction to terror, he presents to them, as the most appalling of all calamities, the possible election of a democratic President at the next election through the deplorable divisions of the whig party.

"If so, will its abdication of power now tend to promote that object? Is it not, on the contrary, the very means to make sure the success of some candidate of the democratic party?"

Proceeding to the direct defence of the President, he then boldly absolves him from any violation of faith in rejecting the two bank bills. Thus:

"In refusing to sign those bills, then, he violated no engagement, and committed no act of perfidy in the sense of a forfeited pledge."

And advancing from exculpation to applause, he makes it an act of conscience in Mr. Tyler in refusing to sign them, and places him under the imperious command of a triple power—conscience, constitution, oath; without the faculty of doing otherwise than he did.

"But, in this particular, the President, as an upright man, could do no otherwise than he did. He conscientiously *disapproved* those bills. And the constitution, which he was sworn to obey, *commands* him, expressly and peremptorily commands him, if he do not approve of any bill presented to him for his signature, to return it to the House of Congress in which it originated. 'If he approve he shall sign it: *if not*, he SHALL return it,' are the words of the constitution. Would you as conscientious men yourselves, forbid the President of the United States to have a conscience?"

Acquittal of the President of all hand in the initiation of the second bill, is the next task of Mr. Cushing, and he boldly essays it.

"The President, it is charged, trifled with one or more of the retiring secretaries. Of what occurred at cabinet meetings, the public knows and can know nothing. But, as to the main point, whether he initiated the fiscal corporation bill. This idea is incompatible with the dates and facts above stated, which show that the consideration of a new bill was forced on the President by members of Congress. It is, also, incompatible with the fact that, on Tuesday, the 17th of August, as it is said by the Secretary of War, the President expressed to him doubt as to any bill."

Now what happened in these cabinet meetings is well known to the public from the concurrent statement of three of the secretaries, and from presidential declarations to members of Congress, and these statements cover the main point of the initiation of the second bill by the President himself; and that not on the 18th, but the 16th of August, and not only to his cabinet but to Mr. Stuart of Virginia the same evening; and that it was two days afterwards that the two members of Congress called upon him (Messrs. Sergeant and Berrien), not to force him to take a bill, but to be forced by him to run his own bill through in three days. Demurring to the idea that the President could be forced by members of Congress

to adopt an obnoxious bill, the brief statement is, that it is not true. The same is to be said of the quoted remark of the Secretary at War, Mr. Bell, that the President expressed to him a doubt whether he would sign any bank bill—leaving out the astonishment of the Secretary at that declaration, who had been requested by the President the day before to furnish facts in favor of the bill; and who came to deliver a statement of these facts thus prepared, and in great haste, upon request; and when brought, received with indifference! and a doubt expressed whether he would sign any bill. Far from proving that the President had a consistent doubt upon the subject, which is the object of the mutilated quotation from Mr. Bell—it proves just the contrary! proves that the President was for the bill, and began it himself, on the 16th; and was laying an anchor to windward for its rejection on the 17th! having changed during the night.

The retirement of all the cabinet ministers but one, and that for such reasons as they gave, is treated by Mr. Cushing as a thing of no signification, and of no consequence to any body but themselves. He calls it a common fact which has happened under many administrations, and of no permanent consequence, provided good successors are appointed. All that is right enough where secretaries retire for personal reasons, such as are often seen; but when they retire because they impeach the President of great moral delinquency, and refuse to remain with him on that account, the state of the case is altered. He and they are public officers; and officers at the head of the government; and their public conduct is matter of national concern; and the people have a right to inquire and to know the public conduct of public men. The fact that Mr. Webster remained is considered as overbalancing the withdrawal of all the others; and is thus noticed by Mr. Cushing:

"And that, whilst those gentlemen have retired, yet the Secretary of State, in whose patriotism and ability you have more immediate cause to confide, has declared that he knows no sufficient cause for such separation, and continues to co-operate cordially with the President in the discharge of the duties of that station which he fills with so much honor to himself and advantage to the country."

Certainly it was a circumstance of high moment to Mr. Tyler that one of his cabinet remained with him. It was something in such a general withdrawing, and for such reasons as were given, and was considered a great sacrifice on the part of Mr. Webster at the time. As such it was well remembered a short time afterwards, when Mr. Webster, having answered the purposes for which he was retained, was compelled to follow the example of his old colleagues. The address of Mr. Cushing goes on to show itself, in terms, to be an answer to the address of the whig party—saying:

"Yet an address has gone forth from a portion of the members of Congress, purporting to be the *unanimous* act of a meeting of THE whigs of Congress, which, besides arraigning the President on various allegations of fact and surmises not fact, recommends such radical changes of the constitution."

The address itself of the whig party is treated as the work of Mr. Clay—as an emanation of that caucus dictatorship in Congress of which he was always the embodied idea. He says:

"Those changes, if effected, would concentrate the chief powers of government in the hands of that of which this document (the whig address) itself is an emanation, namely a caucus dictatorship of Congress."

This defence by Mr. Cushing, the letters of Mr. Webster, and all the writers in the interests of Mr. Tyler himself, signified nothing against the concurrent statements of the retiring senators, and the confirmatory statements of many members of Congress. The whig party recoiled from him. Instead of that "whig President, whig Congress, and whig people," formed into a

unit, with the vision of which Mr. Webster had been induced to remain when his colleagues retired—instead of this unity, there was soon found diversity enough. The whig party remained with Mr. Clay; the whig Secretary of State returned to Massachusetts, inquiring, "*where am I to go?*" The whig defender of Mr. Tyler went to China, clothed with a mission; and returning, found that greatest calamity, the election of a democratic President, to be a fixed fact; and being so fixed, he joined it, and got another commission thereby: while Mr. Tyler himself, who was to have been the Roman cement of this whig unity, continued his march to the democratic camp—arrived there—knocked at the gate—asked to be let in: and was refused. The national democratic Baltimore convention would not recognize him.

86. The Danish Sound Dues

This subject was brought to the attention of the President at this extra session of Congress by a report from the Secretary of State, and by the President communicated to Congress along with his message. He did not seem to call for legislative action, as the subject was diplomatic, and relations were established between the countries, and the remedy proposed for the evil stated was simply one of negotiation. The origin and history of these dues, and the claims and acquiescences on which they rest, are so clearly and concisely set forth by Mr. Webster, and the amelioration he proposed so natural and easy for the United States, and the subject now acquiring an increasing interest with us, that I draw upon his report for nearly all that is necessary to be said of it in this chapter; and which is enough for the general reader. The report says:

"The right of Denmark to levy these dues is asserted on the ground of ancient usage, coming down from the period when that power had possession of both shores of the Belt and Sound. However questionable the right or uncertain its origin, it has been recognised by European governments, in several treaties with Denmark, some of whom entered into it at as early a period as the fourteenth century; and inasmuch as our treaty with that power contains a clause putting us on the same footing in this respect as other the most favored nations, it has been acquiesced in, or rather has not been denied by us. The treaty of 1645, between Denmark and Holland, to which a tariff of the principal articles then known in commerce, with a rule of measurement and a fixed rate of duty, was appended, together with a subsequent one between the same parties in 1701, amendatory and explanatory of the former, has been generally considered as the basis of all subsequent treaties, and among them of our own, concluded in 1826, and limited to continue ten years from its date, and further until the end of one year, after notice by either party of an intention to terminate it, and which is still in force.

"Treaties have also been concluded with Denmark, by Great Britain, France, Spain, Portugal, Russia, Prussia and Brazil, by which, with one or two exceptions in their favor, they are placed on the same footing as the United States. There has recently been a general movement on the part of the northern powers of Europe, with regard to the subject of these Sound dues, and which seems to afford to this government a favorable opportunity, in conjunction with them, for exerting itself to obtain some such alteration or modification of existing regulations as shall conduce to the freedom and extension of our commerce, or at least to relieve it from some of the burdens now imposed, which, owing to the nature of our trade, operate, in many instances, very unequally and unjustly on it in comparison with that of other nations.

"The ancient tariff of 1645, by which the payment of these dues was regulated, has never been revised, and by means of the various changes which have taken place in commerce since that period, and of the alteration in price in many articles therein included, chiefly in consequence of the settlement of America, and the introduction of her products, into general commerce, it has become quite inapplicable. It is presumed to have been the intention of the framers of that tariff to fix a duty of about one per centum ad valorem upon the articles therein enumerated, but the change in value of many of those commodities, and the absence of any corresponding change in the duty, has, in many instances, increased the ad valorem from one per centum to three, four, and even seven; and this, generally, upon those articles which form the chief exports of the United States, of South America, and the West India Islands: such as the articles of cotton, rice, raw sugar, tobacco, rum, Campeachy wood, &c. On all articles not enumerated in this ancient tariff it is stipulated by the treaty of 1701 that the 'privileged nations,' or those who have treaties with Denmark, shall pay an ad valorem of

one per cent.; but the value of these articles being fixed by some rules known only to the Danish government, or at least unknown to us, this duty appears uncertain and fluctuating, and its estimate is very much left to the arbitrary discretion of the custom house officers at Elsinore.

"It has been, by some of the public writers in Denmark, contended that goods of privileged nations, carried in the vessels of unprivileged nations, should not be entitled to the limitation of one per centum ad valorem, but should be taxed one and a quarter per centum, the amount levied on the goods of unprivileged nations; and, also, that this limitation should be confined to the direct trade, so that vessels coming from or bound to the ports of a nation not in treaty with Denmark should pay on their cargoes the additional quarter per cent.

"These questions, although the former is not of so much consequence to us, who are our own carriers, are still in connection with each other, of sufficient importance to render a decision upon them, and a final understanding, extremely desirable. These Sound dues are, moreover, in addition to the port charges of light money, pass-money, &c., which are quite equal to the rates charged at other places, and the payment of which, together with the Sound dues, often causes to vessels considerable delay at Elsinore.

"The port charges, which are usual among all nations to whose ports vessels resort, are unobjectionable, except that, as in this case, they are mere consequences of the imposition of the Sound dues, following, necessarily, upon the compulsory delay at Elsinore of vessels bound up and down the Sound with cargoes, with no intention of making any importation into any port of Denmark, and having no other occasion for delay at Elsinore than that which arises from the necessity of paying the Sound dues, and, in so doing, involuntarily subjecting themselves to these other demands. These port duties would appear to have some reason in them, because of the equivalent; while, in fact, they are made requisite, with the exception, perhaps, of the expense of lights, by the delay necessary for the payment of the Sound dues.

"The amount of our commerce with Denmark, direct, is inconsiderable, compared with that of our transactions with Russia, Sweden, and the ports of Prussia, and the Germanic association on the Baltic; but the sum annually paid to that government in Sound dues, and the consequent port charges by our vessels alone, is estimated at something over one hundred thousand dollars. The greater proportion of this amount is paid by the articles of cotton, sugar, tobacco, and rice; the first and last of these paying a duty of about three per cent. ad valorem, reckoning their value at the places whence they come.

"By a list published at Elsinore, in 1840, it appears that between April and November of that year, seventy-two American vessels, comparatively a small number, lowered their topsails before the castle of Cronberg. These were all bound up the Sound to ports on the Baltic, with cargoes composed in part of the above-named products, upon which alone, according to the tariff, was paid a sum exceeding forty thousand dollars for these dues. Having disposed of these cargoes, they returned laden with the usual productions of the countries on the Baltic, on which, in like manner, were paid duties on going out through the Sound, again acknowledging the tribute by an inconvenient and sometimes hazardous ceremony. The whole amount thus paid within a period of eight months on inward and outward bound cargoes, by vessels of the United States, none of which were bound for, or intended to stop at, any port in Denmark, except compulsorily at Elsinore, for the purpose of complying with these exactions, must have exceeded the large sum above named."

This is the burden, and the history of it which Mr. Webster so succinctly presents. The peaceful means of negotiation are recommended to obtain the benefit of all the reductions in

these dues which should be granted to other nations; and this natural and simple course is brought before the President in terms of brief and persuasive propriety.

"I have, therefore, thought proper to bring this subject before you at this time, and to go into these general statements in relation to it, which might be carried more into detail, and substantiated by documents now at the department, to the end that, if you should deem it expedient, instructions may be given to the representative of the United States at Denmark to enter into friendly negotiations with that government, with a view of securing to the commerce of the United States a full participation in any reduction of these duties, or the benefits resulting from any new arrangements respecting them which may be granted to the commerce of other states."

This is the view of an American statesman. No quarrelling, or wrangling with Denmark, always our friend: no resistance to duties which all Europe pays, and were paying not only before we had existence as a nation, but before the continent on which we live had been discovered: no setting ourselves up for the liberators of the Baltic Sea: no putting ourselves in the front of a contest in which other nations have more interest than ourselves. It is not even recommended that we should join a congress of European ministers to solicit, or to force, a reduction or abolition of these duties; and the policy of engaging in no entangling alliances, is well maintained in that abstinence from associated negotiation. The Baltic is a European sea. Great powers live upon its shores: other great powers near its entrance: and all Europe nearer to it than ourselves. The dues collected at Elsinore present a European question which should be settled by European powers, all that we can ask being (what Denmark has always accorded) the advantage of being placed on the footing of the most favored nation. We might solicit a further reduction of the dues on the articles of which we are the chief carriers to that sea—cotton, rice, tobacco, raw sugar; but solicit separately without becoming parties to a general arrangement, and thereby making ourselves one of its guarantees. Negotiate separately, asking at the same time to be continued on the footing of the most favored nation. This report and recommendation of Mr. Webster is a gem in our State papers—the statement of the case condensed to its essence, the recommendation such as becomes our geographical position and our policy; the style perspicuous, and even elegant in its simplicity.

I borrow from the *Boston Daily Advertiser* (Mr. Hale the writer) a condensed and clear account of the success of Mr. Webster's just and wise recommendations on this subject:

"He recommended that 'friendly negotiations' be instituted with the Danish government, 'with a view to securing to the United States a full participation in any reduction of these duties, or the benefits resulting from any new arrangements respecting them, which may be granted to the commerce of other states.'

"This recommendation was doubtless adopted; for the concluding papers of the negotiation appear among the documents communicated to Congress. The Danish government made a complete revision of the ancient tariff, establishing new specific duties on all articles of commerce, with one or two exceptions, in which the one per cent. ad valorem duty was retained.

"The duties were not increased in any instance, and on many of the articles they were largely reduced; on some of them as large a discount as 83 per cent. was made, and a great number were reduced 50 per cent. Of the articles particularly mentioned by Mr. Webster as forming the bulk of the American commerce paying these duties, the duty on raw sugar was reduced from 9 stivers on 100 pounds to 5 stivers; on rice (in paddy) the duty was reduced from 15 stivers to 6 stivers. On some other articles of importance to American commerce the duties were reduced in a larger proportion; on some dyewoods the reduction was from 30 stivers to

8, and on others from 36 to 12, per thousand pounds; and on coffee the reduction was from 24 to 6 stivers per 100 pounds, thereby making it profitable to ship this article directly up the Baltic, instead of to Hamburgh, and thence by land across to Lubec, which had previously been done to avoid the Sound dues.

"It was also provided that no unnecessary formalities should be required from the vessels passing through the Sound. The lowering of top-sails, complained of by Mr. Webster, was dispensed with. We mention this circumstance because a recent article in the *New York Tribune* speaks of this formality as still required. It was abolished thirteen years ago. A number of other accommodations were also granted on the part of Denmark in modification of the harshness of former regulations. The time for the functionaries to attend at their offices was prolonged, and an evident disposition was manifested to make great abatements in the rigor of enforcing as well as in the amount of the tax.

"These concessions were regarded as eminently favorable, and as satisfactory to the United States. Mr. Webster cordially expressed this sentiment in a letter to Mr. Isaac Rand Jackson, then our Chargé d'Affaires for Denmark, bearing date June 25, 1842, and also in another letter, two days later, to Mr. Steen Billé, the Danish Chargé d'Affaires in the United States. In the former letter Mr. Webster praised Mr. Jackson's 'diligence and fidelity in discharging his duties in regard to this subject.'"

Greatly subordinate as the United States are geographically in this question, they are equally, and in fact, duly and proportionably so in interest. Their interest is in the ratio of their distance from the scene of the imposition; that is to say, as units are to hundreds, and hundreds to thousands. Taking a modern, and an average year for the number of vessels of different powers which passed this Sound and paid these duties—the year 1850—and the respective proportions stand thus: English, 5,448 vessels; Norwegian, 2,553; Swedish, 1,982; Dutch, 1,900; Prussian, 2,391; Russian, 1,138; American, 106—being about the one-fiftieth part of the English number, and about the one-twentieth part of the other powers. But that is not the way to measure the American interest. The European powers aggregately present one interest: the United States sole another: and in this point of view the proportion of vessels is as two hundred to one. The whole number of European vessels in a series of five years—1849 to 1853—varied from 17,563 to 21,586; the American vessels during the same years varying from 76 to 135. These figures show the small comparative interest of the United States in the reduction, or abolition of these dues—large enough to make the United States desirous of reduction or abolition—entirely too small to induce her to become the champion of Europe against Denmark: and, taken in connection with our geographical position, and our policy to avoid European entanglement, should be sufficient to stamp as Quixotic, and to qualify as mad, any such attempt.

87. Last Notice Of The Bank Of The United States

For ten long years the name of this bank had resounded in the two Halls of Congress. For twenty successive sessions it had engrossed the national legislature—lauded, defended, supported—treated as a power in the State: and vaunted as the sovereign remedy for all the diseases to which the finances, the currency, and the industry of the country could be heir. Now, for the first time in that long period, a session passed by—one specially called to make a bank—in which the name of that institution was not once mentioned: never named by its friends! seldom by its foes. Whence this silence? Whence this avoidance of a name so long, so lately, and so loudly invoked? Alas! the great bank had run its career of audacity, crime, oppression, and corruption. It was in the hands of justice, for its crimes and its debts—was taken out of the hands of its late insolvent directory—placed in the custody of assignees—and passed into a state of insolvent liquidation. Goaded by public reproaches, and left alone in a state of suspension by other banks, she essayed the perilous effort of a resumption. Her credit was gone. It was only for payment that any one approached her doors. In twenty days she was eviscerated of six millions of solid dollars, accumulated by extraordinary means, to enable her to bid for a re-charter at the extra session. This was the last hope, and which had been resolved upon from the moment of General Harrison's election. She was empty. The seventy-six millions of assets, sworn to the month before, were either undiscoverable, or unavailable. The shortest month in the year had been too long for her brief resources. Early in the month of February, her directory issued a new decree of suspension—the third one in four years; but it was in vain to undertake to pass off this stoppage for a suspension. It was felt by all to be an insolvency, though bolstered by the usual protestations of entire ability, and firm determination to resume briefly. An avalanche of suits fell upon the helpless institution, with judgments carrying twelve per cent. damages, and executions to be levied on whatever could be found. Alarmed at last, the stockholders assembled in general meeting, and verified the condition of their property. It was a wreck! nothing but fragments to be found, and officers of the bank feeding on these crumbs though already gorged with the spoils of the monster.

A report of the affairs of the institution was made by a committee of the stockholders: it was such an exhibition of waste and destruction, and of downright plundering, and criminal misconduct, as was never seen before in the annals of banking. Fifty-six millions and three quarters of capital out of sixty-two millions and one quarter (including its own of thirty-five) were sunk in the limits of Philadelphia alone: for the great monster, in going down, had carried many others along with her; and, like the strong man in Scripture, slew more in her death than in her life. Vast was her field of destruction—extending all over the United States—and reaching to Europe, where four millions sterling of her stock was held, and large loans had been contracted. Universally on classes the ruin fell—foreigners as well as citizens—peers and peeresses, as well as the ploughman and the wash-woman—merchants, tradesmen, lawyers, divines: widows and orphans, wards and guardians: confiding friends who came to the rescue: deceived stockholders who held on to their stock, or purchased more: the credulous masses who believed in the safety of their deposits, and in the security of the notes they held—all—all saw themselves the victims of indiscriminate ruin. An hundred millions of dollars was the lowest at which the destruction was estimated; and how such ruin could be worked, and such blind confidence kept up for so long a time, is the instructive lesson for history: and that lesson the report of the stockholders' committee enables history to give.

From this authentic report it appears that from the year 1830 to 1836—the period of its struggles for a re-charter—the loans and discounts of the bank were about doubled—its expenses trebled. Near thirty millions of these loans were not of a mercantile character—neither made to persons in trade or business, nor governed by the rules of safe endorsement and punctual payment which the by-laws of the institution, and the very safety of the bank, required; nor even made by the board of directors, as the charter required; but illegally and clandestinely, by the exchange committee—a small derivation of three from the body of the committee, of which the President of the bank was *ex officio* a member, and the others as good as nominated by him. It follows then that these, near thirty millions of loans, were virtually made by Mr. Biddle himself; and in violation of the charter, the by-laws and the principles of banking. To whom were they made? To members of Congress, to editors of newspapers, to brawling politicians, to brokers and jobbers, to favorites and connections: and all with a view to purchase a re-charter, or to enrich connections, and exalt himself—having the puerile vanity to delight in being called the "Emperor Nicholas." Of course these loans were, in many instances, not expected to be returned—in few so secured as to compel return: and, consequently, near all a dead loss to the stockholders, whose money was thus disposed of.

The manner in which these loans were made to members of Congress, was told to me by one of these members who had gone through this process of bank accommodation; and who, voting against the bank, after getting the loan, felt himself free from shame in telling what had been done. He needed $4,000, and could not get it at home: he went to Philadelphia—to the bank—inquired for Mr. Biddle—was shown into an ante-room, supplied with newspapers and periodicals; and asked to sit, and amuse himself—the president being engaged for the moment. Presently a side door opened. He was ushered into the presence—graciously received—stated his business—was smilingly answered that he could have it, and more if he wished it: that he could leave his note with the exchange committee, and check at once for the proceeds: and if inconvenient to give an indorser before he went home, he could do it afterwards: and, whoever he said was good, would be accepted. And in telling me this, the member said he could read "bribery" in his eyes.

The loans to brokers to extort usury upon—to jobbers, to put up and down the price of stocks—to favorites, connections, and bank officers, were enormous in amount, indefinite in time, on loose security, or none: and when paid, if at all, chiefly in stocks at above their value. The report of the committee thus states this abuse:

"These loans were generally in large amounts. In the list of debtors on 'bills receivable' of the first of January 1837, twenty-one individuals, firms and companies, stand charged, each with an amount of one hundred thousand dollars and upwards. One firm of this city received accommodations of this kind between August 1835, and November 1837, to the extent of 4,213,878 dollars 30 cents—more than half of which was obtained in 1837. The officers of the bank themselves received in this way, loans to a large amount. In March 1836, when the bank went into operation, under its new charter, Mr. Samuel Jaudon, then elected its principal cashier, was indebted to it, 100,500 dollars. When he resigned the situation of cashier, and was appointed foreign agent, he was in debt 408,389 dollars 25 cents; and on the first of March 1841, he still stood charged with an indebtedness of 117,500 dollars. Mr. John Andrews, first assistant cashier, was indebted to the bank in March 1836, 104,000 dollars. By subsequent loans and advances made during the next three years, he received in all, the sum of 426,930 dollars 67 cents. Mr. Joseph Cowperthwaite, then second assistant cashier, was in debt to the bank in March 1836, 115,000 dollars; when he was appointed cashier in September, 1837, 326,382 dollars 50 cents: when he resigned, and was elected a director by the board, in June 1840, 72,860 dollars, and he stands charged March 3, 1841, on the books

with the sum of 55,081 dollars 95 cents. It appears on the books of the bank, that these three gentlemen were engaged in making investments on their joint accounts, in the stock and loan of the Camden and Woodbury railroad company Philadelphia, Wilmington, and Baltimore railroad company, Dauphin and Lycoming coal lands, and Grand Gulf railroad and banking company."

These enormous loans were chiefly in the year 1837, at the time when the bank stopped payment on account of the "specie circular," the "removal of the deposits," and other alleged misdoings of the democratic administrations: and this is only a sample of the way that the institution went on during that period of fictitious distress, and real oppression—millions to brokers and favorites, not a dollar to the man of business.

Two agencies were established in London—one for the bank, under Mr. Jaudon, to borrow money; the other for a private firm, of which Mr. Biddle was partner, and his young son the London head—its business being to sell cotton, bought with the dead notes of the old bank. Of the expenses and doings of these agencies, all bottomed upon the money of the stockholders (so far as it was left), the committee gave this account:

"When Mr. Jaudon was elected to the place of foreign agent, he was the principal cashier, at a salary of 7,000 dollars per annum. The bank paid the loss on the sale of his furniture, 5,074 dollars, and the passage of himself and family to London, a further sum of 1,015 dollars. He was to devote himself exclusively to the business of the bank, to negotiate an uncovered credit in England, to provide for the then existing debt in Europe, to receive its funds, to pay its bills and dividends, to effect sales of stocks, and generally to protect the interests of the bank and 'the country at large.' For these services he was to receive the commission theretofore charged and allowed to Baring Brothers & Company, equal to about 28,000 dollars per annum. In addition to which, the expenses of the agency were allowed him, including a salary of 1,000 pounds sterling to his brother, Mr. Charles B. Jaudon, as his principal clerk. From the increase of money operations, arising from facilities afforded by the agency, the amount upon which commissions were charged was greatly augmented, so that the sums paid him for his country services up to January, 1841, amounted at nine per cent. exchange to 178,044 dollars 47 cents, and the expenses of the agency to 35,166 dollars 99 cents. In addition to these sums, he was allowed by the exchange committee, an extra commission of one per cent. upon a loan effected in October, 1839, of 800,000 pounds, say $38,755 56; and upon his claim for a similar commission, upon subsequent loans in France and Holland, to the amount of $8,337,141 90, the board of directors, under the sanction of a legal opinion, from counsel of high standing, and the views of the former president, by whom the agreement with Mr. Jaudon was made, that the case of extraordinary loans was not anticipated, nor meant to be included in the original arrangement, allowed the further charge of $83,970 37. These several sums amount to $335,937, 39, as before stated."

A pretty expensive agency, although the agent was to devote himself exclusively to the business of the bank, protecting its interests, and those of "the country at large"—an addition to his mission, this protection of the country at large, which illustrates the insolent pretensions of this imperious corporation. Protect the country at large! while plundering its own stockholders of their last dollar. And that furniture of this bank clerk! the loss on the sale of which was $5,074! and which loss the stockholders made up: while but few of them had that much in their houses. The whole amount of loans effected by this agency was twenty-three millions of dollars; of which a considerable part was raised upon fictitious bills, drawn in Philadelphia without funds to meet them, and to raise money to make runs upon the New York banks, compel them to close again: and so cover her own insolvency in another general

suspension: for all these operations took place after the suspension of 1837. The committee thus report upon these loans, and the gambling in stock speculations at home:

"Such were some of the results of the resolution of March, 1835, though it cannot be questioned, that much may be fairly attributed to the unhappy situation of the business and exchanges of the country, concurring with the unfortunate policy pursued by the administration of the bank. Thus the institution has gone on to increase its indebtedness abroad, until it has now more money borrowed in Europe, than it has on loan on its list of active debt in America. To this has been superadded, extensive dealing in stocks, and a continuation of the policy of loaning upon stock securities, though it was evidently proper upon the recharter, that such a policy should be at once and entirely abandoned. Such indeed was its avowed purpose, yet one year afterwards, in March, 1837, its loans on stocks and other than personal security had increased $7,821,541, while the bills discounted on personal security, and domestic exchange had suffered a diminution of $9,516,463 78. It seems to have been sufficient, to obtain money on loan, to pledge the stock of an 'incorporated company,' however remote its operation or uncertain its prospects. Many large loans originally made on a pledge of stocks, were paid for in the same kind of property, and that too at par, when in many instances they had become depreciated in value. It is very evident to the committee, that several of the officers of the bank were themselves engaged in large operations in stocks and speculations, of a similar character, with funds obtained of the bank, and at the same time loans were made to the companies in which they were interested, and to others engaged in the same kind of operations, in amounts greatly disproportionate to the means of the parties, or to their proper and legitimate wants and dealings. The effect of this system, was to monopolize the active means of the institution, and disable it from aiding and accommodating men engaged in business really productive and useful to the community; and as might have been anticipated, a large part of the sums thus loaned were ultimately lost, or the bank compelled, on disadvantageous terms as to price, to take in payment stocks, back lands and other fragments of the estates of great speculators."

The cotton agency seemed to be an ambidextrous concern—both individual and corporation—its American office in the Bank of the United States—the purchases made upon ten millions of its defunct notes—the profits going to the private firm—the losses to the bank. The committee give this history:

"In the course of the investigation the attention of the committee has been directed to certain accounts, which appear on the books as 'advances on merchandise,' but which were, in fact, payments for cotton, tobacco and other produce, purchased by the direction of the then President, Mr. Nicholas Biddle, and shipped to Europe on account of himself and others. These accounts were kept by a clerk in the foreign exchange department, this department being under the charge of Mr. Cowperthwaite, until September 22, 1837, when he was elected cashier, and of Mr. Thomas Dunlap, until March 20, 1840, when he was chosen president. The original documents, necessary to enable the committee to arrive at all the facts in relation to these transactions, were not accessible, having been retained, as was supposed, by the parties interested, as private papers. A succinct view of the whole matter, sufficient to convey to the stockholders a general idea of its character, may be drawn from the report of a committee of the board of directors, appointed on the 21st of July, 1840, for the purpose of adjusting and settling these accounts, and who reported on the 21st of December, 1840, which report with the accompanying accounts, is spread at large upon the minutes. The first transactions were in July, 1837, and appear as advances, to A. G. Jaudon, to purchase cotton for shipment to Baring Brothers & Co. of Liverpool, the proceeds to be remitted to their house in London, then acting as the agents of the bank. The amount of these shipments was 2,182,998 dollars 28 cents. The proceeds were passed to the credit of the bank, and the

account appears to be balanced. The results, as to the profit and loss, do not appear, and the committee had no means of ascertaining them, nor the names of the parties interested. In the autumn of 1837, when the second of these transactions commenced, it will be recollected, that Mr. Samuel Jaudon had been appointed the agent of the bank to reside in London. About the same time, a co-partnership was formed between Mr. May Humphreys, then a director of the bank, and a son of Mr. Nicholas Biddle, under the firm of Biddle & Humphreys. This house was established at Liverpool, and thenceforward acted as agents for the sale of the produce shipped to that place which comprised a large proportion of the whole amount. In explanation of these proceedings, the committee annex to their report a copy of a letter dated Philadelphia, December 28, 1840, to the president and directors of the bank, from Mr. Joseph Cabot, one of the firm of Bevan & Humphreys, and who became a director at the election in January, 1838. This letter was read to the board, December 29, 1840, but was not inserted on the minutes.

"This arrangement continued during the years 1837, 1838 and 1839, the transactions of which amounted to 8,969,450 dollars 95 cents. The shipments were made principally to Biddle and Humphreys, were paid for by drafts on Bevan and Humphreys—the funds advanced by the bank, and the proceeds remitted to Mr. Samuel Jaudon, agent of the bank in London. It appears that there was paid to Messrs. Bevan and Humphreys by the bank in Philadelphia during the months of March, April, and May, 1839, the sum of eight hundred thousand dollars, and the account was thus balanced. The committee have reason to believe, that this sum constituted a part or perhaps the whole of the profits derived from the second series of shipments. How, and among whom, it was distributed, they have not been informed, but from the terms of the final settlement, to be adverted to presently, each one will be at liberty to make his own inferences. The third and last account, amounting to 3,241,042 dollars 83 cents, appears on the books, as 'bills on London, advances S. V. S. W.' These letters stand for the name of S. V. S. Wilder, of New York.—Messrs. Humphreys and Biddle, to whom these consignments were made, continued their accounts in the name of Bevan and Humphreys, but without the knowledge of that firm, as appears by Mr. Cabot's letter of December 28, 1840. The result of these last shipments, was a loss of 962,524 dollars 13 cents. Of this amount the sum of 553,908 dollars 57 cents was for excess of payments by Messrs. Humphreys and Biddle to the London agency, beyond the proceeds of sale, with interest thereon. The parties interested, claimed and were allowed a deduction for loss on 526,000 dollars of southern funds, used in the purchase of cotton, when at a discount, the sum of 310,071 dollars 30 cents; and also this sum, being banker's commission to Messrs. Humphreys and Biddle on advances to Samuel Jaudon, agent, 21,061 dollars 86 cents, making 331,133 dollars 16 cents, and leaving to be settled by the parties the sum of 631,390 dollars 97 cents."

Thus, the profit of eight hundred thousand dollars on the first shipments of cotton went to this private firm, though not shown on the books to whom; and the loss of nine hundred and sixty-two thousand five hundred and twenty-four dollars and thirteen cents on the last shipments went to the bank; but this being objected to by some of the directors, it was settled by Mr. Biddle and the rest—the bank taking from them stocks, chiefly of Texas, at par—the sales of the same being slow at a tithe of their face. The bank had also a way of guaranteeing the individual contracts of Mr. Biddle for millions; of which the report gives this account:

"Upon the eighteenth day of August, 1838, the bank guaranteed a contract made by Mr. Nicholas Biddle in his individual capacity, for the purchase of two thousand five hundred bonds of the State of Mississippi, of two thousand dollars each, amounting in the whole to 5,000,000 dollars. The signature of Mr. Thomas Dunlap, then second assistant cashier, was affixed to the guarantee, in behalf of the bank, upon the verbal authority of the president. Upon the 29th of January, 1839, the bank guaranteed to the State of Michigan, the punctual

fulfilment of the obligations of the Morris canal and banking company, for the purchase of bonds of that state, to the extent of 3,145,687 dollars 50 cents. for 2,700,000 taken at par, and including interest on the instalments payable every three months up to January, 1843. On the 29th of April, 1839, the bank guaranteed a contract entered into by Mr. Thomas Dunlap in his individual capacity for the purchase of one million of dollars of the 'Illinois and Michigan canal stock.' In regard to these transactions, the committee can find no authority on the minutes of the board, and have been referred to none, by the president, upon whom they called for information."

Unintelligible accounts of large amounts appeared in the profit and loss side of the bank ledger; which, not explaining themselves, the parties named as receiving the money, were called upon for explanations—which they refused to give. Thus:

"In this last account there is a charge under date of June 30, 1840, of $400,000 to 'parent bank notes account,' which has not been explained to the satisfaction of the committee. It must be also mentioned, that among the expenditures of the bank, there is entered, at various dates, commencing May 5, 1836, sums amounting in all to 618,640 dollars 15 cents, as paid on the 'receipts of Mr. N. Biddle,' of 'Mr. N. Biddle and J. Cowperthwaite,' and 'cashier's vouchers.' As the committee were unable to obtain satisfactory information upon the subject of these expenses from the books or officers of the bank, application was made by letter to Mr. N. Biddle and Mr. J. Cowperthwaite, from whom no reply has been received."

These enormous transactions generally without the knowledge of the directory, usually upon the initials of a member of the exchange committee; and frequently upon a deposit of stock in the cash drawer. Besides direct loans to members of Congress, and immense fees, there was a process of entertainment for them at immense expense—nightly dinners at hotels—covers for fifty: and the most costly wines and viands: and this all the time. Besides direct applications of money in elections, the bank became a fountain of supply in raising an election fund where needed, taking the loss on itself. Thus, in 1833, in the presidential election in Kentucky, some politicians went into the branch bank at Lexington, assessed the party in each county for the amount wanted in that county—drew drafts for the amount of the assessment on some ardent friends in the county, received the cash for the drafts from the bank, and applied it to the election—themselves not liable if the assessment was not paid, but the same to go to the profit and loss account of the bank. In such operations as all these, and these are not all, it was easy for the bank to be swallowed up: and swallowed up it was totally.

The losses to the stockholders were deplorable, and in many instances attended with circumstances which aggravated the loss. Many were widows and children, their *all* invested where it was believed to be safe; and an ascertained income relied on as certain, with eventual return of the capital. Many were unfortunately deceived into the purchase or retention of stock, by the delusive bank reports. The makers of these reports themselves held no quantity of the stock—only the few shares necessary to qualify them for the direction. Foreign holders were numerous, attracted by the, heretofore, high credit of American securities, and by the implications of the name—Bank of the United States; implying a national ownership, which guaranteed national care in its management, and national liability on its winding up. Holland, England, France suffered, but the English most of all the foreigners. The London Banker's Circular thus described their loss:

"The proportion of its capital held by British subjects is nearly four millions sterling; it may be described as an entire loss. And the loss we venture, upon some consideration, to say is greater than the aggregate of all the losses sustained by the inhabitants of the British Islands, from failure of banks in this country, since Mr. Patterson established the banks of England and Scotland at the close of the seventeenth century. The small population of Guernsey and

Jersey hold £200,000 of the stock of this U. States Bank. Call it an entire loss, and it is equal to a levy of three or four pounds on every man, woman, and child in the whole community of those islands—a sum greater than was ever raised by taxation in a single year on any people in the whole world. Are these important facts? if facts they be. Then let statesmen meditate upon them, for by their errors and reckless confidence in delusive theories they have been produced."

The credit of the bank, and the price of stock was kept up by delusive statements of profits, and fictitious exhibition of assets and false declarations of surpluses. Thus, declaring a half-yearly dividend of four per centum, January 1st, 1839, with a surplus of more than four millions; on the first of July of the same year, another half-yearly dividend of four per centum, with a surplus of more than four millions; on the 15th of January, the same year, announcing a surplus of three millions; and six weeks thereafter, on the first of January, announcing a surplus of five millions; while the assets of the bank were carried up to seventy-six millions. In this way credit was kept up. The creating of suspensions—that of 1837, and subsequent—cost immense sums, and involved the most enormous villainy; and the last of these attempts—the run upon the New York banks to stop them again before she herself stopped for the last time—was gigantically criminal, and ruinous to itself. Mr. Joseph Cowperthwaite (perfectly familiar with the operation) describes it to the life, and with the indifference of a common business transaction. Premising that a second suspension was coming on, it was deemed best (as in the first one of 1837) to make it begin in New York; and the operation for that purpose is thus narrated:

"After the feverish excitement consequent on this too speedy effort to return to cash payments had in a good degree subsided, another crisis was anticipated, and it was feared that the banks generally would be obliged again to suspend. This was, unhappily, too soon to be realized, for the storm was then ready to burst, but, instead of meeting its full force at once, it was deemed best to make it fall first upon the banks of New York. To effect this purpose, large means were necessary, and to procure these, resort was had to the sale of foreign exchange. The state of the accounts of the bank with its agents abroad did not warrant any large drafts upon them, especially that of the Messrs. Hottinguer in Paris. This difficulty, however, it was thought might be avoided, by shipping the coin to be drawn from the New York banks immediately to meet the bills. Accordingly, large masses of exchange, particularly bills on Paris, which were then in great demand, were sent to New York to be sold without limit. Indeed, the bills were signed in blank, and so sent to New York; and although a large book was thus forwarded, it was soon exhausted, and application was made to the agent of the Paris house in New York for a further supply, who drew a considerable amount besides. The proceeds of these immense sales of exchange created very heavy balances against the New York banks, which, after all, signally failed in producing the contemplated effect. The bills not being provided for, nor even regularly advised, as had uniformly been the custom of the bank, were dishonored; and although the agent in London did every thing which skill and judgment could accomplish, the credit of the bank was gone, and from that day to the present its effects upon the institution have been more and more disastrous."

"Deemed best to make the storm fall first upon the banks of New York;" and for that purpose to draw bills without limit, without funds to meet them, in such rapid succession as to preclude the possibility of giving notice—relying upon sending the gold which they drew out of the New York banks to Paris, to meet the same bills (all the while laying that exportation of gold to the wickedness of the specie circular), and failing to get the money there as fast as these "race-horse" bills went—they returned dishonored—came rolling back by millions, protested in Paris, to be again protested in Philadelphia. Then the bubble burst. The credit

which sustained the monster was gone. Ruin fell upon itself, and upon all who put their trust in it; and certainly this last act, for the criminality of its intent and the audacity of its means, was worthy to cap and crown the career of such an institution.

It was the largest ruin, and the most criminal that has been seen since the South Sea and Mississippi schemes; yet no one was punished, or made to refund. Bills of indictment were found by the grand jury of the county of Philadelphia against Nicholas Biddle, Samuel Jaudon, and John Andrews, for a conspiracy to defraud the stockholders in the bank; and they were arrested, and held to bail for trial. But they surrendered themselves into custody, procured writs of *habeas corpus* for their release; and were discharged in vacation by judges before whom they were brought. It has been found difficult in the United States to punish great offenders—much more so than in England or France. In the cases of the South Sea and Mississippi frauds, the principal actors, though men of high position, were criminally punished, and made to pay damages. While these delinquencies were going on in the Bank of the United States, an eminent banker of London—Mr. Fauntleroy—was hanged at Tyburn, like a common felon—for his bank misdeeds: and while some plundered stockholders are now (autumn of 1855) assembled in Philadelphia, searching in vain for a shilling of their stock, three of the greatest bankers in London are receiving sentence of transportation for fourteen years for offences, neither in money nor morals, the hundredth part of the ruin and crime perpetrated by our American bank—bearing the name of the United States. The case presents too strong a contrast, and teaches too great a lesson to criminal justice to be omitted; and here it is:

“The firm had been in existence for nearly two centuries. The two elder partners of the firm had been distinguished for munificent charities, for an advocacy of great moral reforms, and an active participation in the religious or philanthropic measures of the day. They had always been liberal givers, had presided at Exeter Hall meetings, built chapels, and generally acted the part of liberal and useful members of society; and one of them, Sir John Dean Paul, was a baronet by descent, and allied to some of the highest nobility of England. He was first cousin to the present Lord Ravensworth, the honorable Augustus and Adolphus Liddell, the rector of St. Paul’s, Knightsbridge, the Countess of Hardwicke, Viscountess Barrington, Lady Bloomfield; and, above all, the honorable Mrs. Villiers, sister-in-law to the Earl of Clarendon. These connections, however, in a country where rank and social position have peculiar influence, did not save them from a criminal trial and utter disgrace. One of their customers, in obedience to what he believed to be a duty to society, having personally inquired into the affairs of the firm, proceeded to lay a criminal information against Messrs. Strahan, Paul, and Bates, which led to their indictment and subsequent trial before the criminal court. This gentleman was the Rev. Dr. Griffith, Prebendary of Rochester, a wealthy ecclesiastic and a personal friend of all the partners of the firm, with which he had been a large depositor for many years. On the twenty-fifth of October the trial came on before Mr. Baron Alderson, assisted by Baron Martin and Justice Willes. The defendants appeared in court, attended by Sir Frederick Thesiger, Mr. Ballantyne, Sergeant Byles, and other almost equally eminent counsel. The Attorney-general appeared for the prosecution, and the evidence adduced at the trial, disclosed the following facts: Dr. Griffith, the prosecutor in the proceedings, and who, at the time of the failure of the defendants, had money and securities on deposit with them to the amount of £22,000, about five years ago empowered them to purchase for him on three different occasions, Danish five per cent. bonds to the value of £5,000. The defendants purchased the bonds, upon which they regularly received the dividends, and credited Dr. Griffith with the same on their books. This continued until March, 1854, when Sir John D. Paul, to relieve the embarrassments under which the firm were laboring, sold these securities, together with others with which they were entrusted, and

appropriated the proceeds, amounting to over £12,000, to the use of the firm. This, as we have stated, was no offence at common law, and the indictment was preferred upon a statutory provision found in the 7th and 8th of George IV., cap. 29. The rigid severity of the penal law in England on this subject will be better appreciated when we add, that the bonds were replaced by others of equal value, in the June following their misappropriation, just one year previous to the failure of the firm; and that the indictment only charged the defendants with misappropriating them in this single instance, although it was shown that the second set of bonds were again sold for the use of the firm in April, 1855; Dr. Griffith having, in the interval, regularly received his dividends; so that, although the firm might be perfectly solvent at this moment, the fact that they had sold the bonds in March, 1851, even if they had replaced them in June, 1854, and had credited Dr. Griffith with the dividends on them between those dates, would still render them liable to an indictment. The case, therefore, overlooking the final misappropriation of the bonds, and the failure of the firm in 1855, was narrowed down to the single issue—whether they had been sold in 1854 without the consent of Dr. Griffith."

For misappropriating sixty thousand dollars of one of their customers—using it without his consent—these three great London bankers were sentenced to fourteen years' transportation: for misappropriating thirty-five millions, and sinking twenty-one millions more in other institutions, the wrong-doers go free in the United States—giving some countenance among us to the sarcasm of the Scythian philosopher, that laws are cobwebs which catch the weak flies, and let the strong ones break through. The Judge (Mr. Baron Alderson) who tried this case (that of the three London bankers), had as much heart and feeling as any judge, or man ought to have; but he also had a sense of his own duty, and of his obligations to the laws, and to the country; and in sentencing men of such high position, and with whom he had been intimate and social, he combined in the highest degree the feelings of a man with the duties of the judge. He said to the prisoners:

"William Strahan, Sir John Dean Paul, and Robert Makin Bates, the jury have now found you guilty of the offence charged upon you in the indictment—the offence of disposing of securities which were entrusted by your customers to you as bankers, for the purpose of being kept safe for their use, and which you appropriated, under circumstances of temptation, to your own. A greater and more serious offence can hardly be imagined in a great commercial city like this. It tends to shake confidence in all persons in the position you occupied, and it has shaken the public confidence in establishments like that you for a long period honorably conducted. I do very, very much regret that it falls to my lot to pass any sentence on persons in your situation; but yet the public interest and public justice require it; and it is not for me to shrink from the discharge of any duty, however painful, which properly belongs to my office. I should have been very glad, if it had pleased God that some one else now had to discharge that duty. I have seen (continued the learned judge, with deep emotion) at least one of you under very different circumstances, sitting at my side in high office, instead of being where you now are, and I could scarcely then have fancied to myself that it would ever come to me to pass sentence on you. But so it is, and this is a proof, therefore, that we all ought to pray not to be led into temptation. You have been well educated, and held a high position in life, and the punishment which must fall on you will consequently be the more seriously and severely felt by you, and will also greatly affect those connected with you, who will most sensitively feel the disgrace of your position. All that I have to say is, that I cannot conceive any worse case of the sort arising under the act of Parliament, applicable to your offence. Therefore, as I cannot conceive any worse case under the act, I can do nothing else but impose the sentence therein provided for the worst case, namely, the most severe punishment, which is, that you be severally transported for fourteen years."

For the admiration of all in our America—for the imitation of those who may be called to act in the like cases—with the sad conviction that the administration of criminal justice is not equal in our Republic to what it is in the monarchies of Europe: for the benefit of all such, this brief notice of judicial action in an English court against eminent, but culpable bankers, is here given—contrasting so strikingly with the vain attempts to prosecute those so much more culpable in our own country.

88. End And Results Of The Extra Session

This extraordinary session, called by President Harrison, held under Mr. Tyler, dominated by Mr. Clay, was commenced on the 31st of May and ended the 13th of September: seventy-five days' session—and replete with disappointed calculations, and nearly barren of permanent results. The whigs expected from it an easy and victorious course of legislation, and the consolidation of their power by the inauguration of their cherished measures for acting on the people—national bank—paper money national currency—union of bank and state—distribution of public money—bankrupt act—monopoly of office. The democracy saw no means of preventing these measures; but relied upon the goodness of their cause, the badness of the measures to be adopted by the whigs, and the blunders they would commit, to give them eventual victory, and soon to restore parties to their usual relative positions. The defection of Mr. Tyler was not foreseen: his veto of a national bank was not counted upon: the establishment of that institution was considered certain: and the only remedy thought of was in the repeal of the law establishing it. As a public political corporation, that repealability came within the decision of the Supreme Court of the United States in the Dartmouth College case; and being established for the good of the state, it became amenable to the judgment of the State upon the question of good, or evil—to be decided by the political power. Repealability was then the reliance against a national bank; and that ground was immediately taken, and systematically urged—both for the purpose of familiarizing the people with the idea of repeal, and of deterring capitalists from taking its stock. The true service that Mr. Tyler did the democratic party was in rejecting the bank charters (for such they both were, though disguised with ridiculous names). Numerically he weakened the whig ranks but little: potentially not at all—as those who joined him, took office: and became both useless to him, and a reproach. That *beau ideal*, of a whig unity—"whig President, whig Congress, and whig people"—which Mr. Webster and Mr. Cushing were to realize, vanished: and they with it—leaving Mr. Tyler without whig, and without democratic adherents; but with a small party of his own as long as he was in a condition to dispense office. The legislation of the session was a wreck. The measures passed, had no duration. The bankrupt act, and the distribution act, were repealed by the same Congress that passed them—under the demand of the people. The new tariff act, called revenue—was changed within a year. The sub-treasury system, believed to have been put to death, came to life again. Gold and silver, intended to have been ignored as a national currency, had become that currency—both for the national coffers, and the people's pockets. Of all the measures of that extraordinary session, opening with so much hope, nothing now remains to recall the idea of its existence, but, *first*—The Home Squadron! keeping idle watch on our safe coasts, at the cost of a million per annum. *Next*, The Ocean Line Steamers! plundering the country of two millions annually, oppressing fair competition and damaging the character of Congress. And last, not least, That One Hour Rule! which has silenced the representatives of the people in the House of Representatives, reduced the national legislation to blind dictation, suppressed opposition to evil measures, and deprived the people of the means of knowing the evil that Congress is doing.

To the democracy it was a triumphant session—triumphant in every thing that constitutes moral and durable triumph. They had broken down the whig party before the session was over—crushed it upon its own measures; and were ready for the elections which were to reverse the party positions. The Senate had done it. The House, oppressed by the hour rule, and the tyrannical abuse of the previous question, had been able to make but little show. The two-and-twenty in the Senate did the work; and never did I see a body of men more effective

or brilliant—show a higher spirit or a more determined persistence. To name the speakers, would be to enumerate all—except Mr. Mouton, who not having the English language perfect was limited to his vote—always in place, and always faithful. The Globe newspaper was a powerful assistant, both as an ally working in its own columns, and as a vehicle of communication for our daily debates. Before the session was over we felt ourselves victorious, and only waiting for the day when the elections were to show it. Of all our successes, that of keeping the hour rule, and the previous question out of the American Senate, was the most brilliant, and durably beneficent—rising above party—entering the high region of free government—preserving the liberty of speech—preserving to republican government its distinctive and vital feature, that of free debate; and saving national legislation from unresisted party dictation.

89. First Annual Message Of President Tyler

This message coming in so soon after the termination of the extra session—only two months after it—was necessarily brief and meagre of topics, and presents but few points worthy of historical remembrance. The first subject mentioned was the acquittal of McLeod, which had taken place in the recess: and with which result the British government was content. The next subject was, the kindred matter of the Caroline; on which the President had nothing satisfactory to communicate, but expressed a high sense of the indignity which had been offered to the United States, and evinced a becoming spirit to obtain redress for it. He said:

"I regret that it is not in my power to make known to you an equally satisfactory conclusion in the case of the Caroline steamer, with the circumstances connected with the destruction of which, in December, 1837, by an armed force fitted out in the Province of Upper Canada, you are already made acquainted. No such atonement as was due for the public wrong done to the United Stares by this invasion of her territory, so wholly irreconcilable with her rights as an independent power, has yet been made. In the view taken by this government, the inquiry whether the vessel was in the employment of those who were prosecuting an unauthorized war against that Province, or was engaged by the owner in the business of transporting passengers to and from Navy Island in hopes of private gain, which was most probably the case, in no degree alters the real question at issue between the two governments. This government can never concede to any foreign government the power, except in a case of the most urgent and extreme necessity, of invading its territory, either to arrest the persons or destroy the property of those who may have violated the municipal laws of such foreign government, or have disregarded their obligations arising under the law of nations. The territory of the United States must be regarded as sacredly secure against all such invasions, until they shall voluntarily acknowledge their inability to aquit themselves of their duties to others. And in announcing this sentiment, I do but affirm a principle which no nation on earth would be more ready to vindicate, at all hazards, than the people and government of Great Britain."

The finances were in a bad condition, and the President chiefly referred to the report of the Secretary of the Treasury upon them. Of the loan of twelve millions authorized at the previous session, only five millions and a half had been taken—being the first instance, and the last in our financial history in which, in time of peace, our government was unable to borrow money. A deficiency existed in the revenues of the year, and for the ensuing year that deficiency was estimated, would amount to a fraction over fourteen millions of dollars. To meet this large deficit the secretary recommended—*first*, an extension of the term for the redeemability of the remainder of the authorized loan, amounting to $6,500,000. *Secondly*, the re-issue of the five millions of treasury notes authorized at the previous session. *Thirdly*, the remainder ($2,718,570) to be made up by additional duties on imported articles. While recommending these fourteen millions and a quarter to be raised by loans, treasury notes, and duties, the President recommended the land revenue should still remain as a fund for distribution to the States, and was solicitous that, in the imposition of new duties, care should be taken not to impair the mutual assurance for each other's life which the land distribution bill, and the compromise clause contained in the tariff bill of the extra session provided for each other—saying: "It might be esteemed desirable that no such augmentation of the duties should take place as would have the effect of annulling the land proceeds distribution act of the last session, which act it declared to be inoperative the moment the duties are increased beyond 20 per centum—the maximum rate established by the compromise act." This

recommendation, so far as it applied to the compromise act, was homage to the dead; and so far as it related to continuing the distribution of the land revenue was, probably, the first instance in the annals of nations in which the chief magistrate of a country has recommended the diversion and gratuitous distribution of a large branch of its revenues, recommending at the same time, money to be raised by loans, taxes, and government notes to supply the place of that given away. The largeness of the deficiency was a point to be accounted for; and that was done by showing the great additional expenses to be incurred—and especially in the navy, for which the new secretary (Mr. Upshur) estimated enormously, and gave rise to much searching discussion in Congress: of which, in its place. But the chief item in the message was another modification of the fiscalities of the extra session, with a new name, and an old countenance upon it, except where it was altered for the worse. This new plan was thus introduced by the President:

"In pursuance of a pledge given to you in my last message to Congress, which pledge I urge as an apology for adventuring to present you the details of any plan, the Secretary of the Treasury will be ready to submit to you, should you require it, a plan of finance which, while it throws around the public treasure reasonable guards for its protection, and rests on powers acknowledged in practice to exist from the origin of the government, will, at the same time, furnish to the country a sound paper medium, and afford all reasonable facilities for regulating the exchanges. When submitted, you will perceive in it a plan amendatory of the existing laws in relation to the Treasury department—subordinate in all respects to the will of Congress directly, and the will of the people indirectly—self-sustaining should it be found in practice to realize its promises in theory, and repealable at the pleasure of Congress. It proposes by effectual restraints, and by invoking the true spirit of our institutions, to separate the purse from the sword; or more properly to speak, denies any other control to the President over the agents who may be selected to carry it into execution, but what may be indispensably necessary to secure the fidelity of such agents; and, by wise regulations, keeps plainly apart from each other private and public funds. It contemplates the establishment of a Board of Control at the seat of government, with agencies at prominent commercial points, or wherever else Congress shall direct, for the safe-keeping and disbursement of the public moneys, and a substitution, at the option of the public creditor, of treasury notes, in lieu of gold and silver. It proposes to limit the issues to an amount not to exceed $15,000,000—without the express sanction of the legislative power. It also authorizes the receipt of individual deposits of gold and silver to a limited amount, and the granting certificates of deposit, divided into such sums as may be called for by the depositors. It proceeds a step further, and authorizes the purchase and sale of domestic bills and drafts, resting on a real and substantial basis, payable at sight, or having but a short time to run, and drawn on places not less than one hundred miles apart—which authority, except in so far as may be necessary for government purposes exclusively, is only to be exerted upon the express condition, that its exercise shall not be prohibited by the State in which the agency is situated."

This was the prominent feature of the message, and appeared to Mr. Benton to be so monstrous and dangerous that it ought not to be allowed to get out of the Senate without a mark of reprobation should be first set upon it. The moment the reading was finished, the usual resolve was offered to print extra copies, when he rose and inveighed against the new fiscality with great vehemence, saying:

"He could not reconcile it to himself to let the resolution pass without making a few remarks on that part of the message which related to the new fiscal agent. Looking at that feature of it, as read, he perceived that the President gave an outline of his plan, leaving it to the Secretary of the Treasury to furnish the details in his report. He (Mr. Benton) apprehended that nothing in those details could reconcile him to the project, or in any manner meet his approbation.

There were two main points presented in the plan, to which he never could agree—both being wholly unconstitutional and dangerous. One was that of emitting bills of credit, or issuing a treasury currency. Congress had no constitutional authority to issue paper money, or emit federal bills of credit; and the other feature is to authorize this government to deal in exchanges. The proposition to issue bills of credit, when under consideration at the formation of the constitution, was struck out with the express view of making this government a hard money government—not capable of recognizing any other than a specie currency—a currency of gold and silver—a currency known and valued, and equally understood by every one. But here is a proposition to do what is expressly refused to be allowed by the framers of the constitution—to exercise a power not only not granted to Congress, but a power expressly denied. The next proposition is to authorize the federal government to deal in and regulate exchanges, and to furnish exchange to merchants. This is a new invention—a modern idea of the power of this government, invented by Mr. Biddle, to help out a national bank. Much as General Hamilton was in favor of paper money, he never went the length of recommending government bills of credit, or dealings in exchange by the United States Treasury. The fathers of the church, Macon, and John Randolph, and others, called this a hard money government: they objected to bank paper; but here is government paper; and that goes beyond Hamilton, much as he was in favor of the paper system. The whole scheme making this government a regulator of exchange—a dealer in exchange—a furnisher of exchange—is absurd, unconstitutional, and pernicious, and is a new thing under the sun.

"Now he (Mr. Benton) objected to this government becoming a seller of exchange to the country (which is transportation of money), for which there is no more authority than there is for its furnishing transportation of goods or country produce. There is not a word in the constitution to authorize it—not a word to be found justifying the assumption. The word exchange is not in the constitution. What does this message propose? Congress is called upon to establish a board with agencies, for the purpose of furnishing the country with exchanges. Why should not Congress be also called on to furnish that portion of the community engaged in commerce with facilities for transporting merchandise? The proposition is one of the most pernicious nature, and such as must lead to the most dangerous consequences if adopted.

"The British debt began in the time of Sir Robert Walpole, on issues of exchequer bills—by which system the British nation has been cheated, and plunged irretrievably in debt to the amount of nine hundred millions of pounds. The proposition that the government should become the issuer of exchequer notes, is one borrowed from the system introduced in England by Sir Robert Walpole, whose whig administration was nothing but a high tory administration of Queen Anne: and infinitely worse; for Walpole's exchequer bills were for large sums, for investment: this scheme goes down to five dollar notes for common and petty circulation. He (Mr. Benton) had much to say on this subject, but this was not the time for entering at large into it. This perhaps was not the proper occasion to say more; nor would it, he considered, be treating the President of the United States with proper respect to enter upon a premature discussion. He could not, however, in justice to himself, allow this resolution to pass without stating his objections to two such obnoxious features of the proposed fiscality, looking, as he did, upon the whole thing as one calculated to destroy the whole structure of the government, to change it from the hard money it was intended to be, to the paper money government it was intended not to be, and to mix it up with trade, which no one ever dreamed of. He (Mr. Benton) had on another occasion stated that this administration would go back not only to the federal times of '98, but to the times of Sir Robert Walpole and Queen Anne, and the evidence is now before us.

"He (Mr. Benton) had only said a few words on this occasion, because he could not let the proposition to sanction bills of credit go without taking the very earliest opportunity of

expressing his disapprobation, and denouncing a system calculated to produce the same results which had raised the funded debt of Great Britain from twenty-one millions to nine hundred millions of pounds. He should avail himself of the first appropriate opportunity to maintain the ground he had assumed as to the identity of this policy with that of Walpole, by argument and references, that this plan of the President's was utterly unconstitutional and dangerous—part borrowed from the system of English exchequer issues, and part from Mr. Biddle's scheme of making the federal government an exchange dealer—though Mr. Biddle made the government act indirectly through a board of bank directors, and this makes it act directly through a board of treasury directors and their agents.

"This is the first time that a formal proposition has been made to change our hard money government (as it was intended to be) into a paper money machine; and it is the first time that there has been a proposal to mix it up with trade and commerce, by making it a furnisher of exchanges, a bank of deposit, a furnisher of paper currency, and an imitator of the old confederation in its continental bills and a copyist of the English exchequer system. Being the first time these unconstitutional and pernicious schemes were formally presented to Congress, he felt it to be his duty to disclose his opposition to them at once. He would soon speak more fully."

The President in his message referred to the accompanying report of the Secretary of the Treasury (Mr. Walter Forward), for the details of his plan; and in looking at these they were found to comprise all the features of a bank of circulation, a bank of deposit, and a bank of discount upon bills of exchange—all in the hands of the government, and they to become the collectors and keepers of the public moneys, and the furnishers of a national paper money currency, in sums adapted to common dealings, both to the people and the federal government. It was a revolting scheme, and fit for instant condemnation, but in great danger of being adopted from the present predominance of that party in all the departments of the government which was so greatly addicted to the paper system.

90. Third Plan For A Fiscal Agent, Called Exchequer Board: Mr. Benton's Speech Against It: Extracts

Mr. President:—I have said on several occasions since the present administration was formed, that we had gone back not merely to the federal times of General Hamilton, but far beyond them—to the whig times of Sir Robert Walpole, and the tory times of Queen Anne. When I have said this I did not mean it for sarcasm, or for insult, or to annoy the feelings of those who had just gotten into power. My aim was far higher and nobler—that of showing the retrograde movement which our government was making, and waking up the country to a sense of its dangers before it was too late; and to the conviction of the necessity of arresting that movement, and recovering the ground which we have lost. When I had said that we had gone back to the Walpole and Queen Anne times of the British government, I knew full well the extent of the declaration which I had made, and the obligation which I had imposed on myself to sustain my assertion, and I knew that history would bear me out in it. I knew all this; and I felt that if I could show to the American people that we had retrograded to the most calamitous period of British history—the period from which her present calamities all date—and that we were about to adopt the systems of policy which she then adopted, and which has led to her present condition; I felt that if I could do this, I might succeed in rousing up the country to a sense of its danger before it was too late to avoid the perils which are spread before us. The administration of Sir Robert Walpole was the fountain-head of British woes. All the measures which have led to the present condition of the British empire, and have given it more debt and taxes, more paupers, and more human misery than ever before was collected under the sway of one sceptre: all these date from the reigns of the first and second George; when this minister, for twenty-five years, was the ruler of parliament by means of the moneyed interest, and the ruler of kings by beating the tories at their own game of non-resistance and passive obedience to the royal will. The tories ruled under Queen Anne: they went for church and state, and rested for support on the landed interest. The whigs came into power with the accession of George the First: they went for bank and state; and rested for support on the moneyed interest. Sir Robert Walpole was the head of the whig party; and immediately became the favorite of that monarch, and afterwards of his successor; and, availing himself during that long period of power of all the resources of genius, unimpeded by the obstacle of principles, he succeeded in impressing his own image upon the age in which he lived, and giving to the government policy the direction which it has followed ever since. Morals, politics, public and private pursuits, all received the impress of the minister's genius; and what that genius produced I will now proceed to show: I read from Smollet's continuation of Hume:

"This was the age of interested projects, inspired by a venal spirit of adventure, the natural consequence of that avarice, fraud, and profligacy which the MONEYED CORPORATIONS had introduced. The vice, luxury, and prostitution of the age—the almost total extinction of sentiment, honor, and public spirit—had prepared the minds of men for slavery and corruption. The means were in the hands of the ministry: the public treasure was at their devotion: they multiplied places and pensions, to increase the number of their dependents: they squandered away the national treasure without taste, discernment, decency, or remorse: they enlisted an army of the most abandoned emissaries, whom they employed to vindicate the worst measures in the face of truth, common sense, and common honesty; and

they did not fail to stigmatize as Jacobites, and enemies to the government, all those who presumed to question the merit of their administration. The interior government of Great Britain was chiefly managed by Sir Robert Walpole, a man of extraordinary talents, who had from low beginnings raised himself to the head of the ministry. Having obtained a seat in the House of Commons, he declared himself one of the most forward partisans of the whig faction. He was endued with a species of eloquence which, though neither nervous nor elegant, flowed with great facility, and was so plausible on all subjects, that even when he misrepresented the truth, whether from ignorance or design, he seldom failed to persuade that part of his audience for whose hearing his harangue was chiefly intended. He was well acquainted with the nature of the public funds, and understood the whole mystery of stockjobbing. This knowledge produced a connection between him and the MONEY CORPORATIONS, which served to enhance his importance."

Such was the picture of Great Britain in the time of Sir Robert Walpole, and such was the natural fruit of a stockjobbing government, composed of bank and state, resting for support on heartless corporations, and lending the wealth and credit of the country to the interested schemes of projectors and adventurers. Such was the picture of Great Britain during this period; and who would not mistake it (leaving out names and dates) for a description of our own times, in our own America, during the existence of the Bank of the United States and the thousand affiliated institutions which grew up under its protection during its long reign of power and corruption? But, to proceed, with English history:

Among the corporations brought into existence by Sir Robert Walpole, or moulded by him into the form which they have since worn, were the South Sea Company, the East India Company, the Bank of England, the Royal Insurance Company, the London Insurance Company, the Charitable Corporation, and a multitude of others, besides the exchequer and funding systems, which were the machines for smuggling debts and taxes upon the people and saddling them on posterity. All these schemes were brought forward under the pretext of paying the debts of the nation, relieving the distresses of the people, assisting the poor, encouraging agriculture, commerce, and manufactures; and saving the nation from the burden of loans and taxes. Such were the pretexts for all the schemes. They were generally conceived by low and crafty adventurers, adopted by the minister, carried through parliament by bribery and corruption, flourished their day; and ended in ruin and disgrace. A brief notice of the origin and pretensions of the South Sea scheme, may serve for a sample of all the rest, and be an instructive lesson upon the wisdom of all government projects for the relief of the people. I say, a notice of its origin and pretensions; for the progress and termination of the scheme are known to everybody, while few know (what the philosophy of history should be most forward to teach) that this renowned scheme of fraud, disgrace, and ruin, was the invention of a London scrivener, adopted by the king and his minister, passed through parliament by bribes to the amount of £574,000; and that its vaunted object was to pay the debts of the nation, to ease the burdens of the subject, to encourage the industry of the country, and to enrich all orders of men. These are the things which should be known; these are the things which philosophy, teaching by the example of history, proposes to tell, in order that the follies of one age or nation may be a warning to others; and this is what I now want to show. I read again from the same historian:

"The king (George I.) having recommended to the Commons the consideration of proper means for lessening the national debt, was a prelude to the famous South Sea act, which became productive of so much mischief and infatuation. The scheme was projected by Sir John Blunt, who had been bred a scrivener, and was possessed of all the cunning, plausibility and boldness requisite for such an undertaking. He communicated his plan to the Chancellor of the Exchequer, as well as to one of the Secretaries of State. He answered all their

objections, and the plan was adopted. They foresaw their own private advantage in the execution of the design. The pretence for the scheme was to discharge the national debt, by reducing all the funds into one. The Bank and the South Sea Company outbid each other. The South Sea Company altered their original plan, and offered such high terms to government that the proposals of the Bank were rejected: and a bill was ordered to be brought into the House of Commons, formed on the plan presented by the South Sea Company. The bill passed without amendment or division; and on the 7th day of April, 1720, received the royal assent. Before any subscription could be made, a fictitious stock of £574,000 had been disposed of by the directors to facilitate the passing of the bill. Great part of this was distributed among the Earl Sunderland, Mr. Craggs, Secretary of State, the Chancellor of the Exchequer, the Duchess of Kendall, the Countess of Platen, and her two nieces" (mistresses of the king, &c.)

This is a sample of the origin and pretensions of nearly all the great corporations which were chartered and patronized by the Walpole whigs: all of them brought forward under the pretext of relieving the people and the government—nearly all of them founded in fraud or folly—carried through by corruption—and ending in disgrace and calamity. Leaving out names, and who would not suppose that I had been reading the history of our own country in our own times? The picture suits the United States in 1840 as well as it suited England in 1720: but at one point, the comparison, if pushed a step further, would entirely fail; all these corporation plunderers were punished in England! Though favored by the king and ministry, they were detested by the people, and pursued to the extremity of law and justice. The South Sea swindlers were fined and imprisoned—their property confiscated—their names attainted—and themselves declared incapable of holding any office of honor or profit in the kingdom. The president and cashier of the *charitable corporation*—(which was chartered to relieve the distresses of the poor, and which swindled the said poor out of £600,000 sterling)—this president and this cashier were pursued into Holland—captured—brought back—criminally punished—and made to disgorge their plunder. Others, authors and managers of various criminal corporations, were also punished: and in this the parallel ceases between the English times and our own. With us, the swindling corporations are triumphant over law and government. Their managers are in high places—give the tone to society—and riot in wealth. Those who led, or counselled the greatest ruin which this, or any country ever beheld—the Bank of the United States—these leaders, their counsellors and abettors, are now potential with the federal government—furnish plans for new systems of relief—and are as bold and persevering as ever in seizing upon government money and government credit to accomplish their own views. In all this, the parallel ceases; and our America sinks in the comparison.

Corporation credit was ruined in Great Britain, by the explosions of banks and companies—by the bursting of bubbles—by the detection of their crimes—and by the crowning catastrophe of the South Sea scheme: it is equally ruined with us, and by the same means, and by the crowning villany of the Bank of the United States. Bank and state can no longer go together in our America: the government can no longer repose upon corporations. This is the case with us in 1841; and it was the case with Great Britain in 1720. The South Sea explosion dissolved (for a long time) the connection there; the explosion of the Bank of the United States has dissolved it here. New schemes become indispensable: and in both countries the same alternative is adopted. Having exhausted corporation credit in England, the Walpole whigs had recourse to government credit, and established a Board of Exchequer, to strike government paper. In like manner, the new whigs, having exhausted corporation credit with us, have recourse to government credit to supply its place; and send us a plan for a federal exchequer, copied with such fidelity of imitation from the British original that the description of one seems to be the description of the other. Of course I speak of the exchequer feature of

the plan alone. For as to all the rest of our cabinet scheme—its banking and brokerage conceptions—its exchange and deposit operations—its three dollar issues in paper for one dollar specie in hand—its miserable one-half of one per centum on its Change-alley transactions—its Cheapside under-biddings of rival bankers and brokers:—as to all these follies (for they do not amount to the dignity of errors) they are not copied from any part of the British exchequer system, or any other system that I ever heard of, but are the uncontested and unrivalled production of our own American genius. I repeat it: our administration stands to-day where the British government stood one hundred and twenty years ago. Corporation credit exhausted, public credit is resorted to; and the machinery of an exchequer of issues becomes the instrument of cheating and plundering the people in both countries. The British invent: we copy: and the copy proves the scholar to be worthy of the master. Here is the British act. Let us read some parts of it: and recognize in its design, its structure, its object, its provisions, and its machinery, the true original of this plan (the exchequer part) which the united wisdom of our administration has sent down to us for our acceptance and ratification. I read, not from the separate and detached acts of the first and second George, but from the revised and perfected system as corrected and perpetuated in the reign of George the Third. (Here Mr. Benton compared the two systems through the twenty sections which compose the British act, and the same number which compose the exchequer bill of this administration.)

Here, resumed Mr. B. is the original of our exchequer scheme! here is the original of which our united administration has unanimously sent us down a faithful copy. In all that relates to the exchequer—its design—operation—and mode of action—they are one and the same thing! identically the same. The design of both is to substitute government credit for corporation credit—to strike paper money for the use of the government—to make this paper a currency, as well as a means of raising loans—to cover up and hide national debt—to avoid present taxes in order to increase them an hundred fold in future—to throw the burdens of the present day upon a future day; and to load posterity with our debts in addition to their own. The design of both is the same, and the structure of both is the same. The English board consists of the lord treasurer for the time being, and three commissioners to be appointed by the king; our board is to consist of the Secretary of the Treasury and the Treasurer for the time being, and three commissioners to be appointed by the President and Senate. The English board is to superintend and direct the form and mode of preparing and issuing the exchequer bills; our board is to do the same by our treasury notes. The English bills are to be receivable in all payments to the public; our treasury notes are to be received in like manner in all federal payments. The English board appoints paymasters, clerks and officers to assist them in the work of the exchequer; ours is to appoint agents in the States, with officers and clerks to assist them in the same work. The English paymasters are to give bonds, and be subject to inspection; our agents are to do and submit to the same. The English exchequer bills are to serve for a currency; and for that purpose the board may contract with persons, bodies politic and corporate, to take and circulate them; our board is to do the same thing through its agencies in the States and territories. The English exchequer bills are to be exchanged for ready money; ours are to be exchanged in the same manner. In short, the plans are the same, one copied from the other, identical in design, in structure, and in mode of operation; and wherein they differ (as they do in some details), the advantage is on the side of the British. For example: 1. The British pay interest on their bills, and raise the interest when necessary to sustain them in the market. Ours are to pay no interest, and will depreciate from the day they issue. 2. The British cancel and destroy their bills when once paid: we are to reissue ours, like common bank notes, until worn out with use. 3. The British make no small bills; none less than £100 sterling ($500), we begin with five dollars, like the old continentals; and, like them, will soon be down to one dollar, and to a shilling. 4. The British board could issue no bill except as specially authorized from time to time by act of

Parliament: ours is to keep out a perpetual issue of fifteen millions; thus creating a perpetual debt to that amount. 5. The British board was to have no deposit of government stocks: ours are to have a deposit of five millions, to be converted into money when needed, and to constitute another permanent debt to that amount. 6. The British gave a true title to their exchequer act: we give a false one to ours. They entitled theirs, "*An act for regulating the issuing and paying off, of exchequer bills:*" we entitle ours, "*A bill amendatory of the several acts establishing the Treasury department*." In these and a few other particulars the two exchequers differ; but in all the essential features—design—structure—operation—they are the same.

Having shown that our proposed exchequer was a copy of the British system, and that we are having recourse to it under the same circumstances: that in both countries it is a transit from corporation credit deceased, to government credit which is to bear the brunt of new follies and new extravagances: having shown this, I next propose to show the manner in which this exchequer system has worked in England, that, from its workings there, we may judge of its workings here. This is readily done. Some dates and figures will accomplish the task, and enlighten our understandings on a point so important. I say some dates and figures will do it. Thus: at the commencement of this system in England the annual taxes were 5 millions sterling: they are now 50 millions. The public debt was then 40 millions: it is now 900 millions, the unfunded items included. The interest and management of the debt were then 1½ millions: they are now 30 millions.

Here Mr. B. exhibited a book—the index to the British Statutes at large—containing a reference to all the issues of exchequer bills from the last year of the reign of George I. (1727) to the fourth year of the reign of her present Majesty (1840). He showed the amounts issued under each reign, and the parallel growth of the national debt, until these issues exceeded a thousand millions, and the debt, after all payments made upon it, is still near one thousand millions. Mr. B. here pointed out the annual issues under each reign, and then the totals for each reign, showing that the issues were small and far between in the beginning—large and close together in the conclusion—and that it was now going on faster than ever.

The following was the table of the issues under each reign:

Geo. I. in 1727 (one year),

£370,000

Geo. II. from 1727 to 1760 (33 years),

11,500,000

Geo. III. from 1760 to 1820 (60 years),

542,500,000

Geo. IV. from 1820 to 1831 (11 years),

320,000,000

Will. IV. from 1831 to 1837 (6 years),

160,000,000

Victoria I. from 1837 to 1840 (4 years),

160,000,000

£1 140,370,000

Near twelve hundred millions of pounds sterling in less than a century and a quarter—we may say three-quarters of a century, for the great mass of the issues have taken place since the beginning of the reign of George III. The first issue was the third of a million; under George II., the average annual issue was the third of a million; under George III., the annual average was nine millions; under George IV. it was thirty millions; under William IV. twenty-three millions; and under Victoria, it is twenty-one millions. Such is the progress of the system—such the danger of commencing the issue of paper money to supply the wants of a government.

This, continued Mr. B., is the fruit of the exchequer issues in England, and it shows both the rapid growth and dangerous perversion of such issues. The first bills of this kind ever issued in that country were under William III., commonly called the Prince of Orange, in the year 1696. They were issued to supply the place temporarily of the coin, which was all called in to be recoined under the superintendence of Sir Isaac Newton. The first bills were put out by King William only for this temporary purpose, and were issued as low as ten pounds and five pounds sterling. It was not until more than thirty years afterwards, and when corporation credit had failed, that Sir Robert Walpole revived the idea of these bills, and perverted them into a currency, and into instruments for raising money for the service of the government. His practice was to issue these bills to supply present wants, instead of laying taxes or making a fair and open loan. When due, a new issue took up the old issue; and when the quantity would become great, the whole were funded; that is to say saddled upon posterity. The fruit of the system is seen in the 900,000,000 of debt which Great Britain still owes, after all the payments made upon it. The amount is enormous, overwhelming, appalling; such as never could have been created under any system of taxes or loans. In the nature of things government expenditure has its limits when it has to proceed upon taxation or borrowing. Taxes have their limit in the capacity of the people to pay: loans have their limit in the capacity of men to lend; and both have their restraints in the responsibility and publicity of the operation. Taxes cannot be laid without exciting the inquiry of the people. Loans cannot be made without their demanding wherefore. Money, i. e. gold and silver, cannot be obtained, but in limited and reasonable amounts, and all these restraints impose limits upon the amount of government expenditure and government debt. Not so with the noiseless, insidious, boundless progress of debt and expenditure upon the issue of government paper! The silent working of the press is unheard heard by the people. Whether it is one million or twenty millions that is struck, is all one to them. When the time comes for payment, the silent operation of the funding system succeeds to the silent operation of the printing press; and thus extravagant expenditures go on—a mountain of debt grows up—devouring interest accrues—and the whole is thrown upon posterity, to crush succeeding ages, after demoralizing the age which contracted it.

The British debt is the fruit of the exchequer system in Great Britain, the same that we are now urged to adopt, and under the same circumstances; and frightful as is its amount, that is only one branch—one part of the fruit—of the iniquitous and nefarious system. Other parts remain to be stated, and the first that I name is, that a large part of this enormous debt is wholly false and factitious! McCulloch states two-fifths to be fictitious; other writers say more; but his authority is the highest, and I prefer to go by it. In his commercial dictionary, now on my table, under the word "*funds*," he shows the means by which a stock for £100 would be granted when only £60 or £70 were paid for it; and goes on to say:

"In consequence of this practice, the principal of the debt now existing amounts to nearly two-fifths more than the amount actually advanced by the lender."

So that the English people are bound for two-fifths more of capital, and pay two-fifths more of annual interest, on account of their debt than they ever received. Two-fifths of 900,000,000 is 360,000,000; and two-fifths of 30,000,000 is 12,000,000; so that here is fictitious debt to the amount of $1,600,000,000 of our money, drawing $60,000,000 of interest, for which the people of England never received a cent; and into which they were juggled and cheated by the frauds and villanies of the exchequer and funding systems! those systems which we are now unanimously invited by our administration to adopt. The next fruit of this system is that of the kind of money, as it was called, which was considered lent, and which goes to make up the three-fifths of the debt admitted to have been received; about the one-half of it was received in depreciated paper during the long bank suspension which took place from 1797 to 1823, and during which time the depreciation sunk as low as 30 per centum. Here, then, is another deduction of near one-third to be taken off the one-half of the three-fifths which is counted as having been advanced by the lenders. Finally, another bitter drop is found in this cup of indebtedness, that the lenders were mostly jobbers and gamblers in stocks, without a shilling of their own to go upon, and who by the tricks of the system became the creditors of the government for millions. These gentry would puff the stocks which they had received—sell them at some advance—and then lend the government a part of its own money. These are the lenders—these the receivers of thirty millions sterling of taxes—these the scrip nobility who cast the hereditary nobles into the shade, and who hold tributary to themselves all the property and all the productive industry of the British empire. And this is the state of things which our administration now proposes for our imitation.

This is the way the exchequer and funding system have worked in England; and let no one say they will not work in the same manner in our own country. The system is the same in all countries, and will work alike every where. Go into it, and we shall have every fruit of the system which the English people now have; and of this most of our young States, and of our cities, and corporations, which have gone into the borrowing business upon their bonds, are now living examples. Their bonds were their exchequer bills. They used them profusely, extravagantly, madly, as all paper credit is used. Their bonds were sold under par, though the discount was usually hid by a trick: pay was often received in depreciated paper. Sharpers frequently made the purchase, who had nothing to pay but a part of the proceeds of the same bonds when sold. And thus the States and cities are bound for debts which are in a great degree fictitious, and are bound to lenders who had nothing to lend; and such are the frauds of the system which is presented to us, and must be our fate, if we go into the exchequer system.

I have shown the effect of an exchequer of issues in Great Britain to strike paper money for a currency, and as a substitute for loans and taxes. I have shown that this system, adopted by Sir Robert Walpole upon the failure of corporation credit, has been the means of smuggling a mountain load of debt upon the British people, two-fifths of which is fraudulent and fictitious; that it has made the great body of the people tributaries to a handful of fundholders, most of whom, without owning a shilling, were enabled by the frauds of the paper system and the funding system, to lend millions to the government. I have shown that this system, thus ruinous in England, was the resort of a crafty minister to substitute government credit for the exhausted credit of the moneyed corporations, and the exploded bubbles; and I have shown that the exchequer plan now presented to us by our administration, is a faithful copy of the English original. I have shown all this; and now the question is, shall we adopt this copy? This is the question; and the consideration of it implies the humiliating conclusion, that we have forgot that we have a constitution, and we have gone back to the worst era of English history—to times of the South Sea bubble, to take lessons in the science of political economy. Sir, we have a Constitution! and if there was any thing better established than another, at the time of its adoption, it was that the new government was a hard-money government, made by

hard-money men, who had seen and felt the evils of government paper, and who intended for ever to cut off the new government from the use of that dangerous expedient. The question was made in the Convention (for there was a small paper money party in that body), and solemnly decided that the government should not emit paper money, bills of credit, or paper currency of any kind. It appears from the history of the Convention, that the first draft of the constitution contained a paper clause, and that it stood in connection with the power to raise money; thus: "*To borrow money, and emit bills, on the credit of the United States.*" When this clause came up for consideration, Mr. Gouverneur Morris moved to strike out the words, "*and emit bills*," and was seconded by Mr. Pierce Butler. "Mr. Madison thought it sufficient to prevent them from being made a tender." "Mr. Ellsworth thought this a favorable moment to shut and bar the door against paper money. The mischief of the various experiments which had been made, were now fresh in the public mind, and had excited the disgust of all the respectable part of America. By withholding the power from the new government, more friends of influence would be gained to it than by almost any thing else. Paper money can in no case be necessary. Give the government credit, and other resources will offer. The power may do harm, never good." Mr. Wilson said: "It will have a most salutary influence on the credit of the United States, to remove the possibility of paper money. This expedient can never succeed while its mischiefs are remembered; and as long as it can be resorted to, it will be a bar to other resources." "Mr. Butler remarked that paper was a legal tender in no country in Europe. He was urgent for disarming the government of such a power." "Mr. Read thought the words, if not struck out, would be as alarming as the mark of the beast in Revelations." "Mr. Langdon had rather reject the whole plan than retain the three words, 'and emit bills.'" A few members spoke in favor of retaining the clause; but, on taking the vote, the sense of the convention was almost unanimously against it. Nine States voted for striking out: two for retaining.

If there were a thousand constitutional provisions in favor of paper money, I should still be against it—against the thing itself, *per se* and *propter se*—on account of its own inherent baseness and vice. But the Constitution is against it—clearly so upon its face; upon its history; upon its early practice; upon its uniform interpretation. The universal expression at the time of its adoption was, that the new government was a hard money government, made by hard money men, and that it was to save the country from the curse of paper money. This was the universal language—this the universal sentiment; and this hard money character of the new government was one of the great recommendations in its favor, and one of the chief inducements to its adoption. All the early action of the government conformed to this idea—all its early legislation was as true to hard money as the needle is to the pole. The very first act of Congress for the collection of duties on imports, passed in the first year of the new government's existence, and enacted by the very men who had framed the Constitution—this first act required those duties to be paid "*in gold and silver coin only;*" the word *only*, which is a contraction for the old English *onely*, being added to cut off the possibility of an intrusion, or an injection of a particle of paper money into the Treasury of the United States. The first act for the sale of public lands required them to be paid for in "*specie*"—the specie circular of 1836 was only the enforcement of that act; and the hard money clause in the independent treasury was a revival of these two original and fundamental revenue laws. Such were the early legislative interpretations of the Constitution by the men who made it; and corresponding with these for a long time after the commencement of the government, were the interpretations of all public men, and of no one more emphatically than of him who is now the prominent member of this administration, and to whose hand public opinion attributes the elaborate defence of the Cabinet Exchequer plan which has been sent down to us. In two speeches, delivered by that gentleman in the House of Representatives in the year

1816, he thus expressed himself on the hard money character of our government, and on the folly and danger of the paper system:

"No nation had a better currency than the United States. There was no nation which had guarded its currency with more care: for the framers of the Constitution and those who had enacted the early statutes on the subject, were hard money men. They had felt and duly appreciated the evils of a paper medium: they, therefore, sedulously guarded the currency of the United States from debasement. The legal currency of the United States was gold and silver coin: this was a subject in regard to which Congress had run into no folly. Gold and silver currency was the law of the land at home, and the law of the world abroad: there could, in the present condition of the world, be no other currency."

So spake the present Secretary of State in February, 1816; and speaking so, he spoke the language of the Constitution, of the statesman, and of the enlightened age in which we live. He was right in saying that Congress, up to that time, had run into no folly in relation to the currency; that is to say, had not attempted to supersede the hard money of the Constitution by a national currency of paper. I can say the same for Congress up to the present day. Can the Secretary answer in like manner for the cabinet of which he is a member? Can he say of *it*, that *it* has run into no folly in relation to the currency? The secretary is right again in saying that, in the present condition of the world, there can be no other currency than gold and silver. Certainly he is right. Gold and silver is the measure of values. The actual condition of the world requires that measure to be uniform and universal. The whole world is now in a state of incessant intercommunication. Commercial, social, political relations are universal. Dealings and transactions are immense. All nations, civilized and barbarian, acknowledge the validity of the gold and silver standard; and the nation that should attempt to establish another, would derange its connections with the world, and put itself without the pale of its monetary system. The Secretary was right in saying that, in the present condition of the world, in the present state of the universal intercommunications of all mankind, there could be no measure of values but that which was universally acknowledged, and that all must conform to that measure. In this he showed a grasp of mind—a comprehension and profundity of intellect—which merits encomium, and which casts far into the shade the lawyer-like argument, in the shape of a report, which has been sent down to us.

The senator from Virginia [Mr. Rives] felicitates himself upon the character of these proposed exchequer bills, because they are not to be declared by law to be a legal tender: as if there was any necessity for such a declaration! Far above the law of the land is the law of necessity! far above the legal tender, which the statute enacts, is the forced tender which necessity compels. There is no occasion for the statutory enactment: the paper will soon enact the law for itself—that law which no power can resist, no weakness can shun, no art elude, no cunning escape. It is the prerogative of all paper money to expel all hard money; and then to force itself into every man's hand, because there is nothing else for any hand to receive. It is the prerogative of all paper money to do this, and of government paper above all other. Let this government go into the business of paper issues: let it begin to stamp paper for a currency, and it will quickly find itself with nothing but paper on its hands;—paper to pay out—paper to receive in;—the specie basis soon gone—and the vile trash depreciating from day to day until it sinks into nothing, and perishes on the hands of the ignorant, the credulous, and the helpless part of the community.

The same senator [Mr. Rives] consoles himself with the small amount of these exchequer bills which are to be issued—only fifteen millions of dollars. Alas! sir, does he recollect that that sum is seven times the amount of our first emission of continental bills? that it is fifteen times the amount of Sir Robert Walpole's first emission of exchequer bills? and double the

amount of the first emission of the French assignats? Does he consider these things, and recollect that it is the first step only which costs the difficulty? and that, in the case of government paper money, the subsequent progress is rapid in exact proportion to the difficulty of the first step? Does he not know that the first emission of our continental bills was two millions of dollars, and that in three years they amounted to two hundred millions? that the first issue of Sir Robert Walpole's exchequer bills was the third of a million, and that they have since exceeded a thousand millions? that the first emission of assignats was the third of a milliard of francs, and that in seven years they amounted to forty-five thousand milliards? Thus it has been, and thus it will be. The first issues of government paper are small, and with difficulty obtained, and upon plausible pretexts of necessity and relief. The subsequent issues are large, and obtained without opposition, and put out without the formality of an excuse. This is the course, and thus it will be with us if we once begin. We propose fifteen millions for the start: grant it: it will soon be fifteen hundred millions! and those who go to that excess will be far less blamable than those who made the first step.

I have said that the present administration have gone back far beyond the times of General Hamilton—that they have gone to the times of Sir Robert Walpole; and I prove it by showing how faithfully they copy his policy in pursuing the most fatal of his measures. Yes, sir, they have gone back not merely far beyond where General Hamilton actually stood, but to the point to which he refused to go. He refused to go to government paper money. That great man, though a friend to bank paper, was an enemy to government paper. He condemned and deprecated the whole system of government issues. He has left his own sentiments on record on this point, and they deserve in this period of the retrogression of our government to be remembered, and to be cited on this floor. In his report on a national bank in 1791, he ran a parallel between the dangers of bank paper and government paper, assigning to the latter the character of far greatest danger and mischief—an opinion in which I fully concur with him. In that report, he thus expressed himself on the dangers of government paper:

"The emitting of paper money by the authority of the government is wisely prohibited to the individual States by the National Constitution: and the spirit of the prohibition should not be disregarded by the government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from disadvantages which are applicable, to the like emissions by the States separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient. The stamping of paper is an operation so much easier than the laying of taxes, that a government in the practice of paper emissions would rarely fail, in any such emergency, to indulge itself too far in the employment of that resource, to avoid, as much as possible, one less auspicious to present popularity. If it should not even be carried so far as to be rendered an absolute bubble, it would at least be likely to be extended to a degree which would occasion an inflated and artificial state of things, incompatible with the regular and prosperous course of the political economy."

A division has taken place in the great whig party on this point. It has split into two wings—a great, and a small wing. The body of the party stand fast on the Hamiltonian ground of 1791: a fraction of the party have slid back to the Walpole ground of 1720. The point of difference between them is a government bank and government paper on one hand, and a banking company under a national charter, issuing bank notes, on the other. This is the point of difference, and it is a large one, very visible to every eye; and I am free to say that, with all my objections to the national bank and its paper, I am far more opposed to government banking, and to government issues of paper money.

The Tyler-Webster whigs are for government banking—for making the transit from corporation credit, no longer available, to government credit, which is to stand the brunt of new follies and new extravagances. They go for the British exchequer system, with all the folly and degradation of modern banking superadded and engrafted upon it. And what are the pretexts for this flagrant attempt? The same that were urged by the scrivener, John Blunt, in favor of his South Sea bubble—and by the gambler, John Law, in favor of the Mississippi scheme. To relieve the public distress—to aid the government and the people—to make money plenty, and to raise the price of property and wages: these are the pretexts which usher in our exchequer scheme, and which have ushered in all the paper money bubbles and projects which have ever afflicted and disgraced mankind. Relief to the people has been the pretext for the whole; and they have all ended in the same way—in the enrichment of sharpers—the plunder of nations—and the shame of governments. All these schemes have been brought forward in the same way, and although base upon their face, and clearly big with shame and ruin, and opposed by the wise and good of the times, yet there seem to be seasons of national delusion when the voice of judgment, reason, and honor is drowned under the clamor of knaves and dupes; and when the highest recommendation of a new plan is its absolute folly, knavery, and audacity. Thus it was in England during the reign of the moneyed corporations under the protection of Walpole. Wise men opposed all the mad schemes of that day, and exposed in advance all their disastrous and disgraceful issues. Mr. Shippen, Sir Joseph Jekyll, Mr. Barnard, Sir William Wyndham, Mr. Pulteney, Lord Morpeth (that Howard blood which has not yet degenerated), all these and many others opposed the South Sea, exchequer issues, and other mad schemes of their day—to be overpowered then, but to be remembered, and quoted with honor now. The chancellor of France, the wise and virtuous D'Aguesseau, was exiled from Paris by the Regent Duke of Orleans for opposing and exposing the Mississippi scheme of the gambler, John Law; but his name lives in the pantheon of history; and I take a pleasure in citing it here, in the American Senate, as well in honor to him, as to encourage others to sacrifice themselves in the noble task of resisting the mad delusions of the day. Every nation has its seasons of delusion. They seem to come, like periodical epidemics, once in so many ages or centuries; and while they rage, neither morals nor reason can make head against them. The have to run out. We have just had our season of this delusion, when every folly, from a national bank whose notes were to circulate in China, to the *morus multicaulis* whose leaves were to breed fortunes to the envied possessors; when every such folly had its day of triumph and exultation over reason, judgment, morals and common sense. Happily this season is passing away—the delusion is wearing off—before this cabinet plan of a government bank, with its central board, its fifty-two branches, its national engine to strike paper, its brokerage and exchange dealings, its Cheapside and Change-Alley operations in real business transactions, its one-half of one per centum profits, its three dollars in paper money to any one who was fool enough to deposit one dollar in the hard: happily our season of delusion is passing off before this monstrous scheme was presented. Otherwise, its adoption would have been inevitable. Its very monstrosity would have made it irresistibly captivating to the diseased public appetite if presented while still in its morbid state.

But the senator from Virginia who sits over the way [Mr. Rives], who has spoken in this debate, and who appears as a *quasi* defender of this cabinet plan of relief, he demands if the senator from Missouri (my poor self) will do nothing to relieve the distress of the people and of the government? He puts the question to me, and I answer it readily; yes! I will do my part towards relieving this distress, but not exactly in the mode which he seems to prefer—not by applying a cataplasm of lamp-black and rags to the public wounds! whether that cataplasm should be administered by a league of coon-box banks in the States, or by a Biddle king bank in Philadelphia, or by a Walpole exchequer bank in Washington city. I would relieve the

distress by the application of appropriate remedies to notorious diseases—a bankrupt act to bankrupt banks—taxation to bank issues—restoration of the land revenue to its proper destination—the imposition of economy upon this taxing, borrowing, squandering, gold-hating, paper-loving administration; and by restoring, as soon as possible, the reign of democracy, economy, and hard money.

The distress! still the distress. Distress, still the staple of all the whig speeches made here, and of all the cabinet reports which come down to us. Distress is the staple of the whole. "Motley is their only wear." Why, sir, I have heard about that distress before; and I am almost tempted to interrupt gentlemen in the midst of their pathetic rehearsals as the Vicar of Wakefield interrupted Jenkinson in the prison, when he began again the same learned dissertation upon the cosmogony or creation of the world; and gave him the same quotations from Sanconiathan, Manetho, Berosus, and Lucanus Ocellus, with which he entertained the good old Vicar at the fair, while cheating him out of Blackberry, after having cheated Moses out of the colt. You know the incident, said Mr. B. (addressing himself to Mr. Archer, who was nodding recognition), you remember the incident, and know the Vicar begged pardon for interrupting so much learning, with the declaration of his belief that he had had the honor to hear it all before. In like manner, I am almost tempted to stop gentlemen with a beg-pardon for interrupting so much distress, and declaring my belief that I have heard it all before. Certain it is, that for ten years past I have been accustomed to hear the distress orations on this floor; and for twenty-two years I have been accustomed to see distress in our country; but never have I seen it, or heard of it, that it did not issue from the same notorious fountain—the MONEYED CORPORATIONS—headed and conducted by the Juggernaut of federal adoration, the Biddle King Bank of the United States! I have seen this distress for two and twenty years; first, from 1819 to 1826; then again in 1832—'33—'34—'37—'39; and I see something of it now. The Bank of the United States commenced the distress in 1819, and gave a season of calamity which lasted as long as one of the seven years' plagues of Egypt. It was a seven years' agony; but at that time distress was not the object, but only the effect of her crimes and follies. In 1832 she renewed the distress as an object *per se* and *propter se* to force a renewal of her charter. In 1833-'34 she entered upon it with new vigor—with vast preparation—upon an immense scale—and all her forces—to coerce a restoration of the deposits, which the patriot President had saved by taking from her. In 1837 she headed the conspiracy for the general suspension (and accomplished it by the aid of the deposit distribution act) for the purpose of covering up and hiding her own insolvency in a general catastrophe, and making the final, agonizing death-struggle, to clutch the re-charter. In 1839 she forced the second suspension (which took place all south and west of New York) and endeavored to force it all north and east of that place, and make it universal, in order to conceal her own impending bankruptcy. She failed in the universality of this second suspension only for want of the means and power which the government deposits would have given her. She succeeded with her limited means, and in her crippled condition, over three-fourths of the Union; and now the only distress felt is in the places which have felt her power;—in the parts of the country which she has regulated—and arises from the institutions which have followed her lead—obeyed her impulse—imitated her example—and now keep up, for their own profit, and on their own account, the distress of which they were nothing but the vicarious agents in the beginning. Sir, there has been no distress since 1819 which did not come from the moneyed corporations; and since 1832, all the distress which we have seen has been factitious and factious—contrived of purpose, made to order, promulgated upon edict—and spread over the people, in order to excite discontents against the administration, to overturn the democracy, to re-establish federalism, to unite bank and state—and to deliver up the credit and revenue of the Union, and the property and industry of the people, to the pillage and plunder of the muckworm nobility which the crimes of the paper system have

made the lords of the land. This is the only distress we have seen; and had it not been that God had given our country a Jackson, their daring schemes would all have succeeded; and we and our children, and all the property and labor of our country, would have been as completely tributary to the moneyed corporations of America, as the people of Great Britain are to the Change-alley lords who hold the certificates of their immense national debt.

Distress!—what, sir, are not the whigs in power, and was not all distress to cease when the democracy was turned out? Did they not carry the elections? Has Mr. Van Buren not gone to Kinderhook? Is General Jackson not in the Hermitage? Are democrats not in the minority in Congress, and expelled from office every where? Were not "*Tippecanoe* and *Tyler too*" both elected? Is not whiggery in entire possession of the government? Have they not had their extra session, called to relieve the country, and passed all the relief measures, save one?—all save one!—all except their national bank, of which this fine exchequer bank is to be the metempsychosis.

The cry is distress! and the remedy a national poultice of lamp-black and rags! This is the disease, and this the medicine. But let us look before we act. Let us analyze the case—examine the pathology of the disease—that is the word, I believe (looking at Dr. Linn, who nodded assent), and see its cause and effect, the habits and constitution of the patient, and the injuries he may have suffered. The complaint is, distress: the specifications are, depreciated currency, and deranged exchanges. The question is, where? all over the Union? not at all—only in the South and West. All north and east of New York is free from distress—the exchanges fair—the currency at par: all south and west of that city the distress prevails—the exchanges (as they are called) being deranged and the currency depreciated. Why? Because, in one quarter—the happy quarter—the banks pay their debts: in the other—the distressed quarter—they refuse to pay. Here then is the cause, and the effect. This is the analysis of the case—the discovery of the nature and locality of the disease—and the key to its cure. Make the refractory banks comply with their promises; and there is an end of depreciated paper and deranged exchanges, and of all the distress which they create; and that without a national bank, or its base substitute, an exchequer bank; or a national institution of any kind to strike paper money. Make the delinquent banks pay up, or wind up. And why not? Why should not the insolvent wind up, and the solvent pay up? Why should not the community know the good from the bad? Suspension puts all on a level, and the community cannot distinguish between them. Our friend Sancho (looking at Mr. Mouton) has a proverb that suits the case: "*De noche todos los gatos son pardos.*"

"M. Mouton: '*De nuit tous les chats sont gris.*'"

"Mr. Buchanan: What is all that?"

"Mr. Benton: It is this: Our friend, Sancho Panza, says that, in the dark all the cats are of one color. [A laugh.] So of these banks. In a state of suspension they are all of one credit; but as the light of a candle soon discriminates the black cats from the white ones, so would the touch of a bankrupt act speedily show the difference between a rotten bank and a solvent one.

But currency—currency—a national currency of uniform value, and universal circulation: this is what modern whigs demand, and call upon Congress to give it; meaning all the while a national currency of paper money. I deny the power of Congress to give it, and aver its folly if it had. The word currency is not in the constitution, nor any word which can be made to signify paper money. Coin is the only thing mentioned in that instrument; and the only power of Congress over it is to regulate its value. It is an interpolation, and a violation of truth to say that the constitution authorizes Congress to regulate the value of paper money, or to create paper money. It is a calumny upon the constitution to say any such thing; and I defy the

whole phalanx of the paper money party to produce one word in that instrument to justify their imputation. Coin, and not paper, is the thing to be regulated; coin, and not paper, is the currency mentioned and intended; and this coin it is the duty of Congress to preserve, instead of banishing it from circulation. Paper banishes coin; and by creating, or encouraging paper, Congress commits a double violation of the constitution; *first*, by favoring a thing which the constitution condemns; and, *secondly*, by destroying the thing which it meant to preserve. But the paper money party say there is not gold and silver enough in the world to answer the purposes of a currency; and, therefore, they must have paper. I answer, if this was true, we must first alter our constitution before we can create, or adopt paper money. But it is not true! the assertion is unfounded and erroneous to the last degree, and implies the most lamentable ignorance of the specie resources of commercial and agricultural countries. The world happens to contain more specie than such countries can use; and it depends upon each one to have its share when it pleases. This is an assertion as easily proved as made; and I proceed to the proof of it, because it is a point on which there is much misunderstanding; and on which the public good requires authentic information. I will speak first of our own country, and of our own times—literally, my own times.

I have some tabular statements on hand, Mr. President, made at the Treasury, on my motion, and which show our specie acquisitions during the time that I have sat in this chair: I say, sat in *this* chair, for I always sit in the same place. I never change my position, and therefore never have to find it or define it. These tables show our imports of gold and silver during this time—a period of twenty-one years—to have been on the custom-house books, 182 millions of dollars: making an allowance for the amounts brought by passengers, and not entered on the books, and the total importation cannot be less than 200 millions. The coinage at our Mint during the same period, is 66 millions of dollars. The product of our gold mines during that period has been several millions; and many millions of gold have been dragged from their hiding places and restored to circulation by the gold bill of 1834. Putting all together, and our specie acquisitions must have amounted to 220 or 230 millions of dollars in these twenty-one years; being at the average rate of ten or eleven millions per annum.

Not specie enough in the world to do the business of the country! What an insane idea! Do people who talk in that way know any thing about the quantity of specie that there is in the world, or even in Europe and America, and the amount that different nations, according to their pursuits, can employ in their business? If they do not, let them listen to what Gallatin and Gouge say upon the subject, and let them learn something which a man should know before he ventures an opinion upon currency. Mr. Gallatin, in 1831, thus speaks of the quantity of gold and silver in Europe and America:

“The total amount of gold and silver produced by the mines of America, to the year 1803, inclusively, and remaining there or exported to Europe, has been estimated by Humboldt at about five thousand six hundred millions of dollars; and the product of the years 1804-1830, may be estimated at seven hundred and fifty millions. If to this we add one hundred millions, the nearly ascertained product, to this time, of the mines of Siberia, about four hundred and fifty millions for the African gold dust, and for the product of the mines of Europe (which yielded about three millions a year, in the beginning of this century), from the discovery of America to this day, and three hundred millions for the amount existing in Europe prior to the discovery of America, we find a total not widely differing from the fact, of seven thousand two hundred millions of dollars. It is much more difficult to ascertain the amount which now remains in Europe and America together. The loss by friction and accidents might be estimated, and researches made respecting the total amount which has been exported to countries beyond the Cape of Good Hope; but that which has been actually consumed in gilding, plated ware, and other manufactures of the same character, cannot be correctly

ascertained. From the imperfect data within our reach, it may, we think, be affirmed, that the amount still existing in Europe and America certainly exceeds four thousand, and most probably falls short of five thousand millions of dollars. Of the medium, or four thousand five hundred millions, which we have assumed, it appears that from one-third to two-fifths is used as currency, and that the residue consists of plate, jewels, and other manufactured articles. It is known, that of the gross amount of seven thousand two hundred millions of dollars, about eighteen hundred millions, or one-fourth of the whole in value, and one-forty-eighth in weight, consisted of gold. Of the four thousand five hundred millions, the presumed remaining amount in gold and silver, the proportion of gold is probably greater, on account of the exportation to India and China having been exclusively in silver, and of the greater care in preventing every possible waste in an article so valuable as gold."

Upon this statement, Mr. Gouge, in his Journal of Banking, makes the following remarks:

"We begin to-day with Mr. Gallatin's estimate of the quantity of gold and silver in Europe and America. In a work published by him in 1831, entitled 'Considerations on the Currency and Banking system of the United States,' he estimates the amount of precious metals in these two quarters of the world at between four thousand and five thousand million dollars. This, it will be recollected, was ten years ago. The amount has since been considerably increased, as the mines have annually produced millions, and the demand for the China trade has been greatly diminished.

"Taking the medium, however, of the two sums stated by Mr. Gallatin—four thousand five hundred million dollars—and supposing the population of Europe and America to be two hundred and seventy-seven millions, it will amount to sixteen dollars and upwards for every man, woman, and child, on the two continents. The same gentleman estimates the whole amount of currency in the United States in 1829, paper and specie together at only six dollars a head.

"It is not too much to say, that if the natural laws of supply and demand had not been interfered with, the United States would have, in proportion to population, four, five, six, seven, yea, eight times as much gold and silver as many of the countries of Europe. Take it at only the double of the average for the population of the two continents, and it will amount to thirty-two dollars a head, or to five hundred and fourteen millions. This would give us one-ninth part of the stock of gold and silver of Europe and America, while our population is but one-sixteenth: but for the reasons already stated, under a natural order of things, we should have, man for man, a much larger portion of the precious metals, than falls to the lot of most countries of Europe.

"Suppose, however, we had but the average of sixteen dollars a head. This would amount to two hundred and fifty-seven millions.

"On two points do people (that is, some people) capitally err. First, in regard to the quantity of gold and silver in the world: this is much greater than they imagine it to be. Next, in regard to the amount of money required for commercial purposes: this is much smaller than they suppose it to be. Under a sound money, sound credit, and sound banking system, ten dollars a head would probably be amply sufficient in the United States."

The points on which the statesman's attention should be fixed in these statements are: 1. The quantity of gold and silver in Europe and America, to wit, $4,500,000,000. 2. Our fair proportion of that quantity, to wit, $257,000,000, or $16 per head. 3. Our inability to use more than $10 a head. 4. The actual amount of our whole currency, paper and specie, in 1830 (when the Bank of the United States was in all its glory), and which was only $6 a head. 5. The ease with which the United States can supply itself with its full proportion of the whole

quantity if it pleased, and have $16 per head (if it could use it, which it cannot) for every human being in the Union.

These are the facts which demand our attention, and it is only at a single point that I now propose to illustrate, or to enforce them; and that is, as to the quantity of money per head which any nation can use. This differs among different nations according to their pursuits, the commercial and manufacturing people requiring most, because their payments are daily or weekly for every thing they use: food, raiment, labor and raw materials. With agricultural people it is less, because they produce most of what they consume, and their large payments are made annually from the proceeds of the crops. Thus, England and France (both highly manufacturing and commercial) are ascertained to employ fourteen dollars per head (specie and paper combined) for their whole population: Russia, an agricultural country, is ascertained to employ only four dollars per head; and the United States, which is chiefly agricultural, but with some considerable admixture of commerce and manufactures, ten dollars are believed to be the maximum which they could employ. In this opinion I concur. I think ten dollars per head, an ample average circulation for the Union; and it is four dollars more than we had in 1830, when the Bank of the United States was at the zenith of its glory. The manufacturing and commercial districts might require more—all the agricultural States less;—and perhaps an agricultural State without a commercial town, or manufactures, like Mississippi, could not employ five dollars per head. Here then are the results: Our proportion of the gold and silver in Europe and America is two hundred and fifty-seven millions of dollars: we had but twenty millions in 1830: we have ninety millions now; and would require but eighty millions more (one hundred and seventy millions in the whole) in the present state of our population, slaves included (for their labor is to be represented by money and themselves supported), to furnish as much currency, and that in gold and silver, as the country could possibly use; consequently sustaining the prices of labor and property at their maximum amount. Of that sum, we now have about the one-half in the country, to wit, ninety millions; making five dollars per head; and as that sum was gained in seven years of Jacksonian policy, it follows of course, that another seven years of the same policy, would give us the maximum supply that we could use of the precious metals; and that gold, silver, and the commercial bill of exchange, could then constitute the safe, solid, constitutional, moral, and never-failing currency of the Union.

The facility with which any industrious country can supply itself with a hard-money currency—can lift itself out of the mud and mire of depreciated paper, and mount the high and clean road of gold and silver; the ease with which any industrious people can do this, has been sufficiently proved in our own country, and in many others. We saw it in the ease with which the Jackson policy gained us ninety millions of dollars in seven years. We saw it at the close of the Revolution, when the paper money sunk to nothing, ceased to circulate, and specie re-appeared, as by magic. I have asked the venerable Mr. Macon how long it was after paper stopped, before specie re-appeared at that period of our history? his answer was: No time at all. As soon as one stopped, the other came. We have seen it in England at the end of the long bank suspension, which terminated in 1823. Parliament allowed the bank four years to prepare for resumption: at the end of two years—half the time—she reported herself ready—having in that short space accumulated a mass of twenty millions sterling (one hundred millions of dollars) in gold; and, above all, we have seen it in France, where the great Emperor restored the currency in the short space of six years, from the lowest degree of debasement to the highest point of brilliancy. On becoming First Consul, in 1800, he found nothing but depreciated assignats in the county:—in six years his immortal campaigns—Austerlitz, Jena, Friedland—all the expenses of his imperial court, surpassing in splendor that of the Romans, and rivalling the almost fabulous magnificence of the Caliphs of Bagdad—all

his internal improvements—all his docks, forts, and ships—all the commerce of his forty millions of subjects—all these were carried on by gold and silver alone; and from having the basest currency in the world, France, in six years, had near the best; and still retains it. These instances show how easy it is for any country that pleases to supply itself with an ample currency of gold and silver—how easy it will be for us to complete our supplies—that in six or seven years we could saturate the land with specie! and yet we have a formal cabinet proposition to set up a manufactory of paper money!

The senator from Mississippi [Mr. Walker] who sits on my right, has just visited the island of Cuba, and has told us what he has seen there—a pure metallic currency of gold—twelve millions of dollars of it to a population of one million of souls, half slaves—not a particle of paper money—prices of labor and property higher than in the United States—industry active—commerce flourishing: a foreign trade of twenty-four millions of dollars, which, compared to population and territory, is so much greater than ours that it would require ours to be four hundred and twenty-five millions to be equal to it! This is what the senator from Mississippi tells us that he has seen; and would to God that we had all seen it. Would to God that the whole American Congress had seen it. Devoutly do I wish that it was the custom now, as in ancient times, for legislators to examine the institutions of older countries before they altered those of their own country. The Solons and Lycurguses of antiquity would visit Egypt, and Crete, and other renowned places in the East, before they would touch the laws of Sparta or Athens; in like manner I should rejoice to see our legislators visit the hard money countries—Holland, France, Cuba—before they went further with paper money schemes in our own country. The cabinet, I think, should be actually put upon such a voyage. After what they have done, I think they should be shipped on a visit to the lands of hard money. And although it might seem strange, under our form of government, thus to travel our President and cabinet, yet I must be permitted to say that I can find constitutional authority for doing so, just as soon as they can find constitutional authority for sending such a scheme of finance and currency as they have spread before us.

Holland and Cuba have the best currencies in the world: it is gold and the commercial bill of exchange, with small silver for change, and not a particle of bank paper. France has the next best: it is gold, with the commercial bill of exchange, much silver, and not a bank note below five hundred francs (say one hundred dollars). And here let me do justice to the wisdom and firmness of the present king of the French. The Bank of France lately resolved to reduce the minimum size of its notes to two hundred francs (say forty dollars). The king gave them notice that if they did it, the government would consider it an injury to the currency, and would take steps to correct the movement. The Bank rescinded its resolution; and Louis Philippe, in that single act (to say nothing of others) showed himself to be a patriot king, worthy of every good man's praise, and of every legislator's imitation. The United States have the basest currency in the world: it is paper, down to cents; and that paper supplied by irresponsible corporations, which exercise the privilege of paying, or not, just as it suits their interest or politics. We have the basest currency upon the face of the earth; but it will not remain so. Reform is at hand; probably from the mild operation of law; if not, certainly from the strong arm of ruin. God has prescribed morality, law, order, government, for the conduct of human affairs; and he will not permit these to be too long outraged and trampled under foot. The day of vindicating the outraged law and order of our country, is at hand; and its dawn is now visible. The excess of bank enormity will cure itself under the decrees of Providence; and the cure will be more complete and perfect, than any that could come from the hands of man.

It may seem paradoxical, but it is true, that there is no abundant currency, low interest, and facility of loans, except in hard money countries: paper makes scarcity, high interest, usury,

extortion, and difficulty of borrowing. Ignorance supposes that to make money plenty, you must have paper: this is pure nonsense. Paper drives away all specie, and then dies itself for want of specie; and leaves the country penniless until it can recruit.

The Roman historians, Mr. President, inform us of a strange species of madness which afflicted the soldiers of Mark Antony on their retreat from the Parthian war. Pressed by hunger they ate of unknown roots and herbs which they found along the base of the Armenian mountains, and among the rest, of one which had the effect of depriving the unfortunate man of memory and judgment. Those who ate of this root forgot that they were Romans—that they had arms—a general—a camp, and their lives, to defend. And wholly possessed of a single idea, which became fixed, they neglected all their duties and went about turning over all the stones they could find, under the firm conviction that there was a great treasure under it which would make them rich and happy. Nothing could be more deplorable, say the historians, than to see these heroic veterans, the pride of a thousand fields, wholly given up to this visionary pursuit, their bodies prone to the earth, day after day, and turning over stones in search of this treasure, until death from famine, or the Parthian arrow, put an end at once to their folly and their misery. Such is the account which historians give us of this strange madness amongst Antony's soldiers; and it does seem to me that something like it has happened to a great number of our Americans, and even to our cabinet council—that they have forgotten that we have such a thing as a constitution—that there are such things as gold and silver—that there are limitations upon government power—and that man is to get his living by toil and labor, and the sweat of his brow, and not by government contrivances; that they have forgot all this, and have become possessed of a fixed idea, that paper money is the *summum bonum* of human life; that lamp-black and rags, perfumed with the odor of nationality, is a treasure which is to make everybody rich and happy; and, thereupon incontinently pursue this visionary treasure—this figment of the brain—this disease of the mind. Possessed of this idea, they direct all their thoughts to the erection of a national institution—no matter what—to strike paper money, and circulate it upon the faith of the credit and revenues of the Union: and no argument, no reason, no experience of our own, or of other nations, can have the least effect in dislodging that fixed and sovereign conception. To this we are indebted for the cabinet plan of the federal exchequer and its appurtenances, which has been sent down to us. To this we are indebted for the crowds who look for relief from the government, instead of looking for it in their own labor, their own industry, and their own economy. To this we are indebted for all the paper bubbles and projects which are daily presented to the public mind: and how it all is to end, is yet in the womb of time; though I greatly suspect that the catastrophe of the federal exchequer and its appurtenances will do much towards curing the delusion and turning the public mind from the vain pursuit of visionary government remedies, to the solid relief of hard money, hard work, and instant compulsion of bank resumption.

The proposition which has been made by our President and cabinet, to commence a national issue of paper money, has had a very natural effect upon the public mind, that of making people believe that the old continental bills are to be revived, and restored to circulation by the federal government. This belief, so naturally growing out of the cabinet movement, has taken very wide and general root in the public mind; and my position in the Senate and connection with the currency questions, have made me the centre of many communications on the point. Daily I receive applications for my opinion, as to the revival of this long deceased and venerable currency. The very little boys at the school have begged my little boy to ask their father about it, and let them know, that they may hunt up the one hundred dollar bills which their mothers had given them for thumb papers, and which they had thrown by on account of their black and greasy looks. I receive letters from all parts of the Union, bringing

specimens of these venerable relics, and demanding my opinion of the probability of their resuscitation. These letters contain various propositions—some of despair—some of hope—some of generous patriotism—and all evidently sincere. Some desire me to exhibit the bundle they enclose to the Senate, to show how the holders have been cheated by paper money; some want them paid; and if the government cannot pay at present, they wish them funded, and converted into a national stock, as part of the new national debt. Some wish me to look at them, on my own account; and from this sample, to derive new hatred to paper money, and to stand up to the fight with the greater courage, now that the danger of swamping us in lamp-black and rags is becoming so much greater than ever. Others, again, rising above the degeneracy of the times, and still feeling a remnant of that patriotism for which our ancestors were so distinguished, and which led them to make so many sacrifices for their country, and hearing of the distress of the government and its intention to have recourse to an emission of new continental bills, propose at once to furnish it with a supply of the old bills. Of this number is a gentleman whose letter I received last night, and which, being neither confidential in its nature, nor marked so, and being, besides, honorable to the writer, I will, with the leave of the Senate, here read:

"East Weymouth, Massachusetts, January 8, 1842.

"Dear Sir:—Within you have a few continentals, or promises to pay in gold or silver, which may now be serviceable to the Treasury, which the whigs have bankrupted in the first year of their reign, and left members without pay for their landlords. They may serve to start the new fiscality upon; and, if they should answer the purpose, and any more are wanted, please let me know, and another batch will come on from your friend and servant,

"Lowell Bicknell.

"Hon. Thomas H. Benton, United States Senate,
Washington city."

This is the letter, resumed Mr. B., and these the contents (holding up a bundle of old continentals). This is an assortment of them, beginning at nine dollars, and descending regularly through eight, seven, six, five, four, three, two, one, and the fractional parts of a dollar, down to the one-sixth part of a dollar. I will read the highest and lowest in the bundle, as a sample of the whole. The highest runs thus:

"This bill entitles the bearer to receive nine Spanish milled dollars, or the value thereof in gold or silver, according to the resolves of the Congress held at Philadelphia, the 10th day of May, 1775.

"Signed,

William Craig."

The margins are covered with the names of the States, and with the words *continental currency*, in glaring capitals, and the Latin motto, *Sustine vel abstine* (Sustain it, or let it alone). The lowest runs thus:

"One-sixth of a dollar, according to a resolve of Congress passed at Philadelphia, February 17th, 1776.

"Signed,

B. Brannan."

The device on this note is a sun shining through a glass, with the word *fugio* (I fly) for the motto—a motto sufficiently appropriate, whether emblematic of the fugitive nature of time, or of paper money.

These are a sample of the bills sent me in the letter which I have just read; and now the mind naturally reverts to the patriotic proposition to supply the administration with these old bills instead of putting out a new emission. For myself I incline to the proposition. If the question is once decided in favor of a paper emission, I am decidedly in favor of the old continental currency in preference to any new edition—as much so as I prefer the old Revolutionary whigs to the new whigs of this day. I prefer the old bills; and that for many and cogent reasons. I will enumerate a few of these reasons:—1. They are ready made to our hand, and will save all the expense and time which the preparations of new bills would require. The expense would probably be no objection with this administration; but, in the present condition of the Treasury, the other consideration, that of time, must have great weight. 2. They cannot be counterfeited. Age protects them from that. The wear and tear of seventy long years cannot be impressed on the face of the counterfeits, cunning as their makers may be. 3. Being limited in quantity, and therefore incapable of contraction or inflation at the will of jobbers in stocks or politics, they will answer better for a measure of values. 4. They are better promises than any that will be made at this day; for they are payable in Spanish milled dollars, which are at a premium of three per cent, in our market over other dollars; and they are payable in gold *or* silver, disjunctively, so as to give the holder his option of the metals. 5. They are made by better men than will make the bills of the present day—men better known to Europe and America—of higher credit and renown—whose names are connected with the foundation of the republic, and with all the glorious recollections of the revolution. Without offence to any, I can well say that no Congress of the present day can rank with our Revolutionary assemblies who signed the Declaration of Independence with ropes round their necks, staked life, honor, and fortune in a contest where all the chances were against them; and nobly sustained what they had dared to proclaim. We cannot rank with them, nor our paper ever have the credit of theirs. 6. They are of all sizes, and therefore ready for the catastrophe of the immediate flight, dispersion, absconding, and inhumation of all the specie in the country, for which the issue of a government paper would be the instant and imperative signal. Our cabinet plan comes no lower than five dollars, whereby great difficulty in making change at the Treasury would accrue until a supplementary act could be passed, and the small notes and change tickets be prepared. The adoption of the old continental would prevent this balk, as the notes from one to ten dollars inclusive would be ready for all payments which ended in even dollars; and the fractional notes would be ready for all that ended in shillings or sixpences. 7. And, finally, because it is right in itself that we should take up the old continentals before we begin to make new ones. For these, and other reasons, I am bold to declare that if we must have a Congress paper-money, I prefer the paper of the Congress of 1776 to that of 1842.

Sir, the Senate must pardon me. It is not my custom to speak irreverently of official matters; but there are some things too light for argument—too grave for ridicule—and which it is difficult to treat in a becoming manner. This cabinet plan of a federal exchequer is one of those subjects; and to its strange and novel character, part tragic and part farcical, must be attributed my more than usually defective mode of speaking. I plead the subject itself for the imperfection of my mode of treating it.

91. The Third Fiscal Agent, Entitled A Board Of Exchequer

This measure, recommended by the President, was immediately taken up in each branch of Congress. In the House of Representatives a committee of a novel character—one without precedent, and without imitation—was created for it: "*A select committee on the finances and the currency*," composed of nine members, and Mr. Caleb Cushing its chairman. Through its chairman this committee, with the exception of two of its members (Mr. Garret Davis of Kentucky, and Mr. John P. Kennedy, of Maryland), made a most elaborate report, recommending the measure, and accompanied by a bill to carry it into effect. The ruling feature of the whole plan was a national currency of paper-money, to be issued by the federal government, and to be got into circulation through payments made by it, and by its character of receivability in payment of public dues. To clear the ground for the erection of this new species of national currency, all other kinds of currency were reviewed and examined—their good and their bad qualities stated—and this government currency pronounced to combine the good qualities, and to avoid the bad of all other kinds. National bank-notes were condemned for one set of reasons: local bank-notes for another: and as for gold and silver, the reporter found so many defects in such a currency, and detailed them with such precision, that it looked like drawing up a bill of indictment against such vicious substitutes for money. In this view the report said

"But the precious metals themselves, in addition to their uses for coin, are likewise, whether coined or uncoined, a commodity, or article of production, consumption, and merchandise. Themselves are a part of that general property of the community, of all the rest of which they are the measure; and they are of actual value different in different places, according to the contingencies of government or commerce. Their aggregate quantity is subject to be diminished by casual destruction or absorption in the arts of manufacture, or to be diminished or augmented by the greater or less number or productiveness of mines; and thus their aggregate value relatively to other commodities is liable to perpetual change. The influence of these facts upon prices, upon public affairs, and upon commerce, is visible in all the financial history of modern times. Besides which, coin is subject to debasement, or to be made a legal tender, at a rate exceeding its actual value, by the arbitrary act of the government, which controls its coinage and prescribes its legal value. In times when the uses of a paper currency and of public stocks were not understood or not practised, and communities had not begun to resort to a paper symbol or nominal representative of money, capable of being fabricated at will, the adulteration of coin, instead of it, was, it is well known, the frequent expedient of public necessity or public cupidity to obtain relief from some pressing pecuniary embarrassment. Moreover, the precious metals, though of less bulk in proportion to their value than most other commodities, yet cannot be transported from place to place without cost and risk; coin is subject to be stolen or lost, and in that case cannot be easily identified, so as to be reclaimed; the continual counting of it in large sums is inconvenient; it would be unsafe, and would cause much money to remain idle and unfruitful, if every merchant kept constantly on hand a sum of coin for all his transactions; and the displacement of large amounts of coin, its transfer from one community or one country to another, is liable to occasion fluctuations in the value of property or labor, and to embarrass commercial operations."

Having thus shown the demerit of all other sorts of currency, and cleared the way for this new species, the report proceeds to recommend it to the adoption of the legislature, with an

encomium upon the President, and on the select committee on the finances and the currency, who had so well discharged their duty in proposing it; thus:

"The President of the United States, in presenting this plan to Congress, has obeyed the injunction of the constitution, which requires him to recommend to their consideration such measures as he shall judge necessary and expedient; he has fully redeemed the engagements in this respect which he had previously made to Congress: and thus he has faithfully discharged his whole duty to the constitution and the Union. The committee, while animated by the highest respect for his views, have yet deemed it due to him, to themselves, to the occasion, and to the country, to give to those views a free and unbiassed examination. They have done so; and in so doing, they have also discharged their duty. They respectfully submit the result to the House in the bill herewith reported. They believe this measure to contain the elements of usefulness and public good; and, as such, they recommend it to the House. But they feel no pride of opinion concerning it; and, if in error, they are ready to follow the lead of better lights, if better there be, from other quarters; being anxious only to minister to the welfare of the people whom they represent. It remains now for Congress to act in the matter; the country demands that in some way we shall act; and the times appeal to us to act with decision, with moderation, with impartiality, with independence. Long enough, the question of the national finances has been the sport of passion and the battle-cry of party. Foremost of all things, the country, in order to recover itself, needs repose and order for its material interest, and a settled purpose in that respect (what it shall be is of less moment, but at any rate *some* settled purpose) on the part of the federal government. If, careless of names and solicitous only for things, aiming beyond all intermediate objects to the visible mark of the practicable and attainable good—if Congress shall in its wisdom concur at length in some equitable adjustment of the currency question, it cannot fail to deserve and secure the lasting gratitude of the people of the United States."

After reading this elaborate report, Mr. Cushing also read the equally elaborate bill which accompanied it: and that was the last of the bill ever heard of in the House. It was never called up for consideration, but died a natural death on the calendar on which it was placed. In the Senate the fate of the measure was still more compendiously decided. The President's recommendation, the ample report of the Secretary of the Treasury, and the bill drawn up at the Treasury itself, were all sent to the Committee of Finance; which committee, deeming it unworthy of consideration, through its chairman, Mr. Evans, of Maine, prayed to be discharged from the consideration of it: and were so discharged accordingly. But, though so lightly disposed of, the measure did not escape ample denunciation. Deeming the proposition an outrage upon the constitution, an insult to gold and silver, and infinitely demoralizing to the government and dangerous to the people, Mr. Benton struck another blow at it as it went out of the Senate to the committee. It was on the motion to refer the subject to the Finance Committee, that he delivered a speech of three hours against it: of which some extracts were given in Chapter XC.

92. Attempted Repeal Of The Bankrupt Act

As soon as Congress met in the session 1841-’2 the House of Representatives commenced the repeal of this measure. The period for the act to take effect had been deferred by an amendment in the House from the month of November, which would be before the beginning of the regular session, to the month of February—for the well-known purpose of giving Congress an opportunity to repeal it before it went into operation. The act was odious in itself, and the more so from the manner in which it was passed—coercively, and by the help of votes from those who condemned it, but who voted for it to prevent its friends from defeating the bank bill, and the land distribution bill. Those two measures were now passed, and many of the coerced members took their revenge upon the hated bill to which they had temporarily bowed. The repeal commenced in the House, and had a rapid progress through that body. A motion was made to instruct the Judiciary Committee to bring in a bill for the repeal; and that motion succeeded by a good majority. The bill was brought in, and, under the pressure of the previous question, was quickly brought to a vote. The yeas were 124—the nays 96. It then went to the Senate, where it was closely contested, and lost by one vote—22 for the repeal: 23 against it. Thus a most iniquitous act got into operation, by the open joining of measures which could not pass alone; and by the weak calculation of some members of the House, who expected to undo a bad vote before it worked its mischief. The act was saved by one vote; but met its fate at the next session—having but a short run; while the two acts which it passed were equally, and one of them still more short lived. The fiscal bank bill, which was one that it carried, never became a law at all: the land distribution bill, which was the other, became a law only to be repealed before it had effect. The three confederate criminal bills which had mutually purchased existence from each other, all perished prematurely, fruitless and odious—inculcating in their history and their fate, an impressive moral against vicious and foul legislation.

93. Death Of Lewis Williams, Of North Carolina, And Notice Of His Life And Character

He was one of those meritorious and exemplary members whose labors are among the most useful to their country: diligent, modest, attentive, patriotic, inflexibly honest—a friend to simplicity and economy in the working of the government, and an enemy to all selfish, personal, and indirect legislation. He had the distinction to have his merits and virtues commemorated in the two Houses of Congress by two of the most eminent men of the age—Mr. Clay and Mr. Adams—who respectively seconded in the House to which each belonged, the customary motion for funeral honors to his memory. Mr. Adams said:

"Mr. Speaker, I second the motion, and ask the indulgence of the House for the utterance of a few words, from a heart full to overflowing with anguish which no words can express. Sir, my acquaintance with Mr. Williams commenced with the second Congress of his service in this House. Twenty-five years have since elapsed, during all which he has been always here at his post, always true to his trust, always adhering faithfully to his constituents and to his country—always, and through every political vicissitude and revolution, adhered to faithfully by them. I have often thought that this steadfastness of mutual attachment between the representative and the constituent was characteristic of both; and, concurring with the idea just expressed with such touching eloquence by his colleague (Mr. Rayner), I have habitually looked upon Lewis Williams as the true portraiture and personification of the people of North Carolina. Sir, the loss of such a man at any time, to his country, would be great. To this House, at this juncture, it is irreparable. His wisdom, his experience, his unsullied integrity, his ardent patriotism, his cool and deliberate judgment, his conciliatory temper, his firm adherence to principle—where shall we find a substitute for them? In the distracted state of our public counsels, with the wormwood and the gall of personal animosities adding tenfold bitterness to the conflict of rival interests and discordant opinions, how shall we have to deplore the bereavement of *his* presence, the very light of whose countenance, the very sound of whose voice, could recall us, like a talisman, from the tempest of hostile passions to the calm composure of harmony and peace.

"Mr. Williams was, and had long been, in the official language which we have adopted from the British House of Commons, the *Father* of the House; and though my junior by nearly twenty years, I have looked up to him in this House, with the reverence of filial affection, as if he was the father of us all. The seriousness and gravity of his character, tempered as it was with habitual cheerfulness and equanimity, peculiarly fitted him for that relation to the other members of the House, while the unassuming courtesy of his deportment and the benevolence of his disposition invited every one to consider him as a brother. Sir, he is gone! The places that have known him shall know him no more; but his memory shall be treasured up by the wise and the good of his contemporaries, as eminent among the patriots and statesmen of this our native land; and were it possible for any Northern bosom, within this hall, ever to harbor for one moment a wish for the dissolution of our National Union, may the spirit of our departed friend, pervading every particle of the atmosphere around us, dispel the delusion of his soul, by reminding him that, in that event, he would no longer be the countryman of Lewis Williams."

Mr. Clay, in the Senate, who was speaker of the House when the then young Lewis Williams first entered it, bore his ample testimony from intimate personal knowledge, to the merits of

the deceased; and, like Mr. Adams, professed a warm personal friendship for the individual, as well as exalted admiration for the public man.

“Prompted by a friendship which existed between the deceased and myself, of upwards of a quarter of a century’s duration, and by the feelings and sympathies which this melancholy occasion excites, will the Senate allow me to add a few words to those which have been so well and so appropriately expressed by my friend near me [Mr. Graham], in seconding the motion he has just made? Already, during the present session, has Congress, and each House, paid the annual instalment of the great debt of Nature. We could not have lost two more worthy and estimable men than those who have been taken from us. My acquaintance with the lamented Lewis Williams commenced in the fall of 1815, when he first took his seat as a member of the House of Representatives from the State of North Carolina, and I re-entered that House after my return from Europe. From that period until his death, a cordial and unbroken friendship has subsisted between us; and similar ties were subsequently created with almost every member of his highly respectable family. When a vacancy arose in the responsible and laborious office of chairman of the Committee of Claims, which had been previously filled by another distinguished and lamented son of North Carolina (the late Mr. Yancy), in virtue of authority vested in me, as the presiding officer of the House, I appointed Mr. Williams to fill it. Always full of labor, and requiring unremitting industry, it was then, in consequence of claims originating in the late war, more than ever toilsome. He discharged his complicated duties with the greatest diligence, ability, impartiality, and uprightness, and continued in the office until I left the House in the year 1825. He occasionally took part in the debates which sprung up on great measures brought for the advancement of the interests of the country, and was always heard with profound attention, and, I believe, with a thorough conviction of his perfect integrity. Inflexibly adhering always to what he believed to be right, if he ever displayed warmth or impatience, it was excited by what he thought was insincere, or base, or ignoble. In short, Lewis Williams was a true and faithful image of the respectable State which he so long and so ably served in the national councils—intelligent, quiet, unambitious, loyal to the Union, and uniformly patriotic. We all feel and deplore, with the greatest sensibility, the heavy loss we have so suddenly sustained. May it impress us with a just sense of the frailty and uncertainty of human life! And, profiting by his example, may we all be fully prepared for that which is soon to follow.”

Mr. Williams reflected the character of his State; and that was a distinction so obvious and so honorable that both speakers mentioned it, and in doing so did honor both to the State and the citizen. And she illustrated her character by the manner in which she cherished him. Elected into the General Assembly as soon as age would permit, and continued there until riper age would admit him into the Federal Congress, he was elected into that body amongst the youngest of its members; and continued there by successive elections until he was the longest sitting member, and became entitled to the Parliamentary appellation of Father of the House. Exemplary in all the relations of public and private life, he crowned a meritorious existence by an exemplary piety, and was as remarkable for the close observance of all his christian obligations as he was for the discharge of his public duties.

94. The Civil List Expenses: The Contingent Expenses Of Congress: And The Revenue Collection Expense

Pursuing the instructive political lesson to be found in the study of the progressive increased expenditures of the government, we take up, in this chapter, the civil list in the gross, and two of its items in detail—the contingent expenses of Congress, and the expense of collecting the revenue—premising that the civil list, besides the salaries of civil officers, includes the foreign diplomatic intercourse, and a variety of miscellanies. To obtain the proper comparative data, recourse is again had to Mr. Calhoun's speech of this year (1842) on the naval appropriation.

"The expenditures under the first head have increased since 1823, when they were $2,022,093, to $5,492,030 98, the amount in 1840; showing an increase, in seventeen years, of 2 7-10 to 1, while the population has increased only about ¾ to 1, that is, about 75 per cent.—making the increase of expenditures, compared to the increase of population, about 3 6-10 to 1. This enormous increase has taken place although a large portion of the expenditures under this head, consisting of salaries to officers, and the pay of members of Congress, has remained unchanged. The next year, in 1841, the expenditure rose to $6,196,560. I am, however, happy to perceive a considerable reduction in the estimates for this year, compared with the last and several preceding years; but still leaving room for great additional reduction to bring the increase of expenditures to the same ratio with the increase of population, as liberal as that standard of increase would be.

"That the Senate may form some conception, in detail, of this enormous increase, I propose to go more into particulars in reference to two items: the contingent expenses of the two Houses of Congress, and that of collecting the duties on imports. The latter, though of a character belonging to the civil list, is not included in it, or either of the other heads; as the expenses incident to collecting the customs, are deducted from the receipts, before the money is paid into the Treasury.

"The contingent expenses (they exclude the pay and mileage of members) of the Senate in 1823 were $12,841 07, of which the printing cost $6,349 56, and stationery $1,631 51; and that of the House, $37,848 95, of which the printing cost $22,314 41, and the stationery $3,877 71. In 1840, the contingent expenses of the Senate were $77,447 22, of which the printing cost $31,285 32, and the stationery $7,061 77; and that of the House $199,219 57, of which the printing cost $65,086 46, and the stationery $36,352 99. The aggregate expenses of the two Houses together rose from $50,690 02 to $276,666; being an actual increase of 5 4-10 to 1, and an increase, in proportion to population, of about 7 2-10 to one. But as enormous as this increase is, the fact that the number of members had increased not more than about ten per cent. from 1823 to 1840, is calculated to make it still more strikingly so. Had the increase kept pace with the increase of members (and there is no good reason why it should greatly exceed it), the expenditures would have risen from $50,690 to $55,759, only making an increase of but $5,069; but, instead of that, it rose to $276,666, making an increase of $225,970. To place the subject in a still more striking view, the contingent expenses in 1823 were at the rate of $144 per member, which one would suppose was ample, and in 1840, $942. This vast increase took place under the immediate eyes of Congress; and yet we were told at the extra session, by the present chairman of the Finance Committee, that there was no

room for economy, and that no reduction could be made; and even in this discussion he has intimated that little can be done. As enormous as are the contingent expenses of the two Houses, I infer from the very great increase of expenditures under the head of civil list generally, when so large a portion is for fixed salaries, which have not been materially increased for the last seventeen years, that they are not much less so throughout the whole range of this branch of the public service.

"I shall now proceed to the other item, which I have selected for more particular examination, the increased expenses of collecting the duties on imports. In 1823 it was $766,699, equal to 3 86-100 per cent. on the amount collected, and 98-100 on the aggregate amount of imports; and in 1840 it had increased to $1,542,319 24, equal to 14 13-100 per cent. on the amount collected, and to 1 58-100 on the aggregate amount of the imports, being an actual increase of nearly a million, and considerably more than double the amount of 1823. In 1839 it rose to $1,714,515.

"From these facts, there can be little doubt that more than a million annually may be saved under the two items of contingent expenses of Congress, and the collection of the customs, without touching the other great items comprised under the civil list, the executive and judicial departments, the foreign intercourse, light-houses, and miscellaneous. It would be safe to put down a saving of at least a half million for them."

The striking facts to be gleaned from these statements are—That the civil list in 1821 was about two millions of dollars; in 1839, four and a half millions; and in 1841, six millions and a fraction. That the contingent expenses of Congress during the same periods respectively, were, $50,000, and $276,000. And the collection of the custom house revenue at the same periods, the respective sums of $766,000, and $1,542,000. These several sums were each considered extravagant, and unjustifiable, at the time Mr. Calhoun was speaking; and each was expected to feel the pruning knife of retrenchment. On the contrary, all have risen higher—inordinately so—and still rising: the civil and diplomatic appropriation having attained 17 millions: the contingent expenses of Congress 4 to 510,000: and the collection of the customs to above two millions.

95. Resignation And Valedictory Of Mr. Clay

In the month of March, of this year, Mr. Clay resigned his place in the Senate, and delivered a valedictory address to the body, in the course of which he disclosed his reasons. Neither age, nor infirmities, nor disinclination for public service were alleged as the reasons. Disgust, profound and inextinguishable, was the ruling cause—more inferrible than alleged in his carefully considered address. Supercession at the presidential convention of his party to make room for an "available" in the person of General Harrison—the defection of Mr. Tyler—the loss of his leading measures—the criminal catastrophe of the national bank for which he had so often pledged himself—and the insolent attacks of the petty adherents of the administration in the two Houses, (too annoying for his equanimity, and too contemptible for his reply): all these causes of disgust, acting upon a proud and lofty spirit, induced this withdrawal from a splendid theatre for which, it was evident, he had not yet lost his taste. The address opened with a retrospect of his early entrance into the Senate, and a grand encomium upon its powers and dignity as he had found it, and left it. Memory went back to that early year, 1806, when just arrived at senatorial age, he entered the American Senate, and commenced his high career—a wide and luminous horizon before him, and will and talent to fill it. After some little exordium, he proceeded:

"And now, allow me, Mr. President, to announce, formally and officially, my retirement from the Senate of the United States, and to present the last motion which I shall ever make within this body; but, before making that motion, I trust I shall be pardoned for availing myself of this occasion to make a few observations. At the time of my entry into this body, which took place in December, 1806, I regarded it, and still regard it, as a body which may be compared, without disadvantage, to any of a similar character which has existed in ancient or modern times; whether we look at it in reference to its dignity, its powers, or the mode of its constitution; and I will also add, whether it be regarded in reference to the amount of ability which I shall leave behind me when I retire from this chamber. In instituting a comparison between the Senate of the United States and similar political institutions, of other countries, of France and England, for example, he was sure the comparison might be made without disadvantage to the American Senate. In respect to the constitution of these bodies: in England, with only the exception of the peers from Ireland and Scotland, and in France with no exception, the component parts, the members of these bodies, hold their places by virtue of no delegated authority, but derive their powers from the crown, either by ancient creation of nobility transmitted by force of hereditary descent, or by new patents as occasion required an increase of their numbers. But here, Mr. President, we have the proud title of being the representatives of sovereign States or commonwealths. If we look at the powers of these bodies in France and England, and the powers of this Senate, we shall find that the latter are far greater than the former. In both those countries they have the legislative power, in both the judicial with some modifications, and in both perhaps a more extensive judicial power than is possessed by this Senate; but then the last and undefined and undefinable power, the treaty-making power, or at least a participation in the conclusions of treaties with foreign powers, is possessed by this Senate, and is possessed by neither of the others. Another power, too, and one of infinite magnitude, that of distributing the patronage of a great nation, which is shared by this Senate with the executive magistrate. In both these respects we stand upon ground different from that occupied by the Houses of Peers of England and of France. And I repeat, that with respect to the dignity which ordinarily prevails in this body, and with respect to the ability of its members during the long period of my acquaintance with it, without

arrogance or presumption, we may say, in proportion to its numbers, the comparison would not be disadvantageous to us compared with any Senate either of ancient or modern times."

He then gave the date of the period at which he had formed the design to retire, and the motive for it—the date referring to the late presidential election, and the motive to find repose in the bosom of his family.

"Sir, I have long—full of attraction as public service in the Senate of the United States is—a service which might fill the aspirations of the most ambitious heart—I have nevertheless long desired to seek that repose which is only to be found in the bosom of one's family—in private life—in one's home. It was my purpose to have terminated my senatorial career in November, 1840, after the conclusion of the political struggle which characterized that year."

The termination of the presidential election in November, was the period at which Mr. Clay intended to retire: the determination was formed before that time—formed from the moment that he found himself superseded at the head of his party by a process of intricate and trackless filtration of public opinion which left himself a dreg where he had been for so many years the head. It was a mistake, the effect of calculation, which ended more disastrously for the party than for himself. Mr. Clay could have been elected at that time. The same power which elected General Harrison could have elected him. The banks enabled the party to do it. In a state of suspension, they could furnish, without detriment to themselves, the funds for the campaign. Affecting to be ruined by the government, they could create distress: and thus act upon the community with the double battery of terror and seduction. Lending all their energies and resources to a political party, they elected General Harrison in a hurrah! and could have done the same by Mr. Clay. With him the election would have been a reality—a victory bearing fruit: with General Harrison and Mr. Tyler—through Providence with one, and defection in the other—the triumph, achieved at so great expense, became ashes in the mouths of the victors. He then gave his reasons for not resigning, as he had intended, at the termination of the election: it was the hope of carrying his measures at the extra session, which he foresaw was to take place.

"But I learned very soon, what my own reflections indeed prompted me to suppose would take place, that there would be an extra session; and being desirous, prior to my retirement, to co-operate with my friends in the Senate in restoring, by the adoption of measures best calculated to accomplish that purpose, that degree of prosperity to the country, which had been, for a time, destroyed, I determined upon attending the extra session, which was called, as was well known, by the lamented Harrison. His death, and the succession which took place in consequence of it, produced a new aspect in the affairs of the country. Had he lived, I do not entertain a particle of doubt that those measures which, it was hoped, might be accomplished at that session, would have been consummated by a candid co-operation between the executive branch of the government and Congress; and, sir, allow me to say (and it is only with respect to the extra session), that I believe if there be any one free from party feelings, and free from bias and from prejudice, who will look at its transactions in a spirit of candor and of justice, but must come to the conclusion to which, I think, the country generally will come, that if there be any thing to complain of in connection with that session, it is not as to what was done and concluded, but as to that which was left unfinished and unaccomplished."

Disappointed in his expectations from the extra session, by means which he did not feel it necessary to recapitulate, Mr. Clay proceeds to give the reasons why he still deferred his proposed resignation, and appeared in the Senate again at its ensuing regular session.

"After the termination of that session, had Harrison lived, and had the measures which it appeared to me it was desirable to have accomplished, been carried, it was my intention to have retired; but I reconsidered that determination, with the vain hope that, at the regular session of Congress, what had been unaccomplished at the extra session, might then be effected, either upon the terms proposed or in some manner which would be equivalent. But events were announced after the extra session—events resulting, I believe, in the failure to accomplish certain objects at the extra session—events which seemed to throw upon our friends every where present defeat—this hope, and the occurrence of these events, induced me to attend the regular session, and whether in adversity or in prosperity, to share in the fortunes of my friends. But I came here with the purpose, which I am now about to effectuate, of retiring as soon as I thought I could retire with propriety and decency, from the public councils."

Events after the extra session, as well as the events of the session, determined him to return to the regular one. He does not say what those subsequent events were. They were principally two—the formation of a new cabinet wholly hostile to him, and the attempt of Messrs. Tyler, Webster and Cushing to take the whig party from him. The hostility of the cabinet was nothing to him personally; but it indicated a fixed design to thwart him on the part of the President, and augured an indisposition to promote any of his measures. This augury was fulfilled as soon as Congress met. The administration came forward with a plan of a government bank, to issue a national currency of government paper—a thing which he despised as much as the democracy did; and which, howsoever impossible to succeed itself, was quite sufficient, by the diversion it created, to mar the success of any plan for a national bank. Instead of carrying new measures, it became clear that he was to lose many already adopted. The bankrupt act, though forced upon him, had become one of his measures; and that was visibly doomed to repeal. The distribution of the land revenue had become a political monstrosity in the midst of loans, taxes and treasury notes resorted to to supply its loss: and the public mind was in revolt against it. The compromise act of 1833, for which he was so much lauded at the time, and the paternity of which he had so much contested at the time, had run its career of folly and delusion—had left the Treasury without revenue, and the manufacturers without protection; and, crippled at the extra session, it was bound to die at this regular one—and that in defiance of the mutual assurance for continued existence put into the land bill; and which, so far from being able to assure the life of another bill, was becoming unable to save its own. Losing his own measures, he saw those becoming established which he had most labored to oppose. The specie circular was taking effect of itself, from the abundance of gold and the baseness of paper. The divorce of Bank and State was becoming absolute, from the delinquency of the banks. There was no prospect ahead either to carry new measures, or to save old ones, or to oppose the hated ones. All was gloomy ahead. The only drop of consolation which sweetened the cup of so much bitterness was the failure of his enemies to take the whig party from him. That parricidal design (for these enemies owed their elevation to him) exploded in its formation—aborted in its conception; and left those to abjure whiggism, and fly from its touch, who had lately combined to consolidate Congress, President and people into one solid whig mass. With this comfort he determined to carry into effect his determination to resign, although it was not yet the middle of the session, and that all-important business was still on the anvil of legislation—to say nothing of the general diplomatic settlement, to embrace questions from the peace of 1783, which it was then known Great Britain was sending out a special mission to effect. But, to proceed with the valedictory. Having got to the point at which he was to retire, the veteran orator naturally threw a look back upon his past public course.

“From the year 1806, the period of my entering upon this noble theatre of my public service, with but short intervals, down to the present time, I have been engaged in the service of my country. Of the nature and value of those services which I may have rendered during my long career of public life, it does not become me to speak. History, if she deigns to notice me, and posterity—if a recollection of any humble service which I may have rendered shall be transmitted to posterity—will be the best, truest, and most impartial judges; and to them I defer for a decision upon their value. But, upon one subject, I may be allowed to speak. As to my public acts and public conduct, they are subjects for the judgment of my fellow-citizens; but my private motives of action—that which prompted me to take the part which I may have done, upon great measures during their progress in the national councils, can be known only to the Great Searcher of the human heart and myself; and I trust I shall be pardoned for repeating again a declaration which I made thirty years ago: that whatever error I may have committed—and doubtless I have committed many during my public service—I may appeal to the Divine Searcher of hearts for the truth of the declaration which I now make, with pride and confidence, that I have been actuated by no personal motives—that I have sought no personal aggrandizement—no promotion from the advocacy of those various measures on which I have been called to act—that I have had an eye, a single eye, a heart, a single heart, ever devoted to what appeared to be the best interests of the country.”

With this retrospection of his own course was readily associated the recollection of the friends who had supported him in his long and eventful, and sometimes, stormy career.

“But I have not been unsustained during this long course of public service. Every where on this widespread continent have I enjoyed the benefit of possessing warm-hearted, and enthusiastic, and devoted friends—friends who knew me, and appreciated justly the motives by which I have been actuated. To them, if I had language to make suitable acknowledgments, I would now take leave to present them, as being all the offering that I can make for their long continued, persevering and devoted friendship.”

These were general thanks to the whole body of his friends, and to the whole extent of his country; but there were special thanks due to nearer friends, and the home State, which had then stood by him for forty-five years (and which still stood by him ten years more, and until death), and fervidly and impressively he acknowledged this domestic debt of gratitude and affection.

“But, sir, if I have a difficulty in giving utterance to an expression of the feelings of gratitude which fill my heart towards my friends, dispersed throughout this continent, what shall I say—what can I say—at all commensurate with my feelings of gratitude towards that State whose humble servitor I am? I migrated to the State of Kentucky nearly forty-five years ago. I went there as an orphan, who had not yet attained his majority—who had never recognized a father’s smile—poor, penniless, without the favor of the great—with an imperfect and inadequate education, limited to the means applicable to such a boy;—but scarcely had I set foot upon that generous soil, before I was caressed with parental fondness—patronized with bountiful munificence—and I may add to this, that her choicest honors, often unsolicited, have been freely showered upon me; and when I stood, as it were, in the darkest moments of human existence—abandoned by the world, calumniated by a large portion of my own countrymen, she threw around me her impenetrable shield, and bore me aloft, and repelled the attacks of malignity and calumny, by which I was assailed. Sir, it is to me an unspeakable pleasure that I am shortly to return to her friendly limits; and that I shall finally deposit (and it will not be long before that day arrives) my last remains under her generous soil, with the remains of her gallant and patriotic sons who have preceded me.”

After this grateful overflow of feelings to faithful friends and country, came some notice of foes, whom he might forgive, but not forget.

”Yet, sir, during this long period, I have not escaped the fate of other public men, in this and other countries. I have been often, Mr. President, the object of bitter and unmeasured detraction and calumny. I have borne it, I will not say always with composure, but I have borne it without creating any disturbance. I have borne it, waiting in unshaken and undoubting confidence, that the triumphs of truth and justice would ultimately prevail; and that time would settle all things as they ought to be settled. I have borne them under the conviction, of which no injustice, no wrong, no injury could deprive me, that I did not deserve them, and that He to whom we are all to be finally and ultimately responsible, would acquit me, whatever injustice I might experience at the hands of my fellow-men.”

This was a general reference to the attacks and misrepresentations with which, in common with all eminent public men of decided character, he had been assailed; but there was a recent and offensive imputation upon him which galled him exceedingly—as much so for the source from which it came as for the offence itself: it was the imputation of the dictatorship, lavished upon him during the extra session; and having its origin with Mr. Tyler and his friends. This stung him, coming from that source—Mr. Tyler having attained his highest honors through his friendship: elected senator by his friends over Mr. Randolph, and taken up for Vice-President in the whig convention (whereby he became both the second and the first magistrate of the republic) on account of the excessive affection which he displayed for Mr. Clay. To this recent, and most offensive imputation, he replied specially:

“Mr. President, a recent epithet (I do not know whether for the purpose of honor or of degradation) has been applied to me; and I have been held up to the country as a dictator! Dictator! The idea of dictatorship is drawn from Roman institutions; and there, when it was created, the person who was invested with this tremendous authority, concentrated in his own person the whole power of the state. He exercised unlimited control over the property and lives of the citizens of the commonwealth. He had the power of raising armies, and of raising revenue by taxing the people. If I have been a dictator, what have been the powers with which I have been clothed? Have I possessed an army, a navy, revenue? Have I had the distribution of the patronage of the government? Have I, in short, possessed any power whatever? Sir, if I have been a dictator, I think those who apply the epithet to me must at least admit two things: in the first place, that my dictatorship has been distinguished by no cruel executions, stained by no deeds of blood, soiled by no act of dishonor. And they must no less acknowledge, in the second place (though I do not know when its commencement bears date, but I suppose, however, that it is intended to be averred, from the commencement of the extra session), that if I have been invested with, or have usurped the dictatorship, I have at least voluntarily surrendered the power within a shorter period than was assigned by the Roman laws for its continuance.”

Mr. Clay led a great party, and for a long time, whether he dictated to it or not, and kept it well bound together, without the usual means of forming and leading parties. It was a marvel that, without power and patronage (for the greater part of his career was passed in opposition as a mere member of Congress), he was able so long and so undividedly to keep so great a party together, and lead it so unresistingly. The marvel was solved on a close inspection of his character. He had great talents, but not equal to some whom he led. He had eloquence—superior in popular effect, but not equal in high oratory to that of some others. But his temperament was fervid, his will strong, and his courage daring; and these qualities, added to his talents, gave him the lead and supremacy in his party—where he was always dominant, but twice set aside by the politicians. It was a galling thing to the President Tyler, with all the

power and patronage of office, to see himself without a party, and a mere opposition member at the head of a great one—the solid body of the whigs standing firm around Mr. Clay, while only some flankers and followers came to him; and they importunate for reward until they got it. Dictatorship was a natural expression of resentment under such circumstances; and accordingly it was applied—and lavishly—and in all places: in the Senate, in the House, in the public press, in conversation, and in the manifesto which Mr. Cushing put out to detach the whigs from him. But they all forgot to tell that this imputed dictatorship at the extra session, took place after the defection of Mr. Tyler from the whig party, and as a consequence of that defection—some leader being necessary to keep the party together after losing the two chiefs they had elected—one lost by Providence, the other by treachery. This account settled, he turned to a more genial topic—that of friendship; and to make atonement, reconciliation and peace with all the senators, and they were not a few, with whom he had had some rough encounters in the fierce debate. Unaffectedly acknowledging some imperfection of temper, he implored forgiveness from all whom he had ever offended, and extended the hand of friendship to every brother member.

"Mr. President, that my nature is warm, my temper ardent, my disposition in the public service enthusiastic, I am ready to own. But those who suppose they may have seen any proof of dictation in my conduct, have only mistaken that ardor for what I at least supposed to be patriotic exertions for fulfilling the wishes and expectations by which I hold this seat; they have only mistaken the one for the other. Mr. President, during my long and arduous services in the public councils, and especially during the last eleven years, in the Senate, the same ardor of temperament has characterized my actions, and has no doubt led me, in the heat of debate, in endeavoring to maintain my opinions in reference to the best course to be pursued in the conduct of public affairs, to use language offensive, and susceptible of ungracious interpretation, towards my brother senators. If there be any who entertain a feeling of dissatisfaction resulting from any circumstance of this kind, I beg to assure them that I now make the amplest apology. And, on the other hand, I assure the Senate, one and all, without exception and without reserve, that I leave the Senate chamber without carrying with me to my retirement a single feeling of dissatisfaction towards the Senate itself or any one of its members. I go from it under the hope that we shall mutually consign to perpetual oblivion whatever of personal animosities or jealousies may have arisen between us during the repeated collisions of mind with mind."

This moving appeal was strongly responded to in spontaneous advances at the proper time—deferred for a moment by a glowing and merited tribute to his successor (Mr. Crittenden), and his own solemn farewell to the Senate.

"And now, allow me to submit the motion which is the object that induced me to arise upon this occasion. It is to present the credentials of my friend and successor, who is present to take my place. If, Mr. President, any void could be created by my withdrawal from the Senate of the United States, it will be filled to overflowing by my worthy successor, whose urbanity, gallant bearing, steady adherence to principle, rare and uncommon powers of debate, are well known already in advance to the whole Senate. I move that the credentials be received, and at the proper moment that the oath required be administered. And now, in retiring as I am about to do from the Senate, I beg leave to deposit with it my fervent wishes, that all the great and patriotic objects for which it was instituted, may be accomplished—that the destiny designed for it by the framers of the constitution may be fulfilled—that the deliberations, now and hereafter, in which it may engage for the good of our common country, may eventuate in the restoration of its prosperity, and in the preservation and maintenance of her honor abroad, and her best interests at home. I retire from you, Mr. President, I know, at a period of infinite distress and embarrassment. I wish I could have taken leave of the public councils under

more favorable auspices: but without meaning to say at this time, upon whom reproaches should fall on account of that unfortunate condition, I think I may appeal to the Senate and to the country for the truth of what I say, when I declare that at least no blame on account of these embarrassments and distresses can justly rest at my door. May the blessings of Heaven rest upon the heads of the whole Senate, and every member of it; and may every member of it advance still more in fame, and when they shall retire to the bosoms of their respective constituencies, may they all meet there that most joyous and grateful of all human rewards, the exclamation of their countrymen, 'well done, thou good and faithful servant.' Mr. President, and Messieurs Senators, I bid you, one and all, a long, a last, a friendly farewell."

Mr. Preston concluded the ceremony by a motion to adjourn. He said he had well observed from the deep sensation which had been sympathetically manifested, that there could be but little inclination to go on with business in the Senate, and that he could not help participating in the feeling which he was sure universally prevailed, that something was due to the occasion. The resignation which had just taken place was an epoch in the annals of the country. It would undoubtedly be so considered in history. And he did not know that he could better consult the feelings of the Senate than by moving an adjournment: which motion was made and agreed to. Senators, and especially those who had had their hot words with the retiring statesman, now released from official restraint, went up, and made return of all the kind expressions which had been addressed to them. But the valedictory, though well performed, did not escape the criticism of senators, as being out of keeping with the usages of the body. It was the first occasion of the kind; and, thus far, has been the last; and it might not be recommendable for any one, except another Henry Clay—if another should ever appear—to attempt its imitation.

96. Military Department: Progress Of Its Expense

There is no part of the working of the government, at which that part of the citizens who live upon their own industry should look more closely, than into its expenditures. The progress of expense in every branch of the public service should be their constant care; and for that purpose retrospective views are necessary, and comparisons between different periods. A preceding chapter has given some view of this progress and comparison in the Navy Department: the present one will make the same retrospect with respect to the army, and on the same principles—that of taking the aggregate expense of the department, and then seeing the effective force produced, and the detailed cost of such force. Such comparative view was well brought up by Mr. Calhoun for a period of twenty years—1822 to 1842—in the debate on the naval appropriations; and it furnishes instructive data for this examination. He said:

"I shall now pass to the military, with which I am more familiar. I propose to confine my remarks almost entirely to the army proper, including the Military Academy, in reference to which the information is more full and minute. I exclude the expenses incident to the Florida war, and the expenditures for the ordnance, the engineer, the topographical, the Indian, and the pension bureaus. Instead of 1823, for which there is no official and exact statement of the expenses of the army, I shall take 1821, for which there is one made by myself, as Secretary of War, and for the minute correctness of which, I can vouch. It is contained in a report made under a call of the House of Representatives, and comprises a comparative statement of the expenses of the army proper, for the years 1818, '19, '20, and '21, respectively, and an estimate of the expense of 1823. It may be proper to add, which I can with confidence, that the comparative expense of 1823, if it could be ascertained, would be found to be not less favorable than 1821. It would probably be something more so.

"With these remarks, I shall begin with a comparison, in the first place, between 1821 and the estimate for the army proper for this year. The average aggregate strength of the army in the year 1821, including officers, professors, cadets, and soldiers, was 8,109, and the proportion of officers, including the professors of the Military Academy, to the soldiers, including cadets, was 1 to 12 18-100, and the expenditure $2,180,093 53, equal to $263 91 for each individual. The estimate for the army proper for 1842, including the Military Academy, is $4,453,370 16. The actual strength of the army, according to the return accompanying the message at the opening of the session, was 11,169. Assuming this to be the average strength for this year, and adding for the average number of the Academy, professors and cadets, 300, it will give within a very small fraction $390 for each individual, making a difference of $136 in favor of 1821. How far the increase of pay, and the additional expense of two regiments of dragoons, compared to other descriptions of troops, would justify this increase, I am not prepared to say. In other respects, I should suppose, there ought to be a decrease rather than an increase, as the prices of clothing, provisions, forage, and other articles of supply, as well as transportation, are, I presume, cheaper than in 1821. The proportion of officers to soldiers I would suppose to be less in 1842, than in 1821, and of course, as far as that has influence, the expense of the former ought to be less per man than the latter. With this brief and imperfect comparison between the expense of 1821 and the estimates for this year, I shall proceed to a more minute and full comparison between the former and the year 1837. I select that year, because the strength of the army, and the proportion of officers to men (a very material point as it relates to the expenditure) are almost exactly the same.

"On turning to document 165 (H. R., 2d sess., 26th Con.), a letter will be found from the then Secretary of War (Mr. Poinsett) giving a comparative statement, in detail, of the expense of

the army proper, including the Military Academy, for the years 1837, ‘38, ‘39 and ‘40. The strength of the army for the first of these years, including officers, professors, cadets, and soldiers, was 8,107, being two less than in 1821. The proportion of officers and professors, to the cadets and soldiers, 11 46-100, being 72-100 more than 1821. The expenditure for 1837, $3,308,011, being $1,127,918 more than 1821. The cost per man, including officers, professors, cadets, and soldiers, was in 1837 $408 03, exceeding that of 1821 by $144 12 per man. It appears by the letter of the Secretary, that the expense per man rose in 1838 to $464 35; but it is due to the head of the department, at the time, to say, that it declined under his administration, the next year, to $381 65; and in the subsequent, to $380 63. There is no statement for the year 1841; but as there has been a falling off in prices, there ought to be a proportionate reduction in the cost, especially during the present year, when there is a prospect of so great a decline in almost every article which enters into the consumption of the army. Assuming that the average strength of the army will be kept equal to the return accompanying the President’s message, and that the expenditure of the year should be reduced to the standard of 1821, the expense of the army would not exceed $2,895,686, making a difference, compared with the estimates, of $1,557,684; but that, from the increase of pay, and the greater expense of the dragoons, cannot be expected. Having no certain information how much the expenses are necessarily increased from those causes, I am not prepared to say what ought to be the actual reductions; but, unless the increase of pay, and the increased cost because of the dragoons are very great, it ought to be very considerable.

“I found the expense of the army in 1818, including the Military Academy, to be $3,702,495, at a cost of $451 57 per man, including officers, professors, cadets, and soldiers, and reduced it in 1821 to $2,180,098, at a cost of $263 91; and making a difference between the two years, in the aggregate expenses of the army, of $1,522,397, and $185 66 per man. There was, it is true, a great fall in prices in the interval; but allowing for that, by adding to the price of every article entering into the supplies of the army, a sum sufficient to raise it to the price of 1818, there was still a difference in the cost per man of $163 95. This great reduction was effected without stinting the service or diminishing the supplies, either in quantity or quality. They were, on the contrary, increased in both, especially the latter. It was effected through an efficient organization of the staff, and the co-operation of the able officers placed at the head of each of its divisions. The cause of the great expense at the former period, was found to be principally in the neglect of public property, and the application of it to uses not warranted by law. There is less scope, doubtless, for reformation in the army now. I cannot doubt, however, but that the universal extravagance which pervaded the country for so many years, and which increased so greatly the expenses both of government and individuals, has left much room for reform in this, as well as other branches of the service.”

This is an instructive period at which to look. In the year 1821, when Mr. Calhoun was Secretary at War, the cost of each man in the military service (officers and cadets included) was, in round numbers, 264 dollars per man: in the year 1839, when Mr. Poinsett was Secretary, and the Florida war on hand, the cost per man was 380 dollars: in the year 1842, the second year of Mr. Tyler’s administration, the Florida war still continuing, it was 390 dollars per man: now, in 1855, it is about 1,000 dollars a man. Thus, the cost of each man in the army has increased near three fold in the short space of about one dozen years. The same result will be shown by taking the view of these increased expenses in a different form—that of aggregates of men and of cost. Thus, the aggregate of the army in 1821 was 8,109 men, and the expense was $2,180,093: in 1839 the aggregate of the army was about 8,000 men—the cost $3,308,000: in 1842 the return of the army was 11,169—the appropriation asked for, and obtained $4,453,370. Now, 1854, the aggregate of the army is 10,342—the appropriations ten millions and three quarters! that is to say, with nearly one thousand men

less than in 1842, the cost is upwards of six millions more. Such is the progress of waste and extravagance in the army—fully keeping up with that in the navy.

In a debate upon retrenchment at this session, Mr. Adams proposed to apply the pruning knife at the right place—the army and navy: he did not include the civil and diplomatic, which gave no sign at that time of attaining its present enormous proportions, and confined himself to the naval and military expenditure. After ridiculing the picayune attempts at retrenchment by piddling at stationery and tape, and messengers' pay, he pointed to the army and navy; and said:

"There you may retrench millions! in the expenses of Congress, you retrench picayunes. You never will retrench for the benefit of the people of this country, till you retrench the army and navy twenty millions. And yet he had heard of bringing down the expenditures of the government to twenty millions. Was this great retrenchment to be effected by cutting off the paper of members, by reducing the number of pages, and cutting down the salaries of the door-keepers? How much could be retrenched in that way? If there was to be any real retrenchment, it must be in the army and navy. A sincere and honest determination to reduce the expenses of the government, was the spirit of a very large portion of the two parties in the House; and that was a spirit in which the democracy had more merit than the other party. He came here as an humble follower of those who went for retrenchment; and, so help him God, so long as he kept his seat here, he would continue to urge retrenchment in the expenditures of the military and naval force. Well, what was the corresponding action of the Executive on this subject? It was a recommendation to increase the expenditures both for the army and navy. They had estimates from the War and Navy Departments of twenty millions. The additions proposed to the armed force, as he observed yesterday, fifteen millions would not provide for. Where was the spirit of retrenchment on the part of the Executive, which Congress had a right to expect? How had he met the spirit manifested by Congress for retrenchment of the expenditures of the government? By words—words—and nothing else but words."

A retrenchment, to be effectual, requires the President to take the lead, as Mr. Jefferson did at the commencement of his administration. A solitary member, or even several members acting together, could do but little: but they should not on that account forbear to "*cry aloud and spare not*." Their voice may wake up the people, and lead to the election of a President who will be on the side of republican economy, instead of royal extravagance. This writer is not certain that 20 millions, on these two heads, could have been retrenched at the time Mr. Adams spoke; but he is sure of it now.

97. Paper Money Payments: Attempted By The Federal Government: Resisted: Mr. Benton's Speech

The long continued struggle between paper money and gold was now verging to a crisis. The gold bill, rectifying the erroneous valuation of that metal, had passed in 1834: an influx of gold coin followed. In seven years the specie currency had gone up from twenty millions to one hundred. There was five times as much specie in the country as there was in 1832, when the currency was boasted to be solid under the regulation of the Bank of the United States. There was as much as the current business of the country and of the federal government could use: for these 100 millions, if allowed to circulate and to pass from hand to hand, in every ten hands that they passed through, would do the business of one thousand millions. Still the administration was persistent in its attempts to obtain a paper money currency: and the national bank having failed, and all the efforts to get up paper money machines (under the names of fiscal agent, fiscal corporation, and exchequer board) having proved abortive, recourse was had to treasury notes, with the quality of re-issuability attached to them. Previous issues had been upon the footing of any other promissory note: when once paid at the treasury, it was extinguished and cancelled. Now they were made re-issuable, like common bank notes; and a limited issue of five millions of dollars became unlimited from its faculty of successive emission. The new administration converted these notes into currency, to be offered to the creditors of the government in the proportion of two-thirds paper, and one-third specie; and, from the difficulty of making head against the government, the mass of the creditors were constrained to take their dues in this compound of paper and specie. Mr. Benton determined to resist it, and to make a case for the consideration and judgment of Congress and the country, with the view of exposing a forced unconstitutional tender, and inciting the country to a general resistance. For this purpose he had a check drawn for a few days' compensation as senator, and placed it in the hands of a messenger for collection, inscribed, "the hard, or a protest." The hard was not delivered: the protest followed: and Mr. Benton then brought the case before the Senate, and the people, in a way which appears thus in the register of the Congress debates (and which were sufficient for their objects as the forced tender of the paper money was immediately stopped):

Mr. Benton rose to offer a resolution, and to precede it with some remarks, bottomed upon a paper which he held in his hand, and which he would read. He then read as follows:

[COMPENSATION NO. 149.]
Office of Secretary of the Senate of the U. S. A.

Washington, *31st January, 1842*.

Cashier of the Bank of Washington,

Pay to Hon. Thomas H. Benton, or order one hundred and forty-two dollars.
$142 (Signed)

Asbury Dickens,
Secretary of the Senate.

(Endorsed). ☞ "*The hard, or a protest.*

"Thomas H. Benton."

District of Columbia,
Washington County, Set:

Be it known, That on the thirty-first day of January, 1842, I, George Sweeny, Notary Public, by lawful authority duly commissioned and sworn, dwelling in the County and District aforesaid, at the request of the honorable Thomas H. Benton, presented at the bank of Washington, the original check whereof the above is a true copy, and demanded there payment of the sum of money in the said check specified, whereunto the cashier of said bank answered: "The whole amount cannot be paid in specie, as treasury notes alone have been deposited here to meet the Secretary of the Senate's checks; but I am ready to pay this check in one treasury note for one hundred dollars, bearing six per cent. interest, and the residue in specie."

Therefore I, the said notary, at the request aforesaid, have protested, and by these presents do solemnly protest, against the drawer and endorser of this said check, and all others whom it doth or may concern, for all costs, exchange, or re-exchange, charges, damages, and interests, suffered and to be suffered for want of payment thereof.

[SEAL]

In testimony whereof, I have hereunto set my hand and affixed my Seal Notarial, this first day of February, 1842.

George Sweeny,
Notary Public.

Protesting, $1 75.

Recorded in Protest Book, G. S. No. 4, page 315.

Mr. B. said this paper explained itself. It was a check and a protest. The check was headed "*compensation*," and was drawn by the Secretary of the Senate for so much pay due to him (Mr. B.) for his per diem attendance in Congress. It had been presented at the proper place for payment, and it would be seen by the protest that payment was refused, unless he (Mr. B.) would consent to receive two-thirds paper and about one-third specie. He objected to this, and endorsed upon the check, as an instruction to the messenger who carried it, these words: "*The hard, or a protest.*" Under instructions the protest came, and with it notarial fees to the amount of $1,75, which were paid in the hard. Mr. B. said this was what had happened to himself, here at the seat of government; and he presumed the same thing was happening to others, and all over the Union. He presumed the time had arrived when paper money payments, and forced tenders of treasury notes, were to be universal, and when every citizen would have to decide for himself whether he would submit to the imposition upon his rights, and to the outrage upon the Constitution, which such a state of things involved. Some might not be in a situation to submit. Necessity, stronger than any law, might compel many to submit; but there were others who were in a situation to resist; and, though attended with some loss and inconvenience, it was their duty to do so. Tyranny must be resisted; oppression must be resisted; violation of the Constitution must be resisted; folly or wickedness must be resisted; otherwise there is an end of law, of liberty, and of right. The government becomes omnipotent, and rides and rules over a prostrate country, as it pleases. Resistance to the tyranny or folly of a government becomes a sacred duty, which somebody must perform, and the performance of which is always disagreeable, and sometimes expensive and hazardous. Mr. Hampden resisted the payment of ship money in England: and his resistance cost him money, time, labor, losses of every kind, and eventually the loss of his life. His share of the ship money was only twenty shillings, and a suggestion of self-interest would have required him to submit to the imposition, and put up with the injury. But a feeling of patriotism

prompted him to resist for others, not for himself—to resist for the benefit of those who could not resist for themselves; and, above all, to resist for the sake of the Constitution of the country, trampled under foot by a weak king and a profligate minister. Mr. Hampden resisted the payment of ship money to save the people of England from oppression, and the constitution from violation. Some person must resist the payment of paper money here, to save the people from oppression, and the Constitution from violation; and if persons in station, and at the seat of government will not do it, who shall? Sir, resistance must be made; the safety of the country, and of the Constitution demands it. It must be made here: for here is the source and presence of the tyranny. It must be made by some one in station: for the voice of those in private life could not be heard. Some one must resist, and for want of a more suitable person, I find myself under the necessity of doing it—and I do it with the less reluctance because it is in my line, as a hard-money man; and because I do not deem it quite as dangerous to resist our paper money administration as Hampden found it to resist Charles the First and the Duke of Buckingham.

There is no dispute about the fact, and the case which I present is neither a first one, nor a solitary one. The whig administration, in the first year of its existence, is without money, and without credit, and with no other means of keeping up but by forced payments of paper money, which it strikes from day to day to force into the hands, and to stop the mouths of its importunate creditors. This is its condition; and it is the natural result of the folly which threw away the land revenue—which repealed the hard money clause of the independent treasury—which repealed the prohibition against the use of small notes by the federal government—which has made war upon gold, and protected paper—and which now demands the establishment of a national manufactory of paper money for the general and permanent use of the federal government. Its present condition is the natural result of these measures; and bad as it is, it must be far worse if the people do not soon compel a return to the hard money and economy of the democratic administrations. This administration came into power upon a promise to carry on the government upon thirteen millions per annum; the first year is not yet out; it has already had a revenue of twenty odd millions, a loan bill for twelve millions, a tax bill for eight or ten millions, a treasury note bill for five millions: and with all this, it declares a *deficit*, and shows its insolvency, by denying money to its creditors, and forcing them to receive paper, or to go without pay. In a season of profound peace, and in the first year of the whig administration, this is the condition of the country! a condition which must fill the bosom of every friend to our form of government with grief and shame.

Sir, a war upon the currency of the constitution has been going on for many years; and the heroes of that war are now in power. They have ridiculed gold, and persecuted it in every way, and exhausted their wits in sarcasms upon it and its friends. The humbug gold bill was their favorite phrase; and among other exhibitions in contempt of this bill and its authors, were a couple of public displays—one in May, 1837, the other in the autumn of 1840—at Wheeling, in Virginia, by two gentlemen (Mr. Tyler and Mr. Webster), now high functionaries in this government, in which empty purses were held up to the contemplation of the crowd, in derision of the gold bill and its authors. Sir, that bill was passed in June, 1834; and from that day down to a few weeks ago, we were paid in gold. Every one of us had gold that chose it. Now the scene is reversed. Gold is gone; paper has come. Forced payments, and forced tenders of paper, is the law of the whig administration! and empty purses may now be held up with truth, and with sorrow, as the emblem both of the administration and its creditors.

The cause of this disgraceful state of things, Mr. B. said, he would not further investigate at present. The remedy was the point now to be attended to. The government creditor was suffering; the constitution was bleeding; the character of the country was sinking into

disgrace; and it was the duty of Congress to apply a remedy to so many disasters. He, Mr. B. saw the remedy; but he had not the power to apply it. The power was in other hands; and to them he would wish to commit the inquiry which the present condition of things imperiously required of Congress to make.

Mr. B. said here was a forced payment of paper money—a forced tender of paper money—and forced loans from the citizens. The loan to be forced out of him was $100, at 6 per cent.; but he had not the money to lend, and should resist the loan. Those who have money will not lend it, and wisely refuse to lend it to an administration which throws away its rich pearl—the land revenue. The senator from North Carolina [Mr. Mangum] proposes a reduction of the pay of the members by way of relief to the Treasury, but Mr. B. had no notion of submitting to it: he had no notion of submitting to a deduction of his pay to enable an administration to riot in extravagance, and to expend in a single illegal commission in New York (the Poindexter custom house inquisition), more than the whole proposed saving from the members' pay would amount to. He had no notion of submitting to such curtailments, and would prefer the true remedy, that of restoring the land revenue to its proper destination; and also restoring economy, democracy, and hard money to power.

Mr. Benton then offered the following resolution, which was adopted:

"*Resolved*, That the Committee on Finance be instructed to inquire into the nature of the payments now made, or offered to be made, by the federal government to its creditors. Whether the same are made in hard money or in paper money? Whether the creditors have their option? Whether the government paper is at a discount? And what remedy, if any, is necessary to enable the government to keep its faith with its creditors, so as to save them from loss, the Constitution from violation, and the country from disgrace?"

98. Case Of The American Brig Creole, With Slaves For New Orleans, Carried By Mutiny Into Nassau, And The Slaves Liberated

At this time took place one of those liberations of slaves in voyages between our own ports, of which there had already been four instances; but no one under circumstances of such crime and outrage. Mutiny, piracy, and bloodshed accompanied this fifth instance of slaves liberated by British authorities while on the voyage from one American port to another. The brig Creole, of Richmond, Virginia, had sailed from Norfolk for New Orleans, among other cargo, having 135 slaves on board. When out a week, and near the Bahama Islands, a mutiny broke out among the slaves, or rather nineteen of them, in the night, manifesting itself instantly and unexpectedly upon the officers and crew of the brig, and the passengers. The mutineers, armed with knives and handspikes, rushed to the cabin, where the officers not on duty, the wife and children of the captain, and passengers were asleep. They were knocked down, stabbed and killed, except as they could save themselves in the dark. In a few minutes the mutineers were masters of the vessel, and proceeded to arrange things according to their mind. All the slaves except the 19 were confined in the hold, and great apprehensions entertained of them, as they had refused to join in the mutiny, many of them weeping and praying—some endeavoring to save their masters, and others hiding to save themselves. The living, among the officers, crew and passengers were hunted up, and their lives spared to work the ship. They first demanded that they should be carried to Liberia—a design which was relinquished upon representations that there was not water and provisions for a quarter of the voyage. They then demanded to go to a British island, and placing the muzzle of a musket against the breast of the severely wounded captain, menaced him with instant death if he did not comply with their demand. Of course he complied, and steered for Nassau, in the island of Providence. The lives of his wife and children were spared, and they, with other surviving whites, were ordered into the forward hold. Masters of the ship, the 19 mutineers took possession of the cabin—ate there—and had their consultations in that place. All the other slaves were rigorously confined in the hold, and fears expressed that they would rise on the mutineers. Not one joined them. The affidavits of the master and crew taken at Nassau, say:

“None but the 19 went into the cabin. They ate in the cabin, and others ate on deck as they had done the whole voyage. The 19 were frequently closely engaged in secret conversation, but the others took no part in it, and appeared not to share in their confidence. The others were quiet and did not associate with the mutineers. The only words that passed between the others and the 19, were when the others asked them for water *or grub*, or something of the kind. The others were kept under as much as the whites were. The 19 drank liquor in the cabin and invited the whites to join them, but not the other negroes. Madison, the ring-leader, gave orders that the cooking for all but the 19 should be as it was before, and appointed the same cook for them. The nineteen said that all they had done was for their freedom. The others said nothing about it. They were much afraid of the nineteen. They remained forward of the mainmast. The nineteen took possession of the after part of the brig, and stayed there the whole time or were on watch. The only knives found after the affray, were two sheath knives belonging to the sailors. The captain’s bowie knife and the jack knife. None of the other negroes had any other knives. Madison sometimes had the bowie knife, and sometimes Ben had it. No other negro was seen with that knife. On Monday afternoon Madison got the pistol from one of the nineteen, and said he did not wish them to have any arms when they

reached Nassau. The nineteen paraded the deck armed, while the other negroes behaved precisely as they had done before the mutiny. About 10 o'clock, P. M., on the 8th day of November, 1841, they made the light of Abaco. Ben had the gun. About 10 o'clock P. M. he fired at Stevens, who came on deck as already stated. Merritt and Gifford (officers of the vessel) alternately kept watch. Ben, Madison, Ruffin and Morris (four principal mutineers) kept watch by turns, the whole time up to their arrival at Nassau, with knives drawn. So close was the watch, that it was impossible to rescue the brig. Neither passengers, officers or sailors were allowed to communicate with each other. The sailors performed their usual duties."

Arrived at Nassau, a pilot came on board—all the men in his boat being negroes. He and his men on coming on board, mingled with the slaves, and told them they were free men—that they should go on shore, and never be carried away from there. The regular quarantine officer then came on board, to whom Gifford, first mate of the vessel, related all the circumstances of the mutiny. Going ashore with the quarantine officer, Gifford related all the same circumstances to the Governor of the island, and to the American Consul at Nassau. The consul, in behalf of the vessel and all interested, requested that a guard should be sent on board to protect the vessel and cargo, and keep the slaves on board until it could be known what was to be done. The Governor did so—sending a guard of twenty-four negro soldiers in British uniform, with loaded muskets and fixed bayonets. The affidavits then say:

"From Tuesday the 10th, till Friday the 12th day of November, they tied Ben Blacksmith, Addison, Ruffin, and Morris, put them in the long boat, placed a sentry over them, and fed them there. They mingled with the negroes, and told the women they were free, and persuaded them to remain in the island. Capt. Fitzgerald, commanding the company, told many of the slaves owned by Thomas McCargo, in presence of many other of the slaves, how foolish they were, that they had not, when they rose, killed all the whites on board, and run the vessel ashore, and then they would have been free, and there would have been no more trouble about it. This was on Wednesday. Every day the officers and soldiers were changed at 9 o'clock, A.M. There are 500 regular soldiers on the island, divided into four equal companies, commanded by four officers, called captains. There was a regular sentry stationed every night, and they put all the men slaves below, except the four which were tied, and placed a guard over the hatchway. They put them in the hold at sunset, and let them out at sunrise. There were apparently from twelve to thirteen thousand negroes in the town of Nassau and vicinity, and about three or four thousand whites."

The next day the Queen's attorney-general for this part of her West Indian possessions, came on board the brig, attended by three magistrates and the United States consul, and took the depositions of all the white persons on board in relation to the mutiny. That being done, the attorney-general placed the 19 mutineers in the custody of the captain and his guard of 24 negro soldiers, and ordered them upon the quarter-deck. The affidavits then continue:

"There were about fifty boats lying round the brig, all filled with men from the shore, armed with clubs, and subject to the order of the attorney-general, and awaiting a signal from one of the civil magistrates; a sloop was towed from the shore by some of our boats, and anchored near the brig—this sloop was also filled with men armed with clubs; all the men in the boats were negroes. The fleet of boats was under the immediate command of the pilot who piloted the brig into the harbor. This pilot, partly before the signal was given by one of the magistrates, said that he wished they would get through the business; that they had their time and he wanted his.

"The attorney-general here stepped on the quarter-deck, and addressing himself to all the persons except the nineteen who were in custody, said, 'My friends, you have been detained a short time on board the Creole for the purpose of ascertaining the individuals who were

concerned in this mutiny and murder. They have been identified, and will be detained, and the rest of you are free, and at liberty to go on shore, and wherever you please.' Then addressing the prisoners he said: 'Men, there are nineteen of you who have been identified as having been engaged in the murder of Mr. Hewell, and in an attempt to kill the captain and others. You will be detained and lodged in prison for a time, in order that we may communicate with the English government, and ascertain whether your trial shall take place here or elsewhere.' At this time Mr. Gifford, the mate of the vessel, then in command, the captain being on shore, under the care of a physician, addressed the attorney-general in the presence of the magistrates, protested against the boats being permitted to come alongside of the vessel, or that the negroes other than the mutineers should be put on shore. The attorney-general replied that Mr. Gifford had better make no objection, but let them go quietly on shore, for if he did, there might be bloodshed. At this moment one of the magistrates ordered Mr. Merritt, Mr. McCargo, and the other passengers, to look to their money and effects, as he apprehended that the cabin of the Creole would be sacked and robbed.

"The attorney-general with one of the magistrates, stepped into his boat and withdrew into the stream, a short distance from the brig, when they stopped. A magistrate on the deck of the Creole gave the signal for the boats to approach instantly. With a hurrah and a shout, a fleet of boats came alongside of the brig, and the magistrates directed the men to remain on board of their own boats, and commanded the slaves to leave the brig and go on board the boats. They obeyed his orders, and passing from the Creole into the boats, were assisted, many of them, by this magistrate. During this proceeding, the soldiers and officers were on the quarter-deck of the Creole, armed with loaded muskets and bayonets fixed, and the attorney-general with one of the magistrates in his boat, lay at a convenient distance, looking on. After the negroes had embarked in the boats, the attorney-general and magistrate pushed out their boat, and mingled with the fleet, congratulating the slaves on their escape, and shaking hands with them. Three cheers were then given, and the boats went to the shore, where thousands were waiting to receive them."

The 19 mutineers were then taken on shore, and lodged in prison, while many of the slaves—the greater part of them—who were proclaimed to be liberated, begged to be allowed to proceed with their masters to New Orleans, but were silenced by threats, and the captain told that his vessel should be forfeited if he attempted to carry any of them away. Only four, by hiding themselves, succeeded in getting off with their masters. The next day a proceeding took place in relation to what was called "the baggage of the passengers;" which is thus stated in the affidavits:

"On Monday following these events, being the 15th day of November, the attorney-general wrote a letter to Captain Ensor, informing him that the *passengers* of the Creole, as he called the slaves, had applied to him for assistance in obtaining their baggage which was still on board the brig, and that he should assist them in getting it on shore. To this letter, Gifford, the officer in command of the vessel, replied that there was no baggage on board belonging to the slaves that he was aware of, as he considered them cargo, and the property of their owners, and that if they had left any thing on board the brig, it was the property also of their masters; and besides he could not land any thing without a permit from the custom house, and an order from the American consul. The attorney-general immediately got a permit from the custom-house, but no order from the American consul, and put an officer of the customs on board the brig, and demanded the delivery of the baggage of the slaves aforesaid to be landed in the brig's boat. The master of the Creole, not feeling himself at liberty to refuse, permitted the officer with his men to come on board and take such baggage and property as they chose to consider as belonging to the slaves. They went into the hold of the vessel, and took all the wearing apparel, blankets, and other articles, as also one bale of blankets, belonging to Mr.

Lockett, which had not been opened. These things were put on board of the boat of the officer of the customs, and carried on shore."

The officers of the American brig earnestly demanded that the mutineers should be left with them to be carried into a port of the United States to be tried for their mutiny and murder; but this demand was positively refused—the attorney-general saying that they would take the orders of the British government as to the place. This was tantamount to an acquittal, and even justification of all they had done, as according to the British judicial decisions a slave has a right to kill his master to obtain his freedom. This outrage (the forcible liberation of the slaves, refusal to permit the mutineers to be brought to their own country for trial, and the abstraction of articles from the brig belonging to the captain and crew), produced much exasperation in the slave States. Coming so soon after four others of kindred character, and while the outrage on the Caroline was still unatoned for, it bespoke a contempt for the United States which was galling to the feelings of many besides the inhabitants of the States immediately interested. It was a subject for the attention both of the Executive government and the Congress; and accordingly received the notice of both. Early in the session of '41-'42, Mr. Calhoun submitted a call in the Senate, in which the President was requested to give information of what he had heard of the outrage, and what steps he had taken to obtain redress. He answered through the Secretary of State (Mr. Webster), showing that all the facts had been regularly communicated, and that he (the Secretary) had received instructions to draw up a despatch on the subject to the American minister in London (Mr. Edward Everett); which would be done without unnecessary delay. On receiving this message, Mr. Calhoun moved to refer it to the Committee on Foreign Relations—prefacing his motion with some remarks, and premising that the Secretary had answered well as to the facts of the case.

"As to the remaining portion of the resolution, that which asked for information as to what steps had been taken to bring the guilty in this bloody transaction to justice, and to redress the wrong done to our citizens, and the indignity offered to our flag, he regretted to say, the report of the Secretary is very unsatisfactory. He, Mr. C., had supposed, in a case of such gross outrage, that prompt measures for redress would have been adopted. He had not doubted, but that a vessel had been despatched, or some early opportunity seized for transmitting directions to our minister at the court of St. James, to demand that the criminals should be delivered to our government for trial; more especially, as they were detained with the view of abiding the decision of the government at home. But in all this he had been in a mistake. Not a step has been yet taken—no demand made for the surrender of the murderers, though the Executive must have been in full possession of the facts for more than a month. The only reply is, that he (the Secretary) had received the orders of the President to prepare a despatch for our minister in London, which would be 'prepared without unnecessary delay.' He (Mr. Calhoun) spoke not in the spirit of censure; he had no wish to find fault; but he thought it due to the country, and more especially, of the portion that has so profound an interest in this subject, that he should fearlessly state the facts as they existed. He believed our right to demand the surrender of the murderers clear, beyond doubt, and that, if the case was fairly stated, the British government would be compelled, from a sense of justice, to yield to our demand; and hence his deep regret that there should have been such long delay in making any demand. The apparent indifference which it indicates on the part of the government, and the want of our views on the subject, it is to be feared, would prompt to an opposite decision, before any despatch can now be received by our minister.

"He repeated that the case was clear. He knew that an effort had been made, and he regretted to say, even in the South, and through a newspaper in this District, but a morning or two since, to confound the case with the ordinary one of a criminal fleeing from the country where the crime was perpetrated, to another. He admitted that it is a doubtful question

whether, by the laws of nations, in such a case, the nation to which he fled, was bound to surrender him on the demand of the one where the crime was committed. But that was not this case, nor was there any analogy between them. This was mutiny and murder, committed on the ocean, on board of one of our vessels, sailing from one port to another on our own coast, in a regular voyage, committed by slaves, who constituted a part of the cargo, and forcing the officers and crew to steer the vessel into a port of a friendly power. Now there was nothing more clear, than that, according to the laws of nations, a vessel on the ocean is regarded as a portion of the territory of the State to which she belongs, and more emphatically so, if possible, in a coasting voyage; and that if forced into a friendly port by an unavoidable necessity, she loses none of the rights that belong to her on the ocean. Contrary to these admitted principles, the British authorities entered on board of the Creole, took the criminals under their own jurisdiction, and that after they had ascertained them to be guilty of mutiny and murder, instead (as they ought to have done) of aiding the officers and crew in confining them, to be conveyed to one of our ports, where they would be amenable to our laws. The outrage would not have been greater, nor more clearly contrary to the laws of nations, if, instead of taking them from the Creole, they had entered our territory, and forcibly taken them from one of our jails; and such, he could scarcely doubt, would be the decision of the British government itself, if the facts and reasons of the case be fairly presented before its decision is made. It would be clearly the course she would have adopted had the mutiny and murder been perpetrated by a portion of the crew, and it can scarcely be that she will regard it less criminal, or less imperiously her duty, to surrender the criminals, because the act was perpetrated by slaves. If so, it is time we should know it."

The Secretary soon had his despatch ready and as soon as it was ready, it was called for at the instance of a friend of the Secretary, communicated to the Senate and published for general information, clearly to counteract the impressions which Mr. Calhoun's remarks had made. It gave great satisfaction in its mode of treating the subject, and in the intent it declared to demand redress:

"The British government cannot but see that this case, as presented in these papers, is one calling loudly for redress. The 'Creole' was passing from one port of the United States to another, in a voyage perfectly lawful, with merchandise on board, and also with slaves, or persons bound to service, natives of America, and belonging to American citizens, and which are recognized as property by the constitution of the United States in those States in which slavery exists. In the course of the voyage some of the slaves rose upon the master and crew, subdued them, murdered one man, and caused the vessel to be carried into Nassau. The vessel was thus taken to a British port, not voluntarily, by those who had the lawful authority over her, but forcibly and violently, against the master's will, and with the consent of nobody but the mutineers and murderers: for there is no evidence that these outrages were committed with the concurrence of any of the slaves, except those actually engaged in them. Under these circumstances, it would seem to have been the plain and obvious duty of the authorities at Nassau, the port of a friendly power, to assist the American consul in putting an end to the captivity of the master and crew, restoring to them the control of the vessel, and enabling them to resume their voyage, and to take the mutineers and murderers to their own country to answer for their crimes before the proper tribunal. One cannot conceive how any other course could justly be adopted, or how the duties imposed by that part of the code regulating the intercourse of friendly states, which is generally called the comity of nations, could otherwise be fulfilled. Here was no violation of British law attempted or intended on the part of the master of the 'Creole,' nor any infringement of the principles of the law of nations. The vessel was lawfully engaged in passing from port to port, in the United States. By violence and crime she was carried, against the master's will, out of her course, into the port of a

friendly power. All was the result of force. Certainly, ordinary comity and hospitality entitled him to such assistance from the authorities of the place as should enable him to resume and prosecute his voyage and bring the offenders to justice. But, instead of this, if the facts be as represented in these papers, not only did the authorities give no aid for any such purpose, but they did actually interfere to set free the slaves, and to enable them to disperse themselves beyond the reach of the master of the vessel or their owners. A proceeding like this cannot but cause deep feeling in the United States."

Mr. Calhoun was so well satisfied with this despatch that, as soon as it was read, he stood up, and said:

"The letter which had been read was drawn up with great ability, and covered the ground which had been assumed on this subject by all parties in the Senate. He hoped that it would have a beneficial effect, not only upon the United States, but Great Britain. Coming from the quarter it did, this document would do more good than in coming from any other quarter."

This was well said of the letter, but there was a paragraph in it which damped the expectations of some senators—a paragraph which referred to the known intention to send out a special minister (Lord Ashburton) to negotiate a general settlement of differences with Great Britain—and which expressed a wish that this special minister should be clothed with power to settle this case of the Creole. That looked like deferring it to a general settlement, which, in the opinion of some, was tantamount to giving it up.

99. Distress Of The Treasury: Three Tariff Bills, And Two Vetoes: End Of The Compromise Act

Never were the coffers and the credit of the Treasury—not even in the last year of the war with Great Britain (1814)—at a lower ebb, or more pitiable point, than at present. A deficit of fourteen millions in the Treasury—a total inability to borrow, either at home or abroad, the amount of the loan of twelve millions authorized the year before—treasury-notes below par—a million and a half of protested demands—a revenue from imports inadequate and decreasing: such was the condition of the Treasury, and all the result of three measures forced upon the previous administration by the united power of the opposition, and the aid of temporizing friends, too prone to take alarm in transient difficulties, and too ready to join the schemes of the opposition for temporary relief, though more injurious than the evils they were intended to remedy. These three measures were: 1. Compromise act of 1833. 2. The distribution of surplus revenue in 1837. 3. The surrender of the land revenue to the States. The compromise act, by its slow and imperceptible reductions of revenue during its first seven years, created a large surplus: by its abrupt and precipitous falling off the last two, made a deficit. The distribution of this surplus, to the amount of near thirty millions, took away the sum which would have met this deficiency. And the surrender of the land revenue diverted from its course the second largest stream of revenue that came into the Treasury: and the effect of the whole was to leave it without money and without credit: and with a deficit which was ostentatiously styled, "*the debt of the late administration*." Personally considered, there was retributive justice in this calamitous visitation. So far as individuals were concerned it fell upon those who had created it. Mr. Tyler had been the zealous promoter of all these measures: the whig party, whose ranks he had joined, had been their author: some obliging democrats were the auxiliaries, without which they could not have been carried. The administration of President Tyler now needed the money: his former whig friends had the power to grant, or withhold it: and they chose, either to withhold, or to grant upon terms which Mr. Tyler repulsed. They gave him two tariff revenue bills in a month, which he returned with vetoes, and had to look chiefly to that democracy whom he had left to join the whigs (and of whom he had become the zealous opponent), for the means of keeping his administration alive.

A bill called a "*provisional tariff*" was first sent to him: he returned it with the objections which made it impossible for him to approve it: and of which these objections were the chief:

"It suspends, in other words, abrogates for the time, the provision of the act of 1833, commonly called the 'compromise act.' The only ground on which this departure from the solemn adjustment of a great and agitating question seems to have been regarded as expedient is, the alleged necessity of establishing, by legislative enactments, rules and regulations for assessing the duties to be levied on imports, after the 30th June, according to the home valuation; and yet the bill expressly provides that 'if before the 1st of August there be no further legislation upon the subject, the laws for laying and collecting duties shall be the same as though this act had not been passed.' In other words, that the act of 1833, imperfect as it is considered, shall in that case continue to be, and to be executed under such rules and regulations as previous statutes had prescribed, or had enabled the executive department to prescribe for that purpose, leaving the supposed chasm in the revenue laws just as it was before.

"The bill assumes that a distribution of the proceeds of the public lands is, by existing laws, to be made on the first day of July, 1842, notwithstanding there has been an imposition of duties on imports exceeding twenty per cent. up to that day, and directs it to be made on the 1st of August next. It seems to me very clear that this conclusion is equally erroneous and dangerous; as it would divert from the Treasury a fund sacredly pledged for the general purposes of the government, in the event of a rate of duty above twenty per cent. being found necessary for an economical administration of the government. The act of September last, which provides for the distribution, couples it inseparably with the condition that it shall cease—first, in case of war; second, as soon and so long as the rate of duties shall, for any reason whatever, be raised above twenty per cent. Nothing can be more clear, express, or imperative, than this language. It is in vain to allege that a deficit in the Treasury was known to exist, and that means were taken to supply this deficit by loan when the act was passed."

These reasons show the vice and folly of the acts which a pride of consistency still made him adhere to. That compromise act of 1833 assumed to fix the tariff to eternity, *first*, by making existing duties decline through nine years to a uniform ad valorem of twenty per centum on all dutied articles; *next*, by fixing it there for ever, giving Congress leave to work under it on articles then free; but never to go above it: and the mutual assurance entered into between this act and the land distribution act of the extra session, was intended to make sure of both objects—the perpetual twenty per centum, and the land distribution. One hardly knows which to admire most, the arrogance, or the folly, of such presumptuous legislation: and to add to its complication there was a clear division of opinion whether any duty at all, for want of a law appointing appraisers, could be collected after the 30th of June. Between the impracticability, and the unintelligibility of the acts, and his consistency, he having sanctioned all these complicated and dependent measures, it was clear that Mr. Tyler's administration was in a deplorable condition. The low credit of the government, in the impossibility of getting a small loan, was thus depicted:

"Who at the time foresaw or imagined the possibility of the present real state of things, when a nation that has paid off her whole debt since the last peace, while all the other great powers have been increasing theirs, and whose resources already so great, are yet but in the infancy of their development, should be compelled to haggle in the money market for a paltry sum, not equal to one year's revenue upon her economical system."

Not able to borrow, even in time of peace, a few millions for three years! This was in the the time of paper money. Since gold became the federal currency, any amount, and in time of war, has been at the call of the government; and its credit so high, and its stock so much above par, that twenty per centum premium is now paid for the privilege of paying, before they are due, the amounts borrowed during the Mexican war:

"This connection (the mutual assurance between the compromise act and the land distribution) thus meant to be inseparable, is severed by the bill presented to me. The bill violates the principle of the acts of 1833, and September, 1841, by suspending the first, and rendering, for a time, the last inoperative. Duties above twenty per cent. are proposed to be levied, and yet the *proviso* in the distribution act is disregarded. The proceeds of the sales are to be distributed on the 1st of August; so that, while the duties proposed to be enacted exceed twenty per cent. no suspension of the distribution to the States is permitted to take place. To abandon the principle for a month is to open the way for its total abandonment. If such is not meant, why postpone at all? Why not let the distribution take place on the 1st of July, if the law so directs? (which, however, is regarded as questionable.) But why not have limited the provision to that effect? Is it for the accommodation of the Treasury? I see no reason to

believe that the Treasury will be in better condition to meet the payment on the 1st of August, than on the 1st of July."

Here Mr. Tyler was right in endeavoring to get back, even temporarily, the land revenue; but slight as was this relaxation of their policy, it brought upon him keen reproaches from his old friends. Mr. Fillmore said:

"On what principle was this veto based? The President could not consent that the distribution of the proceeds of the public lands should cease for a single day. Now, although that was the profession, yet it appeared to have been but a pretence. Mr. F. wished to speak with all respect to the chief magistrate, but of his message he must speak with plainness. What was the law which that message vetoed? It authorized the collection of duties for a single month as they were levied on the first of January last, to allow time for the consideration of a permanent revenue for the country; it postponed the distribution of the proceeds of the public lands till the month should expire, and Congress could provide the necessary supplies for the exhausted Treasury. But what would be the effect of the veto now on the table? Did it prevent the distribution? By no means; it reduced the duties, in effect, to twenty per cent., and authorized the distribution of the land fund among the States; and that distribution would, in fact, take place the day after to-morrow. That would be the practical operation of this paper. When Congress had postponed the distribution for a month, did it not appear like pretence in the chief magistrate to say that he was forced to veto the bill from Congress, to prevent the distribution, which his veto, and that alone, would cause to take place? Congress had been willing to prevent the distribution, but the President, by one and the same blow, cut down the revenue at a moment when his Secretary could scarce obtain a loan on any terms, and in addition to this distributed the income from the public domain! In two days the distribution must take place. Mr. F. said he was not at all surprised at the joy with which the veto had been hailed on the other side of the house, or at the joyful countenances which were arrayed there; probably this act was but the consummation of a treaty which had been long understood as in process of negotiation. If this was the ratification of such treaty, Mr. F. gave gentlemen much joy on the happy event. He should shed no tears that the administration had passed into its appropriate place. This, however, was a matter he should not discuss now; he should desire the message might be laid on the table till to-morrow and be printed. Mr. F. said he was free to confess that we were now in a crisis which would shake this Union to its centre. Time would determine who would yield and who was right; whether the President would or would not allow the representatives of the people to provide a revenue in the way they might think best for the country, provided they were guilty of no violation of the constitution. The President had now told them, in substance, that he had taken the power into his own hands; and although the highest financial officer of the government declared it as his opinion, that it was doubtful whether the duties could be collected which Congress had provided by law, the President told the House that any further law was unnecessary; that he had power enough in his own hands, and he should use it; that he had authorized the revenue officers to do all that was necessary. This then would be in fact the question before the country: whether Congress should legislate for the people of this country or the Executive?"

Mr. Alexander H. H. Stuart, of Virginia, took issue with the President on the character of the land distribution bill, and averred it to have been an intended part of the compromise from the beginning. He said:

"That the President has rested his veto upon the grounds of expediency alone, and not upon any conscientious or constitutional scruples. He withholds his assent because of its supposed conflict with the compromise act of 1833. I take issue with the President in regard to this matter of fact, and maintain that there is no such conflict. The President's particular point of

objection to the temporary tariff bill is that it contemplates a prospective distribution of the land proceeds. Now, conceding that the President has put a correct construction on our bill, I aver that it is no violation of the compromise act to withdraw the land proceeds from the ordinary purposes of the government, and distribute them among the States. On the contrary, I maintain that that act distinctly contemplates the distribution of the land proceeds, that the *distribution was one of the essential elements of the compromise*, and that the *failure to distribute* the land fund now *would of itself be a violation of the* true understanding of those who adopted the *compromise*, and a palpable fraud upon the rights of one of the parties to it."

Mr. Caruthers, of Tennessee, was still more pointed to the same effect, referring to Mr. Tyler's conduct in the Virginia General Assembly to show that he was in favor of the land revenue distribution, and considered its cessation as a breach of the compromise. He referred to his,

"Oft-quoted resolutions in the legislature of Virginia, in 1839, urging the distribution, and conveying the whole proceeds of the lands, not only ceded but acquired by purchase and by treaty. Mr. C. also referred to the adroit manner in which Mr. Tyler had at that time met the charge of his opponents (that he desired to violate the compromise act) by the introduction of the well known proviso, that the General Assembly did not mean to infringe or disturb the provisions of the compromise act."

The vote was taken upon the returned bill, as required by the constitution; and falling far short of the required two-thirds, it was rejected. But the exigencies of the Treasury were so great that a further effort to pass a revenue bill was indispensable; and one was accordingly immediately introduced into the House. It differed but little from the first one, and nothing on the land revenue distribution clause, which it retained in full. That clause had been the main cause of the first veto: it was a challenge for a second! and under circumstances which carried embarrassment to the President either way. He had been from the beginning of the policy, a supporter of the distribution; and at the extra session had solemnly recommended it in his regular message. On the other hand, he had just disapproved it in his message returning the tariff bill. He adhered to this latter view; and said:

"On the subject of distributing the proceeds of the sales of the public lands, in the existing state of the finances, it has been my duty to make known my settled convictions on various occasions during the present session of Congress. At the opening of the extra session, upwards of twelve mouths ago, sharing fully in the general hope of returning prosperity and credit, I recommended such a distribution; but that recommendation was even then expressly coupled with the condition that the duties on imports should not exceed the rate of twenty per cent, provided by the compromise act of 1833. The bill which is now before me proposes, in its 27th section, the total repeal of one of the provisos in the act of September; and, while it increases the duties above twenty per cent., directs an unconditional distribution of the land proceeds. I am therefore subjected a second time, in the period of a few days, to the necessity of either giving my approval to a measure which, in my deliberate judgment, is in conflict with great public interests; or of returning it to the House in which it originated, with my objections. With all my anxiety for the passage of a law which would replenish an exhausted Treasury, and furnish a sound and healthy encouragement to mechanical industry, I cannot consent to do so at the sacrifice of the peace and harmony of the country, and the clearest convictions of public duty."

The reasons were good, and ought to have prevented Congress from retaining the clause; but party spirit was predominant, and in each House the motion to strike out the clause had been determined by a strict party vote. An unusual course was taken with this second veto message: it was referred to a select committee of thirteen members, on the motion of Mr.

Adams; and from that committee emanated three reports upon it—one against it, and two for it; the committee dividing politically in making them. The report against it was signed by ten members; the other two by the remaining three members; but they divided, so as to present two signatures to one report, and a single one to the other. Mr. Adams, as the chairman, was the writer of the majority report, and made out a strong case against Mr. Tyler personally, but no case at all in favor of the distribution clause. The report said:

"Who could imagine that, after this most emphatic *coupling* of the revenue from duties of impost, with revenue from the proceeds of the sales of the public lands, the first and paramount objection of the President to this bill should be, that it unites two subjects which, so far from having any affinity to one another, are wholly incongruous in their character; which two subjects are identically the same with those which *he* had coupled together in his recommendation to Congress at the extra session? If there was no affinity between the parties, why did he join them together? If the union was illegitimate, who was the administering priest of the unhallowed rites? It is objected to this bill, that it is both a revenue and an appropriation bill? What then? Is not the act of September 4, 1841, approved and signed by the President himself, both a revenue and an appropriation bill? Does it not enact that, in the event of an insufficiency of impost duties, not exceeding twenty per centum ad valorem, to defray the current expenses of the government, the proceeds of the sales of the lands shall be levied as part of the same revenue, and appropriated to the same purposes?"

The report concluded with a strong denunciation of, what it considered, an abuse of the veto power, and a contradiction of the President's official recommendation and conduct:

"The power of the present Congress to enact laws essential to the welfare of the people has been struck with apoplexy by the Executive hand. Submission to his will, is the only condition upon which he will permit them to act. For the enactment of a measure earnestly recommended by himself, he forbids their action, unless *coupled* with a *condition* declared by himself to be on a subject so totally different, that he will not suffer them to be coupled in the same law. With that condition, Congress cannot comply. In this state of things, he has assumed, as the committee fully believe, the exercise of the whole legislative power to himself, and is levying millions of money upon the people, without any authority of law. But the final decision of this question depends neither upon legislative nor executive, but upon judicial authority; nor can the final decision of the Supreme Court upon it be pronounced before the close of the present Congress."

The returned bill being put to the vote, was found to lack as much as the first of the two-thirds majority, and was rejected. But revenue was indispensable. Daily demands upon the government were undergoing protest. The President in his last message had given in $1,400,000 of such dishonored demands. The existing revenue from imports, deficient as it was, was subjected to a new embarrassment, that of questioned legality for want of a law of appraisement under the compromise, and merchants paid their duties under protest, and with notices of action against the collector to recover them back. It was now near the end of August. Congress had been in session nine months—an unprecedentedly long session, and that following immediately on the heels of an extra session of three months and a half. Adjournment could not be deferred, and could not take place without providing for the Treasury. The compromise and the land distribution were the stumbling-blocks: it was determined to sacrifice them together, but without seeming to do so. A contrivance was fallen upon: duties were raised above twenty per centum: and that breach of the mutual assurance in relation to the compromise, immediately in terms of the assurance, suspended the land revenue distribution—to continue it suspended while duties above the compromise limit continued to be levied. And as that has been the case ever since, the distribution of the

revenue has been suspended ever since. Such were the contrivances, ridiculous inventions, and absurd circumlocutions which Congress had recourse to to get rid of that land distribution which was to gain popularity for its authors; and to get rid of that compromise which was celebrated at the time as having saved the Union, and the breach of which was deprecated in numerous legislative resolves as the end of the Union, and which all the while was nothing but an arrogant piece of monstrosity, patched up between two aspiring politicians, to get rid of a stumbling-block in each other's paths for the period of two presidential elections. In other respects one of the worst features of that personal and pestiferous legislation has remained—the universal ad valorems—involving its army of appraisers, their diversity of appraisement from all the imperfections to which the human mind is subject—to say nothing of the chances for ignorance, indifference, negligence, favoritism, bribery and corruption. The act was approved the 30th day of August; and Congress forthwith adjourned.

100. Mr. Tyler And The Whig Party: Confirmed Separation

At the close of the extra session, a vigorous effort was made to detach the whig party from Mr. Clay. Mr. Webster in his published letter, in justification of his course in remaining in the cabinet when his colleagues left it, gave as a reason the expected unity of the party under a new administration. “A whig president, a whig Congress, and a whig people,” was the vision that dazzled and seduced him. Mr. Cushing published his address, convoking the whigs to the support of Mr. Tyler. Mr. Clay was stigmatized as a dictator, setting himself up against the real President. Inducements as well as arguments were addressed to the whig ranks to obtain recruits: all that came received high reward. The arrival of the regular session was to show the fruit of these efforts, and whether the whig party was to become a unity under Mr. Tyler, Mr. Webster, and Mr. Cushing, or to remain embodied under Mr. Clay. It remained so embodied. Only a few, and they chiefly who had served an apprenticeship to party mutation in previous changes, were seen to join him: the body of the party remained firm, and militant—angry and armed; and giving to President Tyler incessant proofs of their resentment. His legislative recommendations were thwarted, as most of them deserved to be: his name was habitually vituperated or ridiculed. Even reports of committees, and legislative votes, went the length of grave censure and sharp rebuke. The select committee of thirteen, to whom the consideration of the second tariff, in a report signed by nine of its members, Mr. Adams at their head, suggested impeachment as due to him:

“The majority of the committee believe that the case has occurred, in the annals of our Union, contemplated by the founders of the constitution by the grant to the House of Representatives of the power to impeach the President of the United States; but they are aware that the resort to that expedient might, in the present condition of public affairs, prove abortive. They see that the irreconcilable difference of opinion and of action between the legislative and executive departments of the government is but sympathetic with the same discordant views and feelings among the people.”

A rebuking resolve, and of a retributive nature, was adopted by the House. It has been related (Vol. I.) that when President Jackson sent to the Senate a protest against the senatorial condemnation pronounced upon him in 1835, the Senate refused to receive it, and adopted resolutions declaring the protest to be a breach of the privileges of the body in interfering with the discharge of their duties. The resolves so adopted were untrue, and the reverse of the truth—the whole point of the protest being that the condemnation was extra-judicial and void, coming under no division of power which belonged to the Senate: not legislative, for it proposed no act of legislation: not executive, for it applied to no treaty or nomination: not judicial, for it was founded in no articles of impeachment from the House, and without forming the Senate into a court of impeachment. The protest considered the condemnatory sentence, and justly, as the act of a town meeting, done in the Senate-chamber, and by senators; but of no higher character than if done by the same number of citizens in a voluntary town meeting. This was the point, and whole complaint of the protest; but the Senate, avoiding to meet it in that form, put a different face upon it, as an interference with the constitutional action of the Senate, attacking its independence; and, therefore, a breach of its privileges. Irritated by the conduct of the House in its reports upon his tariff-veto messages, Mr. Tyler sent in a protest also, as President Jackson had done, but without attending to the difference of the cases, and that, in its action upon the veto messages, the House was clearly acting within its sphere—within its constitutional legislative capacity; and,

consequently, however disagreeable to him this action might be, it was still legislative and constitutional, and such as the House had a legal *right* to adopt, whether just or unjust. Overlooking this difference, Mr. Tyler sent in his protest also: but the House took the distinction; and applied legitimately to the conduct of Mr. Tyler what had been illegally applied to General Jackson, with the aggravation of turning against himself his own votes on that occasion—Mr. Tyler being one of the senators who voted in favor of the three resolves against President Jackson's protest. When this protest of Mr. Tyler was read in the House, Mr. Adams stood up, and said:

"There seemed to be an expectation on the part of some gentlemen that he should propose to the House some measure suitable to be adopted on the present occasion. Mr. A. knew of no reason for such an expectation, but the fact that he had been the mover of the resolution for the appointment of the committee which had made the report referred to in the message; had been appointed by the Speaker, chairman of the committee; and that the report against which the President of the United States had sent to the House such a multitude of protests, was written by him. So far as it had been so written, Mr. A. held himself responsible to the House, to the country, to the world, and to posterity; and, so far as he was the author of the report, he held himself responsible to the President also. The President should hear from him elsewhere than here on that subject. Mr. A. went on to say that it was because the report had been adopted by the House, and not because it had been written by him, that the President had sent such a bundle of protests; and therefore Mr. A. felt no necessity or obligation upon himself to propose what measures the House ought to adopt for the vindication of its own dignity and honor; and perhaps, from considerations of delicacy, he was indeed the very last man in the House who should propose any measure, under the circumstances."

Mr. Botts, of Virginia, a member of the committee which had made the report, after some introductory remarks, went on to say:

"In 1834 the Senate had adopted certain resolutions, condemning the course of President Jackson in the removal of the deposits from the Bank of the United States to the State banks. In consequence of this movement on the part of the Senate, President Jackson sent to that body a *protest* against the right of the Senate to express any opinion censuring his public course; and, what made the case then stronger than the present case, was, that the Senate constituted the jury by whom he was to be tried, should any impeachment be brought against him. The Senate, after a long, elaborate discussion of the whole matter, and the most eloquent and overpowering torrent of debate that ever was listened to in this country, adopted the three following resolutions:

'1. *Resolved*, That, while the Senate is, and ever will be, ready to receive from the President all such messages and communications as the constitution and laws, and the usual course of business, authorize him to transmit to it; yet it cannot recognize any right in him to make a formal protest against votes and proceedings of the Senate, declaring such votes and proceedings to be illegal and unconstitutional, and requesting the Senate to enter such protests on its journal.'

"On this resolution the yeas and nays were taken; and it was adopted, by a vote of 27 to 16: and, among the recorded votes in its favor, stood the names of John Tyler, now acting President of the United States, and Daniel Webster, now his prime minister.

"The second resolution was as follows:

'2. *Resolved*, That the aforesaid protest is a breach of the privileges of the Senate, and that it be not entered on the journal.'

"The same vote, numerically, was given in favor of this resolution; and among the yeas stood the names of John Tyler, now acting President of the United States, and of Daniel Webster, now his prime minister.

"The third resolutions read as follows:

'3. *Resolved*, That the President of the United States has no right to send a protest to the Senate against any of its proceedings.'

"And in sanction of this resolution also, the record shows the names of the same John Tyler and Daniel Webster."

Mr. Botts forbore to make any remarks of his own in support of the adoption of these resolutions, but read copious extracts from the speech of Mr. Webster in support of the same resolutions when offered in the Senate; and, adopting them as his own, called for the previous question; which call was sustained; and the main question being put, and the vote taken on the resolutions separately, they were all carried by large majorities. The yeas and nays on the first resolve, were:

"Yeas—Messrs. Adams, Landaff W. Andrews, Arnold, Babcock, Barnard, Birdseye, Blair, Boardman, Borden, Botts, Brockway, Jeremiah Brown, Calhoun, William B. Campbell, Thomas J. Campbell, Caruthers, Chittenden, John C. Clark, Cowen, Garrett Davis, John Edwards, Everett, Fillmore, Gamble, Gentry, Graham, Granger, Green, Habersham, Hall, Halsted, Howard, Hudson, Joseph R. Ingersoll, Isaac D. Jones, John P. Kennedy, King, Linn, McKennan, S. Mason, Mathiot, Mattocks, Maxwell, Maynard, Mitchell, Moore, Morrow, Osborne, Owsley, Pope, Powell, Ramsey, Benj. Randall, A. Randall, Randolph, Rayner, Ridgway, Rodney, William Russell, James M. Russell, Saltonstall, Shepperd, Simonton, Slade, Truman Smith, Sprigg, Stanly, Stratton, Summers, Taliaferro, John B. Thompson, Richard W. Thompson, Tillinghast, Toland, Tomlinson, Triplett, Trumbull, Underwood, Van Rensselaer, Wallace, Warren, Washington, Thomas W. Williams, Joseph L. Williams, Yorke, and Augustus Young—87.

"Nays—Messrs. Arrington, Atherton, Black, Boyd, Aaron V. Brown, Burke, Wm. O. Butler, P. C. Caldwell, Casey, Coles, Cross, Cushing, Richard D. Davis, Dawson, Gordon, Harris, Hastings, Hays, Hopkins, Hubbard, William W. Irwin, Cave Johnson, John W. Jones, Abraham McClellan, Mallory, Medill, Newhard, Oliver, Parmenter, Payne, Proffit, Read, Reding, Reynolds, Riggs, Rogers, Shaw, Shields, Steenrod, Jacob Thompson, Van Buren, Ward, Weller, James W. Williams, Wise, and Wood—46."

The other two resolves were adopted by, substantially, the same vote—the whole body of the whigs voting for the adoption. And this may be considered, so far as Congress was concerned, as the authoritative answer to that idea of whig unity which had induced Mr. Webster to remain in the cabinet. General Jackson was then alive, and it must have looked to him like retributive justice to see two of those (Mr. Tyler and Mr. Webster) who had voted his protest to be a breach of privilege, when it was not, now receiving the same vote from their own party; and that in a case where the breach of privilege was real.

101. Lord Ashburton's Mission, And The British Treaty

Sixty years had elapsed since the treaty of peace between the United States and Great Britain which terminated the war of the revolution, and established the boundaries between the revolted colonies, now independent States, and the remaining British possessions in North America. A part of these boundaries, agreed upon in the treaty of peace, remained without acknowledgment and without sanction on the part of the British government: it was the part that divided the (now) State of Maine from Lower Canada, and was fixed by the words of the treaty, "*along the highlands which divide the waters which empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean*." Nothing could be more simple, or of more easy ascertainment than this line. Any man that knew his right hand from his left, and who could follow a ridge, and not get off of it to cross any water flowing to the right or the left, could trace the boundary, and establish it in the very words of the treaty. In fact there was no tangible dispute about it. The British government had agreed to it under a misapprehension as to the course of these highlands; and as soon as their true course was found out, that government refused to carry that part of the treaty into effect, and for a reason which was very frankly told, *after the treaty of 1842*, by a British civil engineer who had been employed by his government to search out the course of the boundary along those highlands. He said:

"The treaty of 1783 proposed to establish the boundary between the two countries along certain highlands. The Americans claimed these highlands to run in a northeasterly direction from the head of the Connecticut River, in a course which would have brought the boundary within the distance of twenty miles from the river St. Lawrence, and which, besides cutting off the posts and military routes leading from the province of New Brunswick to Quebec, would have given them various military positions to command and overawe that river and the fortress of Quebec."

This was the objection to the highland boundary. It brought the United States frontier within twenty miles of Quebec, and went one degree and a half north of Quebec! skirting and overlooking Lower Canada all the way, and cutting off all communication between that inland province and the two Atlantic provinces of Nova Scotia and New Brunswick, and between Quebec and Halifax. It was a boundary which commanded the capital of British North America, and which flanked and dominated the principal British province for one hundred and fifty miles. Military considerations rendered such a boundary just as repugnant to the British as the same considerations rendered it acceptable to us; and from the moment it was seen that the State of Maine was projected far north of Quebec and brought up to the long line of heights which looked down upon that capital, the resolution was not to abide that boundary. Negotiation began immediately, and continued, without fruit, for thirty years. That brought the parties to the Ghent Treaty, at the end of the war of 1812, where all attempts to settle the boundary ended in making provision for referring the question to the arbitrament of a friendly sovereign. This was done, the king of the Netherlands being agreed upon as the arbiter. He accepted the trust—executed it—and made an award nearly satisfactory to the British government because it cut off a part of the northern projection of Maine, and so admitted a communication, although circuitous, between Halifax and Quebec; but still leaving the highland boundary opposite that capital. The United States rejected the award because it gave up a part of the boundary of 1783; and thus the question remained for near thirty years longer—until the treaty of 1842—Great Britain demanding the execution of the

award—the United States refusing it. And thus the question stood when the special mission arrived in the United States. That mission was well constituted for its purposes. Lord Ashburton, as Mr. Alexander Baring, and head of the great banking house of Baring and Brothers, had been known for more than a generation for his friendly sentiments towards the United States, and business connection with the people and the government; and was, besides, married to an American lady. The affability of his manners was a further help to his mission, the whole of which was so composed (Mr. Mildmay, Mr. Bruce and Mr. Stepping, all gentlemen of mind, tact, and pleasing deportment) as to be real auxiliaries in accomplishing the object of his mission. It was a special mission, sent to settle questions, and return; and so confined to its character of special, that Mr. Fox, the resident minister, although entirely agreeable to the United States and his own government, was not joined in it. It was the first time the United States had been so honored by Great Britain, and the mission took the character of beneficent, in professing to come to settle all questions between the two governments; but ended in only settling such as suited Great Britain, and in the way that suited her. At the head of those questions was the northeastern boundary, which was settled by giving up the line of 1783, retiring the whole line from the heights which flanked Lower Canada, cutting off as much of Maine as admitted of a pretty direct communication between Halifax and Quebec; and thus granting to Great Britain far more than the award gave her, and with which she had been content. The treaty also made a new boundary in the northwest, from Lake Superior to the Lake of the Woods, also to the prejudice of the United States, retiring the line to the south, and depriving the United States' fur traders of the great line of transportation between these two lakes, which the treaty of 1783 gave to them. The treaty also bound the United States to pay for Rouse's Point, at the outlet of Lake Champlain, which the treaty of '83 and the award of the king of the Netherlands gave to us as a matter of right. It also bound the United States to keep up a squadron, in conjunction with the British, on the coast of Africa for the suppression of the slave trade—nominally for five years, but in reality indefinitely, by the addition of that clause (so seductive and insidious, and so potent in saddling an onerous measure permanently upon a people) which is always resorted to when perpetuity is intended, and cannot be stipulated—the clause which continues the provision in force, after its limited term, until one of the parties give notice to the contrary. An extradition clause was also wanted by Great Britain, and she got it—broad enough to cover the recapture of her subjects whether innocent or guilty, and to include political offenders while professing to take only common felons. These were the points Great Britain wished settled; and she got them all arranged according to her own wishes: others which the United States wished settled, were omitted, and indefinitely adjourned. At the head of these was the boundary beyond the Rocky Mountains. Oregon was in dispute. The United States wished it settled: Great Britain wished that question to remain as it was, as she had the possession, and every day was ripening her title. Oregon was adjourned. The same of the Caroline, the Schlosser outrage—the liberation of slaves at Bermuda and Nassau—the refusal to shelter fugitive slaves in Canada: all were laid over, and for ever. Every thing that the United States wished settled was left unsettled, especially Oregon—a question afterwards pregnant with "inevitable war." Besides obtaining all she wished by treaty, Great Britain also made a great acquisition by statute law. An act of Congress was passed to fit the case of McLeod (in future), and to take such offenders out of the hands of the States.

Notwithstanding its manifold objections the treaty was so framed as to secure its ratification, and to command acquiescence in the United States while crowned with the greatest applause in Great Britain. Lord Ashburton received the formal thanks of parliament for his meritorious labors. Ministers and orators united in declaring that he had accomplished every object that Great Britain desired, and in the way she desired it—and left undone every thing which she wished to remain as it was. The northeastern boundary being altered to suit her, they made a

laugh, even in parliament, of the manner in which they had served us. It had so happened, immediately after the peace of '83, that the king's geographer made a map of the United States and the Canadas, to show their respective boundaries; and on that map the line of '83 was laid down correctly, along the highlands, overlooking and going beyond Quebec; and had marked it with a broad red line. He made it for the king, George the Third, who wrote upon it with his own hand—*This is Oswald's line.* (Mr. Richard Oswald being the British negotiator of the provisional treaty of peace of '82 which established that boundary, and which was adopted in the definitive treaty of peace in '83.) This map disappeared from its accustomed place about the time Lord Ashburton's mission was resolved upon, not to be brought over to America by him to assist in finding the true line, but to be hid until the negotiation was over. Some member of parliament hinted at this removal and hiding, during the discussion on the motion of thanks, with an intimation that he thought British honor would have been better consulted by showing this map to the American negotiator: Lord Brougham, the mover of the motion, amused himself at this conception, and thought it would have been carrying frankness a little too far, in such a negotiation, for the British negotiator to have set out with showing, "*that he had no case*"—"*that he had not a leg to stand on*." His lordship's speech on the occasion, which was more amusing to himself and the parliament than it can be to an American, nevertheless deserves a place in this history of the British treaty of 1842; and, accordingly, here it is:

"It does so happen that there was a map published by the King's geographer in this country in the reign of his Majesty George III., and here I could appeal to an illustrious Duke whom I now see, whether that monarch was not as little likely to err from any fulness of attachment towards America, as any one of his faithful subjects? [The Duke of *Cambridge*.] Because he well knows that there was no one thing which his reverend parent had so much at heart as the separation from America, and there was nothing he deplored so much as that separation having taken place. The King's geographer, Mr. Faden, published his map 1783, which contains, not the British, but the American line. Why did not my noble friend take over a copy of that map? My noble friend opposite (Lord Aberdeen) is a candid man; he is an experienced diplomatist, both abroad and at home; he is not unlettered, but thoroughly conversant in all the craft of diplomacy and statesmanship. Why did he conceal this map? We have a right to complain of that; and I, on the part of America, complain of that. You ought to have sent out the map of Mr. Faden, and said, 'this is George the Third's map.' But it never occurred to my noble friend to do so. Then, two years after Mr. Faden published that map, another was published, and that took the British line. This, however, came out after the boundary had become matter of controversy *post litem motam*. But, at all events, my noble friend had to contend with the force of the argument against Mr. Webster, and America had a right to the benefit of both maps. My noble friend opposite never sent it over, and nobody ever blamed him for it. But that was not all. What if there was another map containing the American line, and never corrected at all by any subsequent chart coming from the same custody? And what if that map came out of the custody of a person high in office in this country—nay, what if it came out of the custody of the highest functionary of all—of George III. himself? I know that map—I know a map which I can trace to the custody of George III., and on which there is the American line and not the English line, and upon which there is a note, that from the handwriting, as it has been described to me, makes me think it was the note of George III. himself: 'This is the line of Mr. Oswald's treaty in 1783,' written three or four times upon the face of it. Now, suppose this should occur—I do not say that it has happened—but it may occur to a Secretary of State for Foreign Affairs,—either to my noble friend or Lord Palmerston, who, I understand by common report, takes a great interest in the question; and though he may not altogether approve of the treaty, he may peradventure envy the success which attended it, for it was a success which did not attend any of his own

American negotiations. But it is possible that my noble friend, or Lord Palmerston, may have discovered that there was this map, because George III.'s library by the munificence of George IV. was given to the British Museum, and this map must have been there; but it is a curious circumstance that it is no longer there. I suppose it must have been taken out of the British Museum for the purpose of being sent over to my noble friend in America; and that, according to the new doctrines of diplomacy, he was bound to have used it when there, in order to show that he had no case—that he had not a leg to stand upon. Why did he not take it over with him? Probably he did not know of its existence. I am told that it is not now in the British Museum, but that it is in the Foreign Office. Probably it was known to exist; but somehow or other that map, which entirely destroys our contention and gives all to the Americans, has been removed from the British Museum, and is now to be found at the Foreign Office. Explain it as you will, that is the simple fact, that this important map was removed from the Museum to the Office, and not in the time of my noble friend (Lord Aberdeen)."

Thus did our simplicity, and their own dexterity, or ambi-dexterity, as the case may be, furnish sport for the British parliament: and thus, "*without a case*," and, "*without a leg to stand upon*," was Lord Ashburton an overmatch for our Secretary-negotiator, with a good case to show, and two good legs to rest on. This map with its red line, and the King's autographic inscription upon it, was afterwards shown to Mr. Everett, upon his request, by Lord Aberdeen; and the fact communicated by him to the Department of State. But the effect of the altered line was graphically stated at a public dinner in honor of it by the same gentleman (Mr. Featherstonhaugh), whose view of the old boundary has already been given.

"Now, gentlemen, if you will divert your attention for a moment from the conflicting statements you may have read in regard to the merits of the compromise which has been made, I will explain them to you in a few words. The American claim, instead of being maintained, has been altogether withdrawn and abandoned; the territory has been divided into equal moieties, as nearly as possible; we have retained that moiety which secures to us every object that was essential to the welfare of our colonies; all our communications, military and civil, are for ever placed beyond hostile reach; and all the military positions on the highlands claimed by America are, without exception, secured for ever to Great Britain."

So spoke a person who had searched the country under the orders of the British government—who knew what he said—and who says there was a compromise, in which our territory (for that is the English of it) was divided into two equal parts, and the part that contained every thing that gave value to the whole, was retained by Great Britain for her share. But there were some members of the American Senate, as will be seen in the sequel, who had no occasion to wait for parliamentary revelations, or dinner-table exultations, in order to understand the merits of this treaty of 1842; and who put their opinions in a form and place, while the treaty was undergoing ratification, to speak for themselves in after time.

Many anomalies attended the conducting of the negotiations which ended in the production of the treaty. As far as could be seen there was no negotiation—none in the diplomatic sense of the term. There were no protocols, minutes, or record to show the progress of things—to show what was demanded, what was offered, and what was agreed upon. Articles came forth ripe and complete, without a trace of their progression; and when thus produced a letter would be drawn up to recommend it—not to the British government, who needed no recommendation of any part of it—but to the American people, who otherwise might not have perceived its advantages. In the next place the treaty was made by a single negotiator on each side, Mr. Fox the resident minister not having been joined with Lord Ashburton, and no

one on the American side joined with Mr. Webster, and he left without instructions from the President. On this point Mr. Benton remarked in the debate on the treaty:

“In this case the employment of a single negotiator was unjustifiable. The occasion was great, and required several, both for safety and for satisfaction. The negotiation was here. Our country is full of able men. Two other negotiators might have been joined without delay, without trouble, and almost without expense. The British also had another negotiator here (Mr. Fox); a minister of whom I can say without disparagement to any other, that, in the two and twenty years which I have sat in this Senate, and had occasion to know the foreign ministers, I have never known his superior for intelligence, dignity, attention to his business, fidelity to his own Government, and decorum to ours. Why not add Mr. Fox to Lord Ashburton, unless to prevent an associate from being given to Mr. Webster? Was it arranged in London that the whole negotiation should be between two, and that these two should act without a witness, and without notes or minutes of their conferences? Be this as it may, the effect is the same; and all must condemn this solitary business between two ministers, when the occasion so imperiously demanded several.”

The want of instructions was also animadverted upon by Mr. Benton, as a departure from the constitutional action of the government, and injurious in this case, as the three great sections of the Union had each its peculiar question to get settled, and the Secretary-negotiator belonged to one only of these sections, and the only one whose questions had been settled.

“By the theory of our government, the President is the head of the Executive Department, and must treat, through his agents and ministers, with foreign powers. He must tell them what to do, and should tell that in unequivocal language, that there may be no mistake about it. He must command and direct the negotiation; he must order what is done. This is the theory of our government, and this has been its practice from the beginning of Washington’s to the end of Mr. Van Buren’s administration; and never was it more necessary than now. Being but one negotiator, and he not approved by the Senate for that purpose, and being from an interested State, it was the bounden duty of the President to have guided and directed every thing. He is the head of the Union, and should have attended to the interest of the whole Union; on the contrary, he abandons every thing to his Secretary, and this Secretary takes care of one section of the Union, and of his own State, and of Great Britain; and leaves the other two sections of the Union out of the treaty. The Northern States, coterminous with Canada, get their boundaries adjusted; Massachusetts gets money, which her sister States are to pay; and Great Britain takes two slices, and all her military frontiers, from the State of Maine! the Southern and Western States are left as they were.”

It was known that certain senators were consulted as the treaty went along, not publicly, but privately, visiting the negotiators upon request for that purpose, agreeing to it in these conferences; and thus forestalling their official action. This anomaly Mr. Benton thus exposed:

“The irregular manner in which the ratification of this treaty has been sought, by consultations with individual members, before it was submitted to the Senate. Here I tread upon delicate ground; and if I am wrong, this is the time and the place to correct me. I speak in the hearing of those who must know whether I am mistaken. I have reason to believe that the treaty has been privately submitted to senators—their opinions obtained—the judgment of the body forestalled; and then sent here for the forms of ratification. [One senator said he had not been consulted.] Mr. B. in continuation: Certainly not, as the senator says so; and so of any other gentleman who will say the same. I interrogate no one. I have no right to interrogate any one. I do not pretend to say that all were consulted; that would have been unnecessary; and besides, I know I was not consulted myself; and I know many others who

were not. All that I intend to say is, that I have reason to think that this treaty has been ratified out of doors! and that this is a great irregularity, and bespeaks an undue solicitude for it on the part of its authors, arising from a consciousness of its indefensible character."

The war argument was also pressed into the service of the ratification, and vehemently relied upon as one of the most cogent arguments in its favor. The treaty, or war! was the constant alternative presented, and not without effect upon all persons of gentle and temporizing spirit. Mr. Benton also exposed the folly and mischief of yielding to such a threat—declaring it to be groundless, and not to be yielded to if it was not.

"The fear of war. This Walpole argument is heavily pressed upon us, and we are constantly told that the alternatives lie between this treaty—the whole of it, just as it is—or war! This is a degrading argument, if true; and infamous, if false! and false it is: and more than that, it is as shameless as it is unfounded! What! the *peace* mission come to make war! It is no such thing. It comes to take advantage of our deplorable condition—to take what it pleases, and to repulse the rest. Great Britain is in no condition to go to war with us, and every child knows it. But I do not limit myself to argument, and general considerations, to disprove this war argument. I refer to the fact which stamps it with untruth. Look to the notes of Sir Charles Vaughan and Mr. Bankhead, demanding the execution of the award, and declaring that *its execution would remove every impediment to the harmony of the two countries*. After that, and while holding these authentic declarations in our hands, are we to be told that the peace mission requires more than the award? requires one hundred and ten miles more of boundary? requires $500,000 for Rouse's Point, which the award gave us without money? requires a naval and diplomatic alliance, which she dared not mention in the time of Jackson or Van Buren? requires the surrender of '*rebels*' under the name of criminals? and puts the South and West at defiance, while conciliating the non-slaveholding States? and gives us war, if we do not consent to all this degradation, insult, and outrage? Are we to be told this? No, sir, no! There is no danger of war; but this treaty may make a war, if it is ratified. It gives up all advantages; leaves us with great questions unsettled; increases the audacity of the British; weakens and degrades us; and leaves us no alternative but war to save the Columbia, to prevent impressment, to resist search, to repel Schlosser invasions, and to avoid a San Domingo insurrection in the South, excited from London, from Canada, and from Nassau."

The mission had been heralded as one of peace—as a beneficent overture for a universal settlement of all difficulties—and as a plan to establish the two countries on a footing of friendship and cordiality, which was to leave each without a grievance, and to launch both into a career of mutual felicity. On the contrary only a few were settled, and those few the only ones which concerned Great Britain and the northern States: the rest which peculiarly concerned the South and the West, were adjourned to London—that is to say, to the Greek calends. On this point Mr. Benton said:

"We were led to believe, on the arrival of the special minister, that he came as a messenger of peace, and clothed with full powers to settle every thing; and believing this, his arrival was hailed with universal joy. But here is a disappointment—a great disappointment. On receiving the treaty and the papers which accompany it, we find that *all* the subjects in dispute have not been settled; that, in fact, only three out of seven are settled; and that the minister has returned to his country, leaving four of the contested subjects unadjusted. This is a disappointment; and the greater, because the papers communicated confirm the report that the minister came with full powers to settle every thing. The very first note of the American negotiator—and that in its very first sentence, confirms this belief, and leaves us to wonder how a mission that promised so much, has performed so little. Mr. Webster's first note runs thus: 'Lord Ashburton having been charged by the Queen's government with full powers to

negotiate and settle all matters in discussion between the United States and England, and having on his arrival at Washington announced,' &c., &c. Here is a declaration of full power to settle every thing; and yet, after this, only part is settled, and the minister has returned home. This is unexpected, and inconsistent. It contradicts the character of the mission, balks our hopes, and frustrates our policy. As a confederacy of States, our policy is to settle every thing or nothing; and having received the minister for that purpose, this complete and universal settlement, or nothing, should have been the *sine qua non* of the American negotiator.

"From the message of the President which accompanies the treaty, we learn that the questions in discussion between the two countries were: 1. The Northern boundary. 2. The right of search in the African seas, and the suppression of the African slave trade. 3. The surrender of fugitives from justice. 4. The title to the Columbia River. 5. Impressment. 6. The attack on the Caroline. 7. The case of the Creole, and of other American vessels which had shared the same fate. These are the subjects (seven in number) which the President enumerates, and which he informs us occupied the attention of the negotiators. He does not say whether these were all the subjects which occupied their attention. He does not tell us whether they discussed any others. He does not say whether the British negotiator opened the question of the State debts, and their assumption or guarantee by the Federal government! or whether the American negotiator mentioned the point of the Canadian asylum for fugitive slaves (of which twelve thousand have already gone there) seduced by the honors and rewards which they receive, and by the protection which is extended to them. The message is silent upon these further subjects of difference if not of discussion, between the two countries; and, following the lead of the President, and confining ourselves (for the present) to the seven subjects of dispute named by him, and we find three of them provided for in the treaty—four of them not: and this constitutes a great objection to the treaty—an objection which is aggravated by the nature of the subjects settled, or not settled. For it so happens that, of the subjects in discussion, some were general, and affected the whole Union; others were local, and affected sections. Of these general subjects, those which Great Britain had most at heart are provided for; those which most concerned the United States are omitted: and of the three sections of the Union which had each its peculiar grievance, one section is quieted, and two are left as they were. This gives Great Britain an advantage over us as a nation: it gives one section of the Union an advantage over the two others, sectionally. This is all wrong, unjust, unwise, and impolitic. It is wrong to give a foreign power an advantage over us: it is wrong to give one section of the Union an advantage over the others. In their differences with foreign powers, the States should be kept united: their peculiar grievances should not be separately settled, so as to disunite their several complaints. This is a view of the objection which commends itself most gravely to the Senate. We are a confederacy of States, and a confederacy in which States classify themselves sectionally, and in which each section has its local feelings and its peculiar interests. We are classed in three sections; and each of these sections had a peculiar grievance against Great Britain; and here is a treaty to adjust the grievances of one, and but one, of these three sections. To all intents and purposes, we have a separate treaty—a treaty between the Northern States and Great Britain; for it is a treaty in which the North is provided for, and the South and West left out. Virtually, it is a separate treaty with a part of the States; and this forms a grave objection to it in my eyes.

"Of the nine Northern States whose territories are coterminous with the dominions of her Britannic Majesty, six of them had questions of boundary or of territory, to adjust; and all of these are adjusted. The twelve Southern slaveholding States had a question in which they were all interested—that of the protection and liberation of fugitive or criminal slaves in Canada and the West Indies: this great question finds no place in the treaty, and is put off

with phrases in an arranged correspondence. The whole great West takes a deep interest in the fate of the Columbia River, and demands the withdrawal of the British from it: this large subject finds no place in the treaty, nor even in the correspondence which took place between the negotiators. The South and West must go to London with their complaints: the North has been accommodated here. The mission of peace has found its benevolence circumscribed by the metes and boundaries of the sectional divisions in the Union. The peace-treaty is for one section: for the other two sections there is no peace. The non-slaveholding States, coterminous with the British dominions are pacified and satisfied: the slaveholding and the Western States, remote from the British dominions, are to suffer and complain as heretofore. As a friend to the Union—a friend to justice—and as an inhabitant of the section which is both slaveholding and Western, I object to the treaty which makes this injurious distinction amongst the States."

The merits of the different stipulations in the treaty were fully spoken to by several senators—among others, by Mr. Benton—some extracts from whose speech will constitute some ensuing chapters.

102. British Treaty: The Pretermitted Subjects: Mr. Benton's Speech: Extracts

I. The Columbia River and its valley.

The omitted or pretermitted subjects are four: the Columbia River—impressment—the outrage on the Caroline—and the liberation of American slaves, carried by violence or misfortune into the British West India islands, or enticed into Canada. Of these, I begin with the Columbia, because equal in importance to any, and, from position, more particularly demanding my attention. The country on this great river is ours: diplomacy has endangered its title: the British have the possession and have repulsed us from the whole extent of its northern shore, and from all the fur region on both sides of the river, and up into all the valleys and gorges of the Rocky Mountains. Our citizens are beginning to go there; and the seeds of national contestation between the British and Americans are deeply and thickly sown in that quarter. From the moment that we discovered it, Great Britain has claimed this country; and for thirty years past this claim has been a point of contested and deferred diplomacy, in which every step taken has been a step for the benefit of her claim, and for the injury of ours. The germ of a war lies there; and this mission of peace should have eradicated that germ. On the contrary, it does not notice it! Neither the treaty nor the correspondence names or notices it! and if it were not for a meagre and stinted paragraph in the President's message, communicating and recommending the treaty, we should not know that the name of the Oregon had occurred to the negotiators. That paragraph is in these words:

"After sundry informal communications with the British minister upon the subject of the claims of the two countries to territory west of the Rocky Mountains, so little probability was found to exist of coming to any agreement on that subject at present, that it was not thought expedient to make it one of the subjects of formal negotiation, to be entered upon between this government and the British minister, as part of his duties under his special mission."

This is all that appears in relation to a disputed country, equal in extent to the Atlantic portion of the old thirteen United States; superior to them in climate, soil, and configuration; adjacent to the valley of the Mississippi; fronting Asia; holding the key to the North Pacific Ocean; the only country fit for colonization on the extended coast of Northwest America; a country which belongs to the United States by a title as clear as their title to the District of Columbia; which a resolve of Congress, during Mr. Monroe's administration, declared to be occluded against European colonization; which Great Britain is now colonizing; and the title to which has been a subject of diplomatic discussion for thirty years. This is all that is heard of such a country, and such a dispute, in this mission of peace, which was to settle every thing. To supply this omission, and to erect some barrier against the dangers of improvident, indifferent, ignorant, or treacherous diplomacy in future negotiations in relation to this great country, it is my purpose at present to state our title to it; and, in doing so, to expose the fallacy of the British pretensions; and thus to leave in the bosom of the Senate, and on the page of our legislative history, the faithful evidences of our right, and which shall attest our title to all succeeding generations.

(Here Mr. Benton went into a full derivation of the American title to the Columbia River and its valley, between the parallels of 42 and 49 degrees of north latitude—taking the latter boundary from the tenth article of the treaty of Utrecht, and the former from the second article of the Florida treaty of 1819, with Spain.)

The treaty of Utrecht between France and England, as all the world knows, was the treaty which put an end to the wars of Queen Anne and Louis XIV., and settled their differences in America as well as in Europe. Both England and France were at that time large territorial possessors in North America—the English holding Hudson's Bay and New Britain, beyond Canada, and her Atlantic colonies on this side of it; and France holding Canada and Louisiana. These were vast possessions, with unfixed boundaries. The tenth article of the treaty of Utrecht provided for fixing these boundaries. Under this article, British and French commissioners were appointed to define the possessions of the two nations; and by these commissioners two great points were fixed (not to speak of others), which have become landmarks in the definition of boundaries in North America, namely: the Lake of the Woods, and the 49th parallel of north latitude west of that lake. These two points were established above a century and a quarter ago, as dividing the French and British dominions in that quarter. As successful rebels, we acquired one of these points at the end of the Revolution. The treaty of Independence of 1783 gave us the Lake of the Woods as a landmark in the (then) north-west corner of the Union. As successors to the French in the ownership of Louisiana, we acquired the other; the treaty of 1803 having given us that province as France and Spain had held it; and that was, on the north, by the parallel of 49 degrees. Beginning in the Lake of the Woods, our northern Louisiana boundary followed the 49th parallel to the west. How far? is now the important question; and I repeat the words of the report of the commissioners, accepted by their respective nations, when I answer—"INDEFINITELY!" I quote the words of the report when I answer (omitting all the previous parts of the line), "*to the latitude of 49 degrees north of the equator, and along that parallel indefinitely to the west*." [A senator asked where all this was found.] Mr. Benton. I find it in the state papers of France and England above an hundred years ago, and in those of the United States since the acquisition of Louisiana. I quote now from Mr. Madison's instructions, when Secretary of State under Mr. Jefferson in 1804, to Mr. Monroe, then our minister in London; and given to him to fortify him in his defence of our new acquisition. The cardinal word in this report of the commissioners is the word "*indefinitely*;" and that word it was the object of the British to expunge, from the moment that we discovered the Columbia, and acquired Louisiana—events which were of the same era in our history, and almost contemporaneous. In the negotiations with Mr. Monroe (which ended in a treaty, rejected by Mr. Jefferson without communication to the Senate), the effort was to limit the line, and to terminate it at the Rocky Mountains; well knowing that if this line was suffered to continue *indefinitely* to the west, it would deprive them of all they wanted; for it would strike the ocean three degrees north of the mouth of the Columbia. Without giving us what we were entitled to by right of discoveries, and as successors to Spain, it would still take from Great Britain all that she wanted—which was the mouth of the river, its harbor, the position which commanded it, and its right bank, in the rich and timbered region of tide-water. The line on the 49th parallel would cut her off from all these advantages; and, therefore, to mutilate that line, and stop it at the Rocky Mountains, immediately became her inexorable policy. At Ghent, in 1814, the effort was renewed. The commissioners of the United States and those of Great Britain could not agree; and nothing was done. At London, in 1818, the effort was successful; and in the convention then signed in that city, the line of the treaty of Utrecht was stopped at the Rocky Mountains. The country on the Columbia was laid open for ten years to the joint occupation of the citizens and subjects of both powers; and, afterwards, by a renewed convention at London, this joint occupation was renewed indefinitely, and until one of the parties should give notice for its termination. It is under this privilege of joint occupation that Great Britain has taken exclusive possession of the right bank of the river, from its head to its mouth, and also exclusive possession of the fur trade on both sides of the river, into the heart of the Rocky Mountains. My friend and colleague [Mr. Linn] has submitted a motion to require the

President to give the stipulated notice for the termination of this convention—a convention so unequal in its operation, from the inequality of title between the two parties, and from the organized power of the British in that quarter under the powerful direction of the Hudson's Bay Fur Company. Thus our title as far as latitude 49, so valid under the single guarantee of the treaty of Utrecht, without looking to other sources, has been jeoparded by this improvident convention; and the longer it stands, the worse it is for us.

A great fault of the treaty of 1818 was in admitting an organized and powerful portion of the British people to come into possession of our territories jointly with individual and disconnected possessors on our part. The Hudson's Bay Company held dominion there on the north of our territories. They were powerful in themselves, perfectly organized, protected by their government, united with it in policy, and controlling all the Indians from Canada and the Rocky Mountains out to the Pacific Ocean, and north to Baffin's Bay. This company was admitted, by the convention of 1818, to a joint possession with us of all our territories on the Columbia River. The effect was soon seen. Their joint possession immediately became exclusive on the north bank of the river. Our fur-traders were all driven from beyond the Rocky Mountains; then driven out of the mountains; more than a thousand of them killed: forts were built; a chain of posts established to communicate with Canada and Hudson's Bay; settlers introduced; a colony planted; firm possession acquired; and, at the end of the ten years when the *joint* possession was to cease, the intrusive possessors, protected by their government, refused to go—began to set up title—and obtained a renewal of the convention, without limit of time, and until they shall receive notice to quit. This renewed convention was made in 1828; and, instead of joint possession with us for ten years, while we should have joint possession with them of their rivers, bays, creeks and harbors, for the same time—instead of this, they have had exclusive possession of our territory, our river, our harbor, and our creeks and inlets, for above a quarter of a century. They are establishing themselves as in a permanent possession—making the fort Vancouver, at the confluence of the Multnomah and Columbia, in tide-water, the seat of their power and operations. The notice required never will be given while the present administration is in power; nor obeyed when given, unless men are in power who will protect the rights and the honor of their country. The fate of Maine has doubled the dangers of the Columbia, and nearly placed us in a position to choose between war and INFAMY, in relation to that river.

Another great fault in the convention was, in admitting a *claim* on the part of Great Britain to any portion of these territories. Before that convention, she stated no claim; but asked a favor—the favor of joint possession for ten years: now she sets up title. That title is backed by possession. Possession among nations, as well as among individuals, is eleven points out of twelve; and the bold policy of Great Britain well knows how to avail itself of these eleven points. The Madawaska settlement has read us a lesson on that head; and the success there must lead to still greater boldness elsewhere. The London convention of 1818 is to the Columbia, what the Ghent treaty of 1814 was to Maine; that is to say, the first false step in a game in which we furnish the whole stake, and then play for it. In Maine the game is up. The bold hand of Great Britain has clutched the stake; and nothing but the courage of our people will save the Columbia from the same catastrophe.

I proceed with more satisfaction to our title under the Nootka Sound treaty, and can state it in a few words. All the world knows the commotion which was excited in 1790 by the Nootka Sound controversy between Great Britain and Spain. It was a case in which the bullying of England and the courage of Spain were both tried to the *ne plus ultra* point, and in which Spanish courage gained the victory. Of course, the British writers relate the story in their own way; but the debates of the Parliament, and the terms of the treaty in which all ended, show things as they were. The British, presuming on the voyages of Captain Cook, took possession

of Nootka; the Spanish Viceroy of Mexico sent a force to fetch the English away, and placed them in the fortress of Acapulco. Pitt demanded the release of his English, their restoration to Nootka, and an apology for the insult to the British Crown, in the violation of its territory and the persons of its subjects; the Spaniard refused to release, refused the restoration, and the apology, on the ground that Nootka was Spanish territory, and declared that they would fight for its possession. Then both parties prepared for war. The preparations fixed the attention of all Europe. Great Britain bullied to the point of holding the match over the touch-hole of the cannon; but the Spaniards remaining firm, she relaxed, and entered into a convention which abnegated her claim. She accepted from the Spaniards the privilege of landing and building huts on the unoccupied parts of the coast, for the purpose of fishing and trading; and while this acceptance nullified her claim, yet she took nothing under it—not even temporary use—never having built a hut, erected a tent, or commenced any sort of settlement on any part of the coast. Mr. Fox keenly reproached Mr. Pitt with the terms of this convention, being, as he showed, a limitation instead of an acquisition of rights.

Our title is clear: that of the British is null. She sets up none—that is, she states no derivation of title. There is not a paper upon the face of the earth, in which a British minister has stated a title, or even a claim. They have endeavored to obtain the country by the arts of diplomacy; but never have stated a title, and never can state one. The fur-trader, Sir Alexander McKenzie, prompted the acquisition, gave the reason for it, and never pretended a title. His own discoveries gave no title. They were subsequent to the discovery of Captain Gray, and far to the north of the Columbia. He never saw that river. He missed the head sources of it, fell upon the *Tacouche Tesse*, and struck the Pacific in a latitude 500 miles (by the coast) to the north of the Columbia. His subsequent discoveries were all north of that point. He was looking for a communication with the sea—for a river, a harbor, and a place for a colony—within the dominions of Great Britain; and, not finding any, he boldly recommended his government to seize the Columbia River, to hold it, and to expel the Americans from the whole country west of the Rocky Mountains. And upon these pretensions the British claim has rested, until possession has made them bold enough to exclude it from the subjects of formal negotiation between the two countries. The peace-mission refused us peace on that point. The President tells us that there is "*no probability of coming to any agreement at present!*" Then when can the agreement be made? If refused now, when is it to come? Never, until we show that we prefer war to ignominious peace.

This is the British title to the Columbia, and the only one that she wants for any thing. It suits her to have that river: it is her interest to have it: it strengthens her, and weakens others, for her to have it; and, therefore, have it she will. This is her title, and this her argument. Upon this title and argument, she gets a slice from Maine, and gains the mountain barrier which covers Quebec; and, upon this title and argument, she means to have the Columbia River. The events of the late war, and the application of steam power to ocean navigation, begat her title to the country between Halifax and Quebec: the suggestions of McKenzie begat her title to the Columbia. Improvident diplomacy on our part, a war countenance on her part, and this strange treaty, have given success to her pretensions in Maine: the same diplomacy, and the same countenance, have given her a foothold on the Columbia. It is for the Great West to see that no traitorous treaty shall abandon it to her. The President, in his message, says that there was no chance for any "*agreement*" about it at present; that it would not be made the subject of a "*formal negotiation*" at present; that it could not be included in the duties of the "*special mission*." Why so? The mission was one of peace, and to settle every thing; and why omit this pregnant question? Was this a war question, and therefore not to be settled by the peace mission? Why not come to an agreement now, if agreement is ever intended? The answer is evident. No agreement is ever intended. Contented with her possession, Great Britain wants

delay, that *time* may ripen *possession* into *title*, and fortunate events facilitate her designs. My colleague and myself were sounded on this point: our answers forbade the belief that we would compromise or sacrifice the rights and interests of our country; and this may have been the reason why there were no "*formal*" negotiations in relation to it. Had we been "*soft enough*," there might have been an agreement to divide our country by the river, or, to refer the whole title to the decision of a friendly sovereign! We were not *soft enough* for that; and if such a paper, marked B, and identified with the initials of our Secretary, had been sent to the Missouri delegation, as was sent to the Maine commissioners, instead of subduing us to the purposes of Great Britain, it would have received from the whole delegation the answer due to treason, to cowardice, and to insolence.

But, it is demanded, what do we want with this country, so far off from us? I answer by asking, in my turn, what do the British want with it, who are so much further off? They want it for the fur trade; for a colony; for an outlet to the sea; for the communication across the continent; for a road to Asia; for the command of one hundred and forty thousand Indians against us; for the port and naval station which is to command the commerce and navigation of the North Pacific Ocean, and open new channels of trade with China, Japan, Polynesia, and the great East. They want it for these reasons; and we want it for the same; and because it adjoins us, and belongs to us, and should be possessed by our descendants, who will be our friends; and not by aliens, who will be our enemies.

Forty years ago, it was written by Humboldt that the valley of the Columbia invited Europeans to found a fine colony there; and, twenty years ago, the American Congress adopted a resolve, *that no part of this continent was open to European colonization*. The remark of Humboldt was that of a sagacious European; the resolve of Congress was the work of patriotic Americans. It remains to be seen which will prevail. The convention of 1818 has done us the mischief; it put the European power in possession: and possession with nations, still more than with individuals, is the main point in the contest. It will require the western pioneers to recover the lost ground; and they must be encouraged in the enterprise by liberal grants of lands, by military protection, and by governmental authority. It is time for the bill of my colleague to pass. The first session of the first Congress under the new census should pass it. The majority will be democratic, and the democracy will demand that great work at their hands. I put no faith in negotiation. I expect nothing but loss and shame from any negotiation in London. Our safety is in the energy of our people; in their prompt occupation of the country; and in their invincible determination to maintain their rights.

I do not dilate upon the value and extent of this great country. A word suffices to display both. In extent, it is larger than the Atlantic portion of the old thirteen United States; in climate, softer; in fertility, greater; in salubrity, superior; in position, better, because fronting Asia, and washed by a tranquil sea. In all these particulars, the western slope of our continent is far more happy than the eastern. In configuration, it is inexpressibly fine and grand—a vast oblong square, with natural boundaries, and a single gateway into the sea. The snow-capped Rocky Mountains enclose it to the east, an iron-bound coast on the west: a frozen desert on the north, and sandy plains on the south. All its rivers, rising on the segment of a vast circumference, run to meet each other in the centre; and then flow together into the ocean, through a gap in the mountain, where the heats of summer and the colds of winter are never felt; and where southern and northern diseases are equally unknown. This is the valley of the Columbia—a country whose every advantage is crowned by the advantages of position and configuration: by the unity of all its parts—the inaccessibility of its borders—and its single introgression to the sea. Such a country is formed for union, wealth, and strength. It can have but one capital, and that will be a Thebes; but one commercial emporium, and that will be Tyre, queen of cities. Such a country can have but one people, one interest, one government:

and that people should be American—that interest ours—and that government republican. Great Britain plays for the whole valley: failing in that, she is willing to divide by the river. Accursed and infamous be the man that divides or alienates it!

II.—Impressment.

Impressment is another of the omitted subjects. This having been a cause of war in 1812, and being now declared, by the American negotiator, to be a sufficient cause for future wars, it would naturally, to my mind, have been included in the labors of a special mission, dedicated to peace, and extolled for its benevolent conception. We would have expected to find such a subject, after such a declaration, included in the labors of such a mission. Not so the fact. The treaty does not mention impressment. A brief paragraph in the President's message informs us that there was a correspondence on this point; and, on turning to this correspondence, we actually find two letters on the subject: one from Mr. Webster to Lord Ashburton—one from Lord Ashburton to Mr. Webster: both showing, from their dates, that they were written after the treaty was signed; and, from their character, that they were written for the public, and not for the negotiators. The treaty was signed on the 9th of August; the letters were written on the 8th and 9th of the same month. They are a plea, and a reply; and they leave the subject precisely where they found it. From their date and character, they seem to be what the lawyers call the *postea*—that is to say, the *afterwards*; and are very properly postponed to the end of the document containing the correspondence, where they find place on the 120th page. They look *ex post facto* there; and, putting all things together, it would seem as if the American negotiator had said to the British lord (after the negotiation was over): 'My Lord, here is impressment—a pretty subject for a composition; the people will love to read something about it; so let us compose.' To which, it would seem, his lordship had answered: 'You may compose as much as you please for your people; I leave that field to you: and when you are done, I will write three lines for my own government, to let it know that I stick to impressment.' In about this manner, it would seem to me that the two letters were got up; and that the American negotiator in this little business has committed a couple of the largest faults: *first*, in naming the subject of impressment at all! *next*, in ever signing a treaty, after having named it, without an unqualified renunciation of the pretension!

Sir, the same thing is not always equally proper. Time and circumstances qualify the proprieties of international, as well as of individual intercourse; and what was proper and commendable at one time, may become improper, reprehensible, and derogatory at another. When George the Third, in the first article of his first treaty with the United States, at the end of a seven years' war, acknowledged them to be free, sovereign, and independent States, and renounced all dominion over them, this was a proud and glorious consummation for us, and the crowning mercy of a victorious rebellion. The same acknowledgment and renunciation from Queen Victoria, at present, would be an insult for her to offer—a degradation for us to accept. So of this question of impressment. It was right in all the administrations previous to the late war, to negotiate for its renunciation. But after having gone to war for this cause; after having suppressed the practice by war; after near thirty years' exemption from it—after all this, for our negotiator to put the question in discussion, was to compromise our rights! To sign a treaty without its renunciation, after having proposed to treat about it, was to relinquish them! Our negotiator should not have mentioned the subject. If mentioned to him by the British negotiator, he should have replied, that the answer to that pretension was in the cannon's mouth!

But to name it himself, and then sign without renunciation, and to be invited to London to treat about it—to do this, was to descend from our position; to lose the benefit of the late war; to revive the question; to invite the renewal of the practice, by admitting it to be an unsettled

question—and to degrade the present generation, by admitting that they would negotiate where their ancestors had fought. These are fair inferences; and inferences not counteracted by the euphonious declaration that the American government is "*prepared to say*" that the practice of impressment cannot hereafter be allowed to take place!—as if, after great study, we had just arrived at that conclusion! and as if we had not declared much more courageously in the case of the Maine boundary, the Schlosser massacre, and the Creole mutiny and murder! The British, after the experience they have had, will know how to value our courageous declaration, and must pay due respect to our flag! For one, I never liked these declarations, and never made a speech in favor of any one of them; and now I like them less than ever, and am *prepared* to put no further faith in the declarations of gentlemen who were for going to war for the smallest part of the Maine boundary in 1838, and now surrender three hundred miles of that boundary for fear of war, when there is no danger of war. I am *prepared to say* that I care not a straw for the heroic declarations of such gentlemen. I want actions, not phrases. I want Mr. Jefferson's act in 1806—*rejection of any treaty with Great Britain that does not renounce impressment*! And after having declared, by law, black impressment on the coast of Africa to be piracy; after stipulating to send a fleet there, to enforce our law against that impressment—after this, I am ready to do the same thing against white impressment on our own coasts, and on the high seas. I am ready to enact that the impressment of my white fellow-citizens out of an American ship is an act of piracy; and then to follow out that enactment in its every consequence.

The correspondence between our Secretary negotiator and Lord Ashburton on this subject, has been read to you—that correspondence which was drawn up after the treaty was finished, and intended for the American public: and what a correspondence it is! What an exchange of phrases! One denies the right of impressment: the other affirms it. Both wish for an amicable agreement; but neither attempts to agree. Both declare the season of peace to be the proper time to settle this question; and both agree that the present season of peace is not the convenient one. Our Secretary rises so high as to declare that the administration "*is now prepared*" to put its veto on the practice: the *British negotiator* shows that his Government is still prepared to resume the practice whenever her interest requires it. Our negotiator hopes that his communication will be received in the spirit of peace: the British minister replies, that it will. Our secretary then persuades himself that the British minister will communicate his sentiments in this respect, to his own government: his Lordship promises it faithfully. And, thereupon, they shake hands and part.

How different this holiday scene from the firm and virile language of Mr. Jefferson: "*No treaty to be signed without a provision against impressment*;" and this language backed by the fact of the instant rejection of a treaty so signed! Lord Chatham said of *Magna Charta* that it was homely Latin, but worth all the classics. So say I of this reply of Mr. Jefferson: it is plain English, but worth all the phrases which rhetoric could ever expend upon the subject. It is the only answer which our secretary negotiator should have given, after committing the fault of broaching the subject. Instead of that, he commences rhetorician, new vamps old arguments, writes largely and prettily; and loses the question by making it debatable. His adversary sees his advantage, and seizes it. He abandons the field of rhetoric to the lawyer negotiator; puts in a fresh claim to impressment; saves the question from being lost by a non-user; re-establishes the debate, and adjourns it to London. He keeps alive the pretension of impressment against us, the white race, while binding us to go to Africa to fight it down for the black race; and has actually left us on lower ground in relation to this question, than we stood upon before the late war. If this treaty is ratified, we must begin where we were in 1806, when Mr. Monroe and Mr. Pinckney went to London to negotiate against impressment; we must begin where they did, with the disadvantage of having yielded

to Great Britain all that she wanted, and having lost all our vantage-ground in the negotiation. We must go to London, engage in a humiliating negotiation, become the spectacle of nations, and the sport of diplomacy; and wear out years in begging to be spared from British seizure, when sitting under our own flag, and sailing in our own ship: we must submit to all this degradation, shame and outrage, unless Congress redeems us from the condition into which we have fallen, and provides for the liberty of our people on the seas, by placing American impressment where African impressment has already been placed—piracy by law! For one, I am ready to vote the act—to execute it—and to abide its every consequence.

III.—The liberated slaves.

The case of the Creole, as it is called, is another of the omitted subjects. It is only one of a number of cases (differing in degree, but the same in character) which have occurred within a few years, and are becoming more frequent and violent. It is the case of American vessels, having American slaves on board, and pursuing a lawful voyage, and being driven by storms or carried by violence into a British port, and their slaves liberated by British law. This is the nature of the wrong. It is a general outrage liable to occur in any part of the British dominions, but happens most usually in the British West India islands, which line the passage round the Florida reefs in a voyage between New Orleans and the Atlantic ports. I do not speak of the 12,000 slaves (worth at a moderate computation, considering they must be all grown, and in youth or middle life, at least $6,000,000) enticed into Canada, and received with the honors and advantages due to the first class of emigrants. I do not speak of these, nor of the liberation of slaves carried voluntarily by their owners into British ports: the man who exposes his property wilfully to the operation of a known law, should abide the consequences to which he has subjected it. I confine myself to cases of the class mentioned—such as the Encomium, the Comet, the Enterprise, the Creole, and the Hermosa—cases in which wreck, tempest, violence, mutiny and murder were the means of carrying the vessel into the interdicted port; and in which the slave property, after being saved to the owners from revolt and tempests, became the victim and the prey of British law. It is of such cases that I complain, and of which I say that they furnish no subject for the operation of injurious laws, and that each of these vessels should have been received with the hospitality due to misfortune, and allowed to depart with all convenient despatch, and with all her contents of persons and property. This is the law of nations: it is what the civilization of the age requires. And it is not to be tolerated in this nineteenth century that an American citizen, passing from one port to another of his own country, with property protected by the laws of his country, should encounter the perils of an unfortunate navigator in the dark ages, shipwrecked on a rude and barbarian coast. This is not to be tolerated in this age, and by such a power as the United States, and after sending a fleet to Africa to protect the negroes. Justice, like charity, should begin at home; and protection should be given where allegiance is exacted. We cannot tolerate the spoil and pillage of our own citizens, within sight of our own coasts, after sending 4,000 miles to redress the wrongs of the black race. But if this treaty is ratified it seems that we shall have to endure it, or seek redress by other means than negotiation. The previous cases were at least ameliorated by compensation to their owners for the liberation of the slaves; but in the more recent and most atrocious case of the Creole, there is no indemnity of any kind—neither compensation to the owners whose property has been taken; nor apology to the Government, whose flag has been insulted; nor security for the future, by giving up the practice. A treaty is signed without a stipulation of any kind on the subject; and as it would seem, to the satisfaction of those who made it, and of the President, who sends it to us. A correspondence has been had; the negotiators have exchanged diplomatic notes on the subject; and these notes are expected to be as satisfactory to the country as to those who now have the rule of it. The President in his message says:

"On the subject of the interference of the British authorities in the West Indies, a confident hope is entertained that the correspondence which has taken place, showing the *grounds* taken by this government, and the *engagements* entered into by the British minister, will be found such as to satisfy the just expectation of the people of the United States."—*Message, August 9.*

This is a short paragraph for so large a subject; but it is all the message contains. But let us see what it amounts to, and what it is that is expected to satisfy the just expectations of the country. It is the *grounds* taken in the correspondence, and the *engagements* entered into by the British minister, which are to work out this agreeable effect.

And it is of the *grounds* stated in the Secretary's two letters, and the *engagement*, entered into in Lord Ashburton's note, that the President predicates his belief of the public satisfaction in relation to this growing and most sensitive question. This brings us to these grounds, and this engagement, that we may see the nature and solidity of the one, and the extent and validity of the other. The grounds for the public satisfaction are in the Secretary's letters; the engagement is in Lord Ashburton's letter; and what do they amount to? On the part of the Secretary, I am free to say that he has laid down the law of nations correctly; that he has well stated the principles of public law which save from hazard or loss, or penalty of any kind, the vessel engaged in a lawful trade, and driven or carried against her will, into a prohibited port. He has well shown that, under such circumstances, no advantage is to be taken of the distressed vessel; that she is to be received with the hospitality due to misfortune, and allowed to depart, after receiving the succors of humanity, with all her contents of persons and things. All this is well laid down by our Secretary. Thus far his grounds are solid. But, alas, this is all talk! and the very next paragraph, after a handsome vindication of our rights under the law of nations, is to abandon them! I refer to the paragraph commencing: "*If your Lordship has no authority to enter into a stipulation by treaty for the prevention of such occurrences hereafter*," &c. This whole paragraph is fatal to the Secretary's grounds, and pregnant with strange and ominous meanings. In the first place, it is an admission, in the very first line, that no treaty stipulation to prevent future occurrences of the same kind can be obtained here! that the special mission, which came to settle every thing, and to establish peace, will not settle this thing; which the Secretary, in numerous paragraphs, alleges to be a dangerous source of future war! This is a strange contradiction, and most easily got over by our Secretary. In default of a treaty stipulation (which he takes for granted, and evidently makes no effort to obtain), he goes on to solicit a personal engagement from his Lordship; and an engagement of what? That the law of nations shall be observed? No! but that instructions shall be given to the British local authorities in the islands, which shall lead them to regulate their conduct in conformity with the rights of citizens of the United States, and the just expectations of their government, and in such manner as shall, in future, take away all reasonable ground of complaint. This is the extent of the engagement which was so solicited, and which was to supply the place of a treaty stipulation! If the engagement had been given in the words proposed, it would not have been worth a straw. But it is not given in those words, but with glaring and killing additions and differences. His Lordship follows the commencement of the formula with sufficient accuracy; but, lest any possible consequence might be derived from it, he takes care to add, that when these slaves do reach them "*no matter by what means*," there is no alternative! Hospitality, good wishes, friendly feeling, the duties of good neighborhood—all give way! The British law governs! and that law is too well known to require repetition. This is the sum and substance of Lord Ashburton's qualifications of the *engagement*; and they show him to be a man of honor, that would not leave the Secretary negotiator the slightest room for raising a doubt as to the nature of the instructions which he engaged to have given. These instructions go only to the mode of executing the law.

His Lordship engages only for the civility and gentleness of the manner—*the suaviter in modo*; while the firm execution of the law itself remains as it was—*fortiter in re*.

Lord Ashburton proposes London as the best place to consider this subject. Mr. Webster accepts London, and hopes that her Majesty's government will give us treaty stipulations to remove all further cause for complaint on this subject. This is his last hope, contained in the last sentence of his last note. And now, why a treaty stipulation hereafter, if this engagement is such (as the President says it is) as to satisfy the just expectations of the people of the United States? Why any thing more, if that is enough? And if treaty stipulations are wanting (as in fact they are), why go to London for them—the head-quarters of abolitionism, the seat of the World's Convention for the abolition of slavery, and the laboratory in which the insurrection of San Domingo was fabricated? Why go to London? Why go any where? Why delay? Why not do it here? Why not include it among the beatitudes of the vaunted peace mission? The excuse that the minister had not powers, is contradictory and absurd. The Secretary negotiator tells us, in his first letter, that the minister came with full powers to settle every subject in discussion. This was a subject in discussion; and had been since the time of the Comet, the Encomium, and the Enterprise—years ago. If instructions were forgotten, why not send for them? What are the steamers for, that, in the six months that the peace mission was here, they could not have brought these instructions a dozen times? No! the truth is, the British government would do nothing upon this subject when she found she could accomplish all her own objects without granting any thing.

IV.—Burning of the Caroline.

The Caroline is the last of the seven subjects in the arrangement which I make of them. I reserve it for the last; the extreme ignominy of its termination making it, in my opinion, the natural conclusion of a disgraceful negotiation. It is a case in which all the sources of national degradation seem to have been put in requisition—diplomacy; legislation; the judiciary; and even the military. To volunteer propitiations to Great Britain, and to deprecate her wrath, seem to have been the sole concern of the administration, when signal reparation was due from her to us. And here again we have to lament the absence of all the customary disclosures in the progress of negotiations. No protocol, no minutes, no memorandums: nothing to show how a subject began, went on, and reached its consummation. Every thing was informal in this anomalous negotiation. Wat Tyler never hated the ink-horn worse than our Secretary-negotiator hated it upon this occasion. It was only after a thing was finished, that the pen was resorted to; and then merely to record the agreement, and put a face upon it for the public eye. In this way many things may have been discussed, which leave no written trace behind them; and it would be a curious circumstance if so large a subject, and one so delicate as the State debts, should find itself in that predicament.

The case of the Caroline is now near four years old. It occurred in December of the year 1838, under Mr. Van Buren's administration; but it was not until March, 1841, and until the new administration was in power, that the question assumed its high character of a quarrel between the United States and Great Britain. Before that time, the outrage upon the Caroline was only the act of the individuals engaged in it. The arrest of one of these individuals brought out the British government. She assumed the offence; alleged the outrage to have been perpetrated by her authority; and demanded the release of McLeod, under the clear implication of a national threat if he was not surrendered. The release was demanded unconditionally—not the slightest apology or atonement being offered for the outrage on the Caroline, out of which the arrest of McLeod grew. The arrogant demand of the British was delivered to the new Secretary of State on the 12th day of March. Instead of refusing to answer under a threat, he answered the sooner; and, in his answer went far beyond what the

minister [Mr. Fox] had demanded. He despatched the Attorney-general of the United States to New York, to act as counsel for McLeod; he sent a Major-general of the United States army along with him, to give emphasis to his presence; and he gave a false version to the law of nations, which would not only cover the McLeod case, but all succeeding cases of the same kind. I consider all this the work of the State Department; for General Harrison was too new in his office, too much overwhelmed by the army of applicants who besieged him and soon destroyed his life, to have the time to study the questions to which the arrest of McLeod, and the demand for his release, and the assumption of his crime by the British government gave rise. The Romans had a noble maxim—grand in itself, and worthy of them, because they acted upon it. Parcere subjectis, debellare superbos: Spare the humble—humble the proud. Our administration has invoked this maxim to cover its own conduct. In giving up McLeod they say it is to lay hold of the sovereign—that the poor servant is spared while the proud master is to be held to account. Fine phrases these, which deceive no one: for both master and servant are let go. Our people were not deceived by these grave professions. They believed it was all a pretext to get out of a difficulty; that, what between love and fear of the British, the federal party was unwilling to punish McLeod, or to see him punished by the State of New York; that the design was to get rid of responsibility, by getting rid of the man; and, that when he was gone, we should hear no more of these new Romans calling his sovereign to account. This was the opinion of the democracy, very freely expressed at the time; and so it has all turned out to be. McLeod was acquitted, and got off; the British government became responsible, on the administration's own principles; they have not been held to that responsibility; no atonement or apology has been made for the national outrage at Schlosser; and the President informs us that no further complaint, on account of this aggression on the soil and sovereignty of the Union, and the lives of its citizens, is to be made!

A note has been obtained from Lord Ashburton, and sent to us by the President, declaring three things—first, that the burning of the Caroline, and killing the people, was a serious fact; secondly, that no disrespect was intended to the United States in doing it; thirdly, that the British government unfeignedly hopes there will be no necessity for doing it again. This is the extent, and the whole extent, to which the special minister, with all his politeness and good nature, and with all his desire to furnish the administration with something to satisfy the public, could possibly go. The only thing which I see him instructed by his government to say, or which in itself amounts to a positive declaration, is the averment that her Majesty's government "*considers it a most serious fact*" that, in the hurried execution of this *necessary* service, a violation of the United States territory was committed. This is admitted to be a fact!—a serious fact!—and a most serious fact! But as for any sorrow for it, or apology for it, or promise not to commit such serious facts again, or even not to be so hurried the next time—this is what the minister nowhere says, or insinuates. On the contrary, just the reverse is declared; for the justification of this "*most serious fact*" as being the result of a hurried execution of a "*necessary service*," is an explicit averment that the aforesaid "*most serious fact*" will be repeated just so often as her Majesty's government shall deem it necessary to her service. As to the polite declaration, that no disrespect was intended to the United States while invading its territory, killing its citizens, setting a steamboat on fire, and sending her in flames over the falls of Niagara—such a declaration is about equivalent to telling a man that you mean him no disrespect while cudgelling him with both hands over the head and shoulders.

The celebrated Dr. Johnson was accustomed to say that there was a certain amount of gullibility in the public mind, which must be provided for. It would seem that our Secretary-negotiator had possessed himself of this idea, and charged himself with the duties under it, and had determined to make full provision for all the gullibility now extant. He has certainly

provided *quantum sufficit* of humbuggery in this treaty, and in his correspondence in defence of it, to gorge the stomachs of all the gulls of the present generation, both in Europe and America.

Our Secretary is full of regret that McLeod was so long imprisoned, makes excuses for the New York court's decisions against him, and promises to call the attention of Congress to the necessity of providing against such detention in future. He says, in his last letter to Lord Ashburton:

"It was a subject of *regret* that the release of McLeod was so long delayed. A State court—and that not of the highest jurisdiction—decided that, on summary application, embarrassed, as it would appear, by technical difficulties, he could not be released by that court. His discharge, shortly afterward, by a jury, to whom he preferred to submit his case, rendered unnecessary the further prosecution of the legal question. It is for the Congress of the United States, whose attention has been *called* to the subject to say what further provision ought to be made to expedite proceedings in such cases."

Such is the valedictory of our Secretary—his sorrows over the fate of McLeod. That individual had been released for a year past. His arrest continued but for a few months, with little personal inconvenience to himself; with no danger to his life, if innocent; and with the gratification of a notoriety flattering to his pride, and beneficial to his interest. He is probably highly delighted with the honors of the occurrence, and no way injured by his brief and comfortable imprisonment. Yet the sorrow of our Secretary continues to flow. At the end of a year, he is still in mourning, and renews the expression of his regret for the poor man's detention, and gives assurances against such delays in future;—this in the same letter in which he closes the door upon the fate of his own countrymen burnt and murdered in the Caroline, and promises never to disturb the British government about them again. McLeod and all Canadians are encouraged to repeat their *most serious facts upon us*, by the perfect immunity which both themselves and their government have experienced. And to expedite their release, if hereafter arrested for such *facts*, they are informed that Congress had been "*called*" upon to pass the appropriate law—and passed it was! The *habeas corpus* act against the States, which had slept for many months in the Senate, and seemed to have sunk under the public execration—this bill was "*called*" up, and passed contemporaneously with the date of this letter. And thus the special minister was enabled to carry home with him an act of Congress to lay at the footstool of his Queen, and to show that the measure of atonement to McLeod was complete: that the executive, the military, the legislative, and the judicial departments had all been put in requisition, and faithfully exerted themselves to protect her Majesty's subjects from being harmed for a past invasion, conflagration, and murder; and to secure them from being called to account by the State courts for such trifles in future.

And so ends the case of the Caroline and McLeod. The humiliation of this conclusion, and the contempt and future danger which it brings upon the country, demand a pause, and a moment's reflection upon the catastrophe of this episode in the negotiation. The whole negotiation has been one of shame and injury; but this catastrophe of the McLeod and Caroline affair puts the finishing hand to our disgrace. I do not speak of the individuals who have done this work, but of the national honor which has been tarnished in their hands. Up to the end of Mr. Van Buren's administration, all was safe for the honor of the country. Redress for the outrage at Schlosser had been demanded; interference to release McLeod had been refused; the false application of the laws of war to a state of peace had been scouted. On the 4th day of March, 1841, the national honor was safe; but on that day its degradation commenced. Timing their movements with a calculated precision, the British government transmitted their assumption of the Schlosser outrage, their formal demand for the release of

McLeod, and their threat in the event of refusal, so as to arrive here on the evening of the day on which the new administration received the reins of government. Their assumption, demand, and threat, arrived in Washington on the evening of the 4th day of March, a few hours after the inauguration of the new powers was over. It seemed as if the British had said to themselves: This is the time—our friends are in power—we helped to elect them—now is the time to begin. And begin they did. On the 8th day of March, Mr. Fox delivered to Mr. Webster the formal notification of the assumption, made the demand, and delivered the threat. Then the disgraceful scene began. They reverse the decision of Mr. Van Buren's administration, and determine to interfere in behalf of McLeod, and to extricate him by all means from the New York courts. To mask the ignominy of this interference, they pretend it is to get at a nobler antagonist; and that they are going to act the Romans, in sparing the humble and subduing the proud. It is with Queen Victoria with whom they will deal! McLeod is too humble game for them. McLeod released, the next thing is to get out of the scrape with the Queen; and for that purpose they invent a false reading of the law of nations, and apply the laws of war to a state of peace. The *jus belli*, and not the *jus gentium*, then becomes their resort. And here ends their grand imitation of the Roman character. To assume the laws of war in time of peace, in order to cover a craven retreat, is the nearest approach which they make to war. Then the special minister comes. They accept from him private and verbal explanations, in full satisfaction to themselves of all the outrage at Schlosser: but beg the minister to write them a little apology, which they can show to the people. The minister refuses; and thereupon they assume that they have received it, and proclaim the apology to the world. To finish this scene, to complete the propitiation of the Queen, and to send her minister home with legal and parchment evidence in his hand of our humiliation, the expression of regret for the arrest and detention of McLeod is officiously and gratuitously renewed; the prospect of a like detention of any of her Majesty's subjects in future is pathetically deplored; and, to expedite their delivery from State courts when they again invade our soil, murder our citizens, and burn our vessels, the minister is informed that Congress has been "*called*" upon to pass a law to protect them from these courts. And here "*a most serious fact*" presents itself. Congress has actually obeyed the "*call*"—passed the act—secured her Majesty's subjects in future—and given the legal parchment evidence of his success to her minister before he departs for his home. The infamous act—the habeas corpus against the States—squeamishly called the "*remedial justice act*"—is now on the statute-book; the original polluting our code of law, the copy lying at the footstool of the British Queen. And this is the point we have reached. In the short space of a year and a half, the national character has been run down, from the pinnacle of honor to the abyss of disgrace. I limit myself now to the affair of McLeod and the Caroline alone; and say that, in this business, exclusive of other disgraces, the national character has been brought to the lowest point of contempt. It required the Walpole administration five-and-twenty long years of cowardly submission to France and Spain to complete the degradation of Great Britain: our present rulers have completed the same work for their own country in the short space of eighteen months. And this is the state of our America! that America which Jackson and Van Buren left so proud! that America which, with three millions of people fought and worsted the British empire—with seven millions fought it, and worsted it again—and now, with eighteen millions, truckles to the British Queen, and invents all sorts of propitiatory apologies for her, when the most ample atonement is due to itself. Are we the people of the Revolution?—of the war of 1812?—of the year 1834, when Jackson electrified Europe by threatening the King of France with reprisals!

McLeod is given up because he is too weak; the Queen is excused, because she is too strong; propitiation is lavished where atonement is due; an apology accepted where none was offered; the statute of limitations pleaded against an insult, by the party which received it!

And the miserable performers in all this drama of national degradation expect to be applauded for magnanimity, when the laws of honor and the code of nations, stamp their conduct with the brand of cowardice.

103. British Treaty: Northeastern Boundary Article: Mr. Benton's Speech: Extract

The establishment of the low-land boundary in place of the mountain boundary, and parallel to it. This new line is 110 miles long. It is on this side of the awarded line—not a continuation of it, but a deflection from it; and evidently contrived for the purpose of weakening our boundary, and retiring it further from Quebec. It will be called in history the Webster line. It begins on the awarded line, at a lake in the St. Francis River; breaks off at right angles to the south, passes over the valley of the St. John in a straight line, and equidistant from that river and the mountain, until it reaches the north-west branch of the St. John, when approaching within forbidden distance of Quebec, it deflects to the east; and then holds on its course to the gorge in the mountain at the head of Metjarmette creek. A view of the map will show the character of this new line; the words of the treaty show how cautiously it was guarded; and the want of protocols hides its paternity from our view. The character of the line is apparent; and it requires no military man, or military woman, or military child, to say to whose benefit it enures. A man of any sort—a woman of any kind—a child of any age—can tell that! It is a British line, made for the security of Quebec. Follow its calls on the map, and every eye will see this design.

The surrender of the mountain boundary between the United States and Great Britain on the frontiers of Maine. This is a distinct question from the surrender of territory. The latter belonged to Maine: the former to the United States. They were national, and not State boundaries—established by the war of the Revolution, and not by a State law or an act of Congress; and involving all the considerations which apply to the attack and defence of nations. So far as a State boundary is coterminous with another State, it is a State question, and may be left to the discretion of the States interested: so far as it is coterminous with a foreign power, it is a national question, and belongs to the national authority. A State cannot be permitted to weaken and endanger the nation by dismembering herself in favor of a foreigner; by demolishing a strong frontier, delivering the gates and keys of a country into the hands of a neighboring nation, and giving them roads and passes into the country. The boundaries in question were national, not State; and the consent of Maine, even if given, availed nothing. Her defence belongs to the Union; is to be made by the blood and treasure of the Union; and it was not for her, even if she had been willing, to make this defence more difficult, more costly, and more bloody, by giving up the strong, and substituting the weak line of defence. Near three hundred miles of this strong national frontier have been surrendered by this treaty—being double as much as was given up by the rejected award. The King of the Netherlands, although on the list of British generals, and in the pay of the British Crown, was a man of too much honor to deprive us of the commanding mountain frontier opposite to Quebec; and besides, Jackson would have scouted the award if he had attempted it. The King only gave up the old line to the north of the head of the St. Francis River; and for this he had some reason, as the mountain there subsided into a plain, and the ridge of the highlands (in that part) was difficult to follow: our negotiator gives up the boundary for one hundred and fifty miles on this side the head of the St. Francis, and without pretext; for the mountain ridge was there three thousand feet high. The new part given up, from the head of the St. Francis to Metjarmette portage, is invaluable to Great Britain. It covers her new road to Quebec, removes us further from that city, places a mountain between us, and brings her into Maine. To comprehend the value of this new boundary to Great Britain, and its injury to us, it is only necessary to follow it on a map—to see its form—know its height, the depth of

its gorges, and its rough and rocky sides. The report of Capt. Talcott will show its character—three thousand feet high: any map will show its form. The gorge at the head of the Metjarmette creek—a water of the St. Lawrence—is made the *terminus ad quem* of the new conventional lowland line: beyond that gorge, the mountain barrier is yielded to Great Britain. Now take up a map. Begin at the head of the Metjarmette creek, within a degree and a half of the New Hampshire line—follow the mountain north—see how it bears in upon Quebec—approaching within two marches of that great city, and skirting the St. Lawrence for some hundred miles. All this is given up. One hundred and fifty miles of this boundary is given up on this side the awarded line; and the country left to guess and wonder at the enormity and fatuity of the sacrifice. Look at the new military road from Halifax to Quebec—that part of it which approaches Quebec and lies between the mountain and the St. Lawrence. Even by the awarded line, this road was forced to cross the mountain at or beyond the head of the St. Francis, and then to follow the base of the mountain for near one hundred miles; with all the disadvantages of crossing the spurs and gorges of the mountain, and the creeks and ravines, and commanded in its whole extent by the power on the mountain. See how this is changed by the new boundary! the road permitted to take either side of the mountain—to cross where it pleases—and covered and protected in its whole extent by the mountain heights, now exclusively British. Why this new way, and this security for the road, unless to give the British still greater advantages over us than the awarded boundary gave? A palliation is attempted for it. It is said that the mountain is unfit for cultivation; and the line along it could not be ascertained; and that Maine consented. These are the palliations—insignificant if true, but not true in their essential parts. And, first, as to the poverty of the mountain, and the slip along its base, constituting this area of 893 square miles surrendered on this side the awarded line: Captain Talcott certifies it to be poor, and unfit for cultivation. I say so much the better for a frontier. As to the height of the mountains, and the difficulty of finding the dividing ridge, and the necessity of adopting a conventional line: I say all this has no application to the surrendered boundary on this side the awarded line at the head of the St. Francis. On this side of that point, the mountain ridge is lofty, the heights attain three thousand feet; and navigable rivers rise in them, and flow to the east and to the west—to the St. Lawrence and the Atlantic. Hear Captain Talcott, in his letter to Mr. Webster: (The letter read.)

This letter was evidently obtained for the purpose of depreciating the lost boundary, by showing it to be unfit for cultivation. The note of the Secretary-negotiator which drew it forth is not given, but the answer of Captain Talcott shows its character; and its date (that of the 14th of July) classes it with the testimony which was hunted up to justify a foregone conclusion. The letter of Captain Talcott is good for the Secretary's purpose, and for a great deal more. It is good for the overthrow of all the arguments on which the plea for a conventional boundary stood. What was that plea? Simply, that the highlands in the neighborhood of the north-west corner of Nova Scotia could not be traced; and that it was necessary to substitute a conventional line in their place. And it is the one on which the award of the King of the Netherlands turned, and was, to the extent of a part of his award, a valid one. But it was no reason for the American Secretary to give one hundred and fifty miles of mountain line on this side the awarded line, where the highlands attained three thousand feet of elevation, and turned navigable rivers to the right and left. Lord Ashburton, in his letter of the 13th of June, commences with this idea: that the highlands described in the treaty could not be found, and had been so admitted by American statesmen; and quotes a part of a despatch from Mr. Secretary Madison in 1802 to Mr. Rufus King, then U. S. Minister in London. I quote the whole despatch, and from this it appears—1. That the part at which the treaty could not be executed, for want of finding the highlands, was the *point* to be constituted by the intersection of the due north line from the head of the St. Croix with

the *line* drawn along the highlands. 2. That this *point* might be substituted by a conventional one agreed upon by the three commissioners. 3. That from this *point*, so agreed upon, the *line* was to go to the *highlands*, and to follow them wherever they could be ascertained, to the head of the Connecticut River. This is the clear sense of Mr. Madison's letter and Mr. Jefferson's message; and it is to be very careless to confound this *point* (which they admitted to be dubious, for want of highlands at that place) with the *line* itself, which was to run near 300 miles on the elevations of a mountain reaching 3,000 feet high. The King of the Netherlands took a great liberty with this *point* when he brought it to the St. John's River: our Secretary-negotiator took a far greater liberty with it when he brought it to the head of the Metjarmette creek; for it is only at the head of this creek that our *line* under the new treaty begins to climb the highlands. The King of the Netherlands had some apology for his conventional *point* and conventional *line* to the head of the St. Francis—for the highlands were sunk into table-land where the *point* ought to be, and which was the *terminus a quo* of his conventional line: but our negotiator had no apology at all for turning this conventional line south, and extending it 110 miles through the level lands of Maine, where the mountain highlands were all along in sight to the west. It is impossible to plead the difficulty of finding the highlands for this substitution of the lowland boundary, in the whole distance from the head of the St. Francis, where the King of the Netherlands fixed the commencement of our mountain line, to the head of the Metjarmette, where our Secretary fixed its commencement. Lord Ashburton's quotation from Mr. Madison's letter is partial and incomplete: he quotes what answers his purpose, and is justifiable in so doing. But what must we think of our Secretary-negotiator, who neglected to quote the remainder of that letter, and show that it was a conventional *point*, and not a conventional *line*, that Mr. Jefferson and Mr. Madison proposed? and that this conventional *point* was merely to fix the north-west angle of Nova Scotia, where, in fact, there were no highlands; after which, the line was to proceed to the elevated ground dividing the waters, &c., and then follow the highlands to the head of the Connecticut? Why did our Secretary omit this correction of the British minister's quotation, and thus enable him to use American names against us?

To mitigate the enormity of this barefaced sacrifice, our Secretary-negotiator enters into a description of the soil, and avers it to be unfit for cultivation. What if it were so? It is still rich enough to bear cannon, and to carry the smuggler's cart; and that is the crop Great Britain wishes to plant upon it. Gibraltar and Malta are rocks; yet Great Britain would not exchange them for the deltas of the Nile and of the Ganges. It is not for growing potatoes and cabbages that she has fixed her eye, since the late war, on this slice of Maine; but for trade and war—to consolidate her power on our north-eastern border, and to realize all the advantages which steam power gives to her new military and naval, and commercial station, in Passamaquoddy Bay; and her new route for trade and war through Halifax and Maine to Quebec. She wants it for great military and commercial purposes; and it is pitiful and contemptible in our negotiator to depreciate the sacrifice as being poor land, unfit for cultivation, when power and dominion, not potatoes and cabbages, is the object at stake. But the fact is, that much of this land is good; so that the excuse for surrendering it without compensation is unfounded as well as absurd.

I do not argue the question of title to the territory and boundaries surrendered. That work has been done in the masterly report of the senator from Pennsylvania [Mr. Buchanan], and in the resolve of the Senate, unanimously adopted, which sanctioned it. That report and that resolve were made and adopted in the year 1838—seven years after the award of the King of the Netherlands—and vindicated our title to the whole extent of the disputed territory. After this vindication, it is not for me to argue the question of title. I remit that task to abler and more appropriate hands—to the author of the report of 1838. It will be for him to show the

clearness of our title under the treaty of 1783—how it was submitted to in Mr. Jay's treaty of 1794, in Mr. Liston's correspondence of 1798, in Mr. King's treaty of 1803, in Mr. Monroe's treaty of 1807, and in the conferences at Ghent—where, after the late war had shown the value of a military communication between Quebec and Halifax, a variation of the line was solicited as a favor, by the British commissioners, to establish that communication. It will be for him also to show the progress of the British claim, from the solicited favor of a road, to the assertion of title to half the territory, and all the mountain frontier of Maine; and it will further be for him to show how he is deserted now by those who stood by him then. It will be for him to expose the fatal blunder at Ghent, in leaving our question of title to the arbitration of a European sovereign, instead of confiding the marking of the line to three commissioners, as proposed in all the previous treaties, and agreed to in several of them. To him, also, it will belong to expose the contradiction between rejecting the award for adopting a conventional line, and giving up part of the territory of Maine; and now negotiating a treaty which adopts two conventional lines, gives up all that the award did, and more too, and a mountain frontier besides; and then pays money for Rouse's Point, which came to us without money under the award. It will be for him to do these things. For what purpose? some one will say. I answer, for the purpose of vindicating our honor, our intelligence, and our good faith, in all this affair with Great Britain; for the purpose of showing how we are wronged in character and in rights by this treaty; and for the purpose of preventing similar wrongs and blunders in time to come. Maine may be dismembered, and her boundaries lost, and a great military power established on three sides of her; but the Columbia is yet to be saved? There we have a repetition of the Northeastern comedy of errors on our part, and of groundless pretension on the British part, growing up from a petition for joint possession for fishing and hunting, to an assertion of title and threat of war; this groundless pretension dignified into a claim by the lamentable blunder of the convention of London in 1818. We may save the Columbia by showing the folly, or worse, which has dismembered Maine.

The award of the King of the Netherlands was acceptable to the British, and that award was infinitely better for us; and it was not only accepted by the British, but insisted upon; and its non-execution on our part was made a subject of remonstrance and complaint against us. After this, can any one believe that the "*peace mission*" was sent out to make war upon us if we did not yield up near double as much as she then demanded? No, sir! there is no truth in this cry of war. It is only a phantom conjured up for the occasion. From Jackson and Van Buren the British would gladly have accepted the awarded boundary: the federalists prevented it, and even refused a new negotiation. Now, the same federalists have yielded double as much, and are thanking God that the British condescend to accept it. Such is federalism: and the British well knew their time, and their men, when they selected the present moment to send their special mission; to double their demands; and to use arguments successfully, which would have been indignantly repelled when a Jackson or a Van Buren was at the head of the government—or, rather, would never have been used to such Presidents. The conduct of our Secretary-negotiator is inexplicable. He rejects the award, because it dismembers Maine; votes against new negotiations with England; and announces himself ready to shoulder a musket and march to the highland boundary, and there fight his death for it. This was under Jackson's administration. He now becomes negotiator himself; gives up the highland boundary in the first note; gives up all that was awarded by the King of the Netherlands; gives up 110 miles on this side of that award; gives up the mountain barrier which covered Maine, and commanded the Halifax road to Quebec; gives $500,000 for Rouse's Point, which the King of the Netherland's allotted us as our right.

104. British Treaty: Northwestern Boundary: Mr. Benton's Speech: Extracts

The line from Lake Superior to the Lake of the Woods never was susceptible of a dispute. That from the Lake of the Woods to the head of the Mississippi was disputable, and long disputed; and it will not do to confound these two lines, so different in themselves, and in their political history. The line from Lake Superior was fixed by landmarks as permanent and notorious as the great features of nature herself—the Isle Royale, in the northwest of Lake Superior, and the chain of small lakes and rivers which led from the north of that isle to the Lake of the Woods. Such were the precise calls of the treaty of 1783, and no room for dispute existed about it. The Isle Royale was a landmark in the calls of the treaty, and a great and distinguished one it was—a large rocky island in Lake Superior, far to the northwest, a hundred miles from the southern shore; uninhabitable, and almost inaccessible to the Indians in their canoes; and for that reason believed by them to be the residence of the Great Spirit, and called in their language, *Menong*. This isle was as notorious as the lake itself, and was made a landmark in the treaty of 1783, and the boundary line directed to go to the north of it, and then to follow the chain of small lakes and rivers called "Long Lake," which constituted the line of water communication between Lake Superior and the Lake of the Woods, a communication which the Indians had followed beyond the reach of tradition, which was the highway of nations, and which all travellers and traders have followed since its existence became known to our first discoverers. A line through the Lake Superior, from its eastern outlet to the northward of the Isle Royale, leads direct to this communication; and the line described was evidently so described for the purpose of going to that precise communication. The terms of the call are peculiar. Through every lake and every water-course, from Lake Ontario to the Lake Huron, the language of the treaty is the same: the line is to follow the *middle* of the lake. Through every river it is the same: the *middle* of the main channel is to be followed. On entering Lake Superior, this language changes. It is no longer the *middle* of the lake that is to constitute the boundary, but a line through the lake to the "northward" of Isle Royale—a boundary which, so far from dividing the lake equally, leaves almost two-thirds of it on the American side. The words of the treaty are these:

"Thence through Lake Superior, northward of the isles Royale and Philippeaux, to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the Lake of the Woods," &c.

These are the words of the call; and this variation of language, and this different mode of dividing the lake, were for the obvious purpose of taking the shortest course to the Long Lake, or Pigeon River, which led to the Lake of the Woods. The communication through these little lakes and rivers was evidently the object aimed at; and the call to the north of Isle Royale was for the purpose of getting to that object. The island itself was nothing, except as a landmark. Though large (for it is near one hundred miles in circumference), it has no value, neither for agriculture, commerce, nor war. It is sterile, inaccessible, remote from shore; and fit for nothing but the use to which the Indians consigned it—the fabulous residence of a fabulous deity. Nobody wants it—neither Indians nor white people. It was assigned to the United States in the treaty of 1783, not as a possession, but as a landmark, and because the shortest line through the lake, to the well-known route which led to the Lake of the Woods, passed to the north of that isle. All this is evident from the maps, and all the maps are here the same; for these features of nature are so well defined that there has never been the least dispute about them. The commissioners under the Ghent treaty (Gen. Porter for the United

States, and Mr. Barclay for Great Britain), though disagreeing about several things, had no disagreement about Isle Royale, and the passage of the line to the north of that isle. In their separate reports, they agreed upon this; and this settled the whole question. After going to the north of Isle Royale, to get out of the lake at a known place, it would be absurd to turn two hundred miles south, to get out of it at an unknown place. The agreement upon Isle Royale settled the line to the Lake of the Woods, as it was, and as it is: but it so happened that, in the year 1790, the English traveller and fur-trader Mr. (afterwards Sir Alexander) McKenzie, in his voyage to the Northwest, travelled up this line of water communication, saw the advantages of its exclusive possession by the British; and proposed in his "History of the Fur Trade," to obtain it by turning the line down from Isle Royale, near two hundred miles, to St. Louis River in the southwest corner of the lake. The Earl of Selkirk, at the head of the Hudson's Bay Company, repeated the suggestion; and the British government, for ever attentive to the interests of its subjects, set up a claim, through the Ghent commissioners, to the St. Louis River as the boundary. Mr. Barclay made the question, but too faintly to obtain even a reference to the arbitrator; and Lord Ashburton had too much candor and honor to revive it. He set up no pretension to the St. Louis River, as claimed by the Ghent commissioners: he presented the Pigeon River as the "long lake" of the treaty of 1783, and only asked for a point six miles south of that river; and he obtained all he asked. His letter of the 17th of July is explicit on this point. He says:

"In considering the second point, it really appears of little importance to either party how the line be determined through the wild country between Lake Superior and the Lake of the Woods, but it is important that some line should be fixed and known. I would propose that the line be taken from a point about six miles south of Pigeon River, where the Grand Portage commences on the lake, and continued along the line of the said portage, alternately by land and water, to Lac la Pluie—the existing route by land and by water remaining common by both parties. This line has the advantage of being known, and attended with no doubt or uncertainty in running it."

These are his Lordship's words: Pigeon River, instead of St. Louis River! making no pretension to the four millions of acres of fine mineral land supposed to have been saved between these two rivers; and not even alluding to the absurd pretension of the Ghent commissioner! After this, what are we to think of the candor and veracity of an official paper, which would make a merit of having saved four millions of acres of fine mineral land, "northward of the claim set up by the British commissioner under the Ghent treaty?" What must we think of the candor of a paper which boasts of having "included this within the United States," when it was never out of the United States? If there is any merit in the case, it is in Lord Ashburton—in his not having claimed the 200 miles between Pigeon River and St. Louis River. What he claimed, he got; and that was the southern line, commencing six miles south of Pigeon River, and running south of the true line to Rainy Lake. He got this; making a difference of some hundreds of thousands of acres, and giving to the British the exclusive possession of the best route; and a joint possession of the one which is made the boundary. To understand the value of this concession, it must be known that there are two lines of communication from the Lake Superior to the Lake of the Woods, both beginning at or near the mouth of Pigeon River; that these lines are the channels of trade and travelling, both for Indians, and the fur-traders; that they are water communications; and that it was a great point with the British, in their trade and intercourse with the Indians, to have the exclusive dominion of the best communication, and a joint possession with us of the other. This is what Lord Ashburton claimed—what the treaty gave him—and what our Secretary-negotiator became his agent and solicitor to obtain for him. I quote the Secretary's letter of the 25th of July to Mr. James Ferguson, and the answers of Mr. Ferguson of the same date, and also the

letter of Mr. Joseph Delafield, of the 20th of July, for the truth of what I say. From these letters, it will be seen that our Secretary put himself to the trouble to hunt testimony to justify his surrender of the northern route to the British; that he put leading questions to his witnesses, to get the information which he wanted; and that he sought to cover the sacrifice, by depreciating the agricultural value of the land, and treating the difference between the lines as a thing of no importance. Here is the letter. I read an extract from it:

"What is the general nature of the country between the mouth of Pigeon River and the Rainy Lake? Of what formation is it, and how is its surface? and will any considerable part of its area be fit for cultivation? Are its waters active and running streams, as in other parts of the United States? Or are they dead lakes, swamps, and morasses? If the latter be their general character, at what point, as you proceed westward, do the waters receive a more decided character as running streams?

"There are said to be two lines of communication, each partly by water and partly by portages, from the neighborhood of Pigeon River to the Rainy Lake: one by way of Fowl Lake, the Saganaga Lake, and the Cypress Lake; the other by way of Arrow River and Lake; then by way of Saganaga Lake, and through the river Maligne, meeting the other route at Lake la Croix, and through the river Namekan to the Rainy Lake. Do you know any reason for attaching great preference to either of these two lines? Or do you consider it of no importance, in any point of view, which may be agreed to? Please be full and particular on these several points."

Here are leading questions, such as the rules of evidence forbid to be put to any witness, and the answers to which would be suppressed by the order of any court in England or America. They are called "leading," because they *lead* the witness to the answer which the lawyer wants; and thereby tend to the perversion of justice. The witnesses are here led to two points: first, that the country between the two routes or lines is worth nothing for agriculture; secondly, that it is of no importance to the United States which of the two lines is established for the boundary. Thus led to the desired points, the witnesses answer. Mr. Ferguson says:

"As an agricultural district, this region will always be valueless. The pine timber is of high growth, equal for spars, perhaps, to the Norway pine, and may, perhaps, in time, find a market; but there are no alluvions, no arable lands, and the whole country may be described as one waste of rock and water.

"You have desired me also to express an opinion as to any preference which I may know to exist between the several lines claimed as boundaries through this country, between the United States and Great Britain.

"Considering that Great Britain abandons her claim by the Fond du Lac and the St. Louis River; cedes also Sugar Island (otherwise called St. George's Island) in the St. Marie River; and agrees, generally, to a boundary following the old commercial route, commencing at the Pigeon River, I do not think that any reasonable ground exists to prevent a final determination of this part of the boundary."

And Mr. Delafield adds:

"As an agricultural district, it has no value or interest, even prospectively, in my opinion. If the climate were suitable (which it is not), I can only say that I never saw, in my explorations there, tillable land enough to sustain any permanent population sufficiently numerous to justify other settlements than those of the fur-traders; and, I might add, fishermen. The fur-traders there occupied nearly all those places; and the opinion now expressed is the only one I ever heard entertained by those most experienced in these northwestern regions.

“There is, nevertheless, much interest felt by the fur-traders on this subject of boundary. To them, it is of much importance, as they conceive; and it is, in fact, of national importance. Had the British commissioner consented to proceed by the Pigeon River (which is the Long Lake of Mitchell’s map), it is probable there would have been an agreement. There were several reasons for his pertinacity, and for this disagreement; which belong, however, to the private history of the commission, and can be stated when required. The Pigeon River is a continuous water-course. The St. George’s Island, in the St. Marie River, is a valuable island, and worth as much, perhaps, as most of the country between the Pigeon River and Dog River route, claimed for the United States, in an agricultural sense.”

These are the answers; and while they are conclusive upon the agricultural character of the country between the two routes, and present it as of no value; yet, on the relative importance of the routes as boundaries, they refuse to follow the *lead* which the question held out to them, and show that, as commercial routes, and, consequently, as commanding the Indians and their trade, a question of national importance is involved. Mr. Delafield says the fur-traders feel much interest in this boundary: to them, it is of much importance; and it is, in fact, of national importance. These are the words of Mr. Delafield; and they show the reason why Lord Ashburton was so tenacious of this change in the boundary. He wanted it for the benefit of the fur-trade, and for the consequent command which it would give the British over the Indians in time of war. All this is apparent; yet our Secretary would only look at it as a corn and potato region! And finding it not good for that purpose, he surrenders it to the British! Both the witnesses look upon it as a sacrifice on the part of the United States, and suppose some equivalent in other parts of the boundary was received for it. There was no such equivalent: and thus this surrender becomes a gratuitous sacrifice on the part of the United States, aggravated by the condescension of the American Secretary to act as the attorney of the British minister, and seeking testimony by unfair and illegal questions; and then disregarding the part of the answers which made against his design.

105. British Treaty: Extradition Article: Mr. Benton's Speech: Extract

I proceed to the third subject and last article in the treaty—the article which stipulates for the mutual surrender of fugitive criminals. And here again we are at fault for these same protocols. Not one word is found in the correspondence upon this subject, the brief note excepted of Lord Ashburton of the 9th of August—the day of the signature of the treaty—to say that its ratification would require the consent of the British parliament, and would necessarily be delayed until the parliament met. Except this note, not a word is found upon the subject; and this gives no light upon its origin, progress, and formation—nothing to show with whom it originated—what necessity for it in this advanced age of civilization, when the comity of nations delivers up fugitive offenders upon all proper occasions—and when explanations upon each head of offences, and each class of fugitives, is so indispensable to the right understanding and the safe execution of the treaty. Total and black darkness on all these points. Nor is any ray of light found in the President's brief paragraphs in relation to it. Those paragraphs (the work of his Secretary, of course) are limited to the commendation of the article, and are insidiously deceptive, as I shall show at the proper time. It tells us nothing that we want to know upon the origin and design of the article, and how far it applies to the largest class of fugitive offenders from the United States—the slaves who escape with their master's property, or after taking his life—into Canada and the British West Indies. The message is as silent as the correspondence on all these points; and it is only from looking into past history, and contemporaneous circumstances, that we can search for the origin and design of this stipulation, so unnecessary in the present state of international courtesy, and so useless, unless something unusual and extraordinary is intended. Looking into these sources, and we are authorized to refer the origin and design of the stipulation to the British minister, and to consider it as one of the objects of the special mission with which we have been honored. Be this as it may, I do not like the article. Though fair upon its face, it is difficult of execution. As a general proposition, atrocious offenders, and especially between neighboring nations, ought to be given up; but that is better done as an affair of consent and discretion, than under the constraints and embarrassments of a treaty obligation. Political offenders ought not to be given up; but under the stern requisitions of a treaty obligation, and the benefit of an *ex parte* accusation, political offenders may be given up for murder, or other crimes, real or pretended; and then dealt with as their government pleases. Innocent persons should not be harassed with groundless accusations; and there is no limit to these vexations, if all emigrants are placed at the mercy of malevolent informers, subjected to arrest in a new and strange land, examined upon *ex parte* testimony, and sent back for trial if a probable case is made out against them.

This is a subject long since considered in our country, and on which we have the benefit both of wise opinions and of some experience. Mr. Jefferson explored the whole subject when he was Secretary of State under President Washington, and came to the conclusion that these surrenders could only be made under three limitations:—1. Between coterminous countries. 2. For high offences. 3. A special provision against political offenders. Under these limitations, as far back as the year 1793, Mr. Jefferson proposed to Great Britain and Spain (the only countries with which we held coterminous dominions, and only for their adjacent provinces) a mutual delivery of fugitive criminals. His proposition was in these words:

"Any person having committed murder of malice prepense, not of the nature of treason, or forgery, within the United States or the Spanish provinces *adjoining* thereto, and fleeing from

the justice of the country, shall be delivered up by the government where he shall be found, to that from which he fled, whenever demanded by the same."

This was the proposition of that great statesman: and how different from those which we find in this treaty! Instead of being confined to coterminous dominions, the jurisdiction of the country is taken for the theatre of the crime; and that includes, on the part of Great Britain, possessions all over the world, and every ship on every sea that sails under her flag. Instead of being confined to two offences of high degree—murder and forgery—one against life, the other against property—this article extends to seven offences; some of which may be incurred for a shilling's worth of property, and another of them without touching or injuring a human being. Instead of a special provision in favor of political offenders, the insurgent or rebel may be given up for murder, and then hanged and quartered for treason; and in the long catalogue of seven offences, a charge may be made, and an *ex parte* case established, against any political offender which the British government shall choose to pursue.

To palliate this article, and render it more acceptable to us, we are informed that it is copied from the 27th article of Mr. Jay's treaty. That apology for it, even if exactly true, would be but a poor recommendation of it to the people of the United States. Mr. Jay's treaty was no favorite with the American people, and especially with that part of the people which constituted the republican party. Least of all was this 27th article a favorite with them. It was under that article that the famous Jonathan Robbins, alias Thomas Nash, was surrendered—a surrender which contributed largely to the defeat of Mr. Adams, and the overthrow of the federal party, in 1800. The apology would be poor, if true: but it happens to be not exactly true. The article in the Webster treaty differs widely from the one in Jay's treaty—and all for the worse. The imitation is far worse than the original—about as much worse as modern whiggery is worse than ancient federalism. Here are the two articles; let us compare them:

Mr. Webster's Treaty.

"*Article 10.*—It is agreed that the United States and her Britannic Majesty shall, upon mutual requisitions by them, or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged papers committed within the jurisdiction of either, shall seek an asylum, or shall be found, within the territories of the other: provided, that this shall only be done, upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed; and the respective judges and other magistrates shall have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, that he may be brought before such judges, or other magistrates, respectively, to the end that the evidence of criminality may be heard and considered; and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge, or magistrate, to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition, and receives the fugitive."

Mr. Jay's Treaty.

"*Article 27.*—It is further agreed that his Majesty and the United States, on mutual requisitions by them, respectively, or by their respective ministers, or officers, authorized to make the same, will deliver up to justice all persons who, being charged with murder, or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the

countries of the other: provided, that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive."

These are the two articles, and the difference between them is great and striking. First, the number of offences for which delivery of the offender is to be made, is much greater in the present treaty. Mr. Jay's article is limited to two offences—murder and forgery: the two proposed by Mr. Jefferson; but without his qualification to exclude political offences, and to confine the deliveries to offenders from coterminous dominions. The present treaty embraces these two, and five others, making seven in the whole. The five added offences are—assault, with intent to commit murder; piracy; robbery; arson; and the utterance of forged paper. These additional five offences, though high in name, might be very small in degree. Assault, with intent to murder, might be without touching or hurting any person; for, to lift a weapon at a person within striking distance, without striking, is an assault: to level a fire-arm at a person within carrying distance, and without firing, is an assault; and the offence being in the intent, is difficult of proof. Mr. Jefferson excluded it, and so did Jay's treaty; because the offence was too small and too equivocal to be made a matter of international arrangement. Piracy was excluded, because it was absurd to speak of a pirate's country. He has no country. He is *hostis humani generis*—the enemy of the human race; and is hung wherever he is caught. The robbery might be of a shilling's worth of bread; the arson, of burning a straw shed; the utterance of forged paper, might be the emission or passing of a counterfeit sixpence. All these were excluded from Jay's treaty, because of their possible insignificance, and the door they opened to abuse in harassing the innocent, and in multiplying the chances for getting hold of a political offender for some other offence, and then punishing him for his politics.

Striking as these differences are between the present article and that of Mr. Jay's treaty, there is a still more essential difference in another part; and a difference which nullifies the article in its only material bearing in our favor. It is this: Mr. Jay's treaty referred the delivery of the fugitive to the executive power. This treaty intervenes the judiciary, and requires two decisions from a judge or magistrate before the governor can act. This nullifies the treaty in all that relates to fugitive slaves guilty of crimes against their masters. In the eye of the British law, they have no master, and can commit no offence against such a person in asserting their liberty against him, even unto death. A slave may kill his master, if necessary to his escape. This is legal under British law; and, in the present state of abolition feeling throughout the British dominions, such killing would not only be considered fair, but in the highest degree meritorious and laudable. What chance for the recovery of such a slave under this treaty? Read it—the concluding part—after the word "committed," and see what is the process to be gone through. Complaint is to be made to a British judge or justice. The fugitive is brought before this judge or justice, that the evidence of the criminality may be heard and considered—such evidence as would justify the apprehension, commitment, and trial of the party, if the offence had been committed there. If, upon this hearing, the evidence be deemed sufficient to sustain the charge, the judge or magistrate is to certify the fact to the executive authority; and then, and not until then, the surrender can be made. This is the process; and in all this the new treaty differs from Jay's. Under his treaty the delivery was a ministerial act, referring itself to the authority of the governor: under this treaty, it becomes a judicial act, referring itself to the discretion of the judge, who must twice decide against the slave (first, in issuing the warrant; and next, in trying it) before the governor can order the surrender. Twice judicial discretion interposes a barrier, which cannot be forced; and behind which the slave,

who has robbed or killed his master, may repose in safety. What evidence of criminality will satisfy the judge, when the act itself is no crime in his eyes, or under his laws, and when all his sympathies are on the side of the slave? What chance would there be for the judicial surrender of offending slaves in the British dominions, under this treaty, when the provisions of our own constitution, within the States of our own Union, in relation to fugitive slaves, cannot be executed? We all know that a judicial trial is immunity to a slave pursued by his owner, in many of our own States. Can such trials be expected to result better for the owner in the British dominions, where the relation of master and slave is not admitted, and where abolitionism is the policy of the government, the voice of the law, and the spirit of the people? Killing his master in defence of his liberty, is no offence in the eye of British law or British people; and no slave will ever be given up for it.

(Mr. Wright here said, that counterfeiting American securities, or bank notes, was no offence in Canada; and the same question might arise there in relation to forgers.)

Mr. Benton resumed. Better far to leave things as they are. Forgers are now given up in Canada, by executive authority, when they fly to that province. This is done in the spirit of good neighborhood; and because all honest governments have an interest in suppressing crimes, and repelling criminals. The governor acts from a sense of propriety, and the dictates of decency and justice. Not so with the judge. He must go by the law; and when there is no law against the offence, he has nothing to justify him in delivering the offender.

Conventions for the mutual surrender of large offenders, where dominions are coterminous, might be proper. Limited, as proposed by Mr. Jefferson in 1793, and they might be beneficial in suppression of border crimes and the preservation of order and justice. But extended as this is to a long list of offenders—unrestricted as it is in the case of murder—applying to dominions in all parts of the world, and to ships in every sea—it can be nothing but the source of individual annoyance and national recrimination. Besides, if we surrender to Great Britain, why not to Russia, Prussia, Austria, France, and all the countries of the world? If we give up the Irishman to England, why not the Pole to Russia, the Italian to Austria, the German to his prince; and so on throughout the catalogue of nations? Sir, the article is a pestiferous one; and as it is determinable upon notice, it will become the duty of the American people to elect a President who will give the notice, and so put an end to its existence.

Addressing itself to the natural feelings of the country, against high crimes and border offenders, and in favor of political liberty, the message of the President communicating and recommending this treaty to us, carefully presents this article as conforming to our feelings in all these particulars. It is represented as applicable only to high crimes—to border offenders; and to offences not political. In all this, the message is disingenuous and deceptive, and calculated to ravish from the ignorant and the thoughtless an applause to which the treaty is not entitled. It says:

“The surrender to justice of persons who, having committed high crimes, seek an asylum in the territories of a *neighboring* nation, would seem to be an act due to the cause of general justice, and properly belonging to the present state of civilization and intercourse. The *British provinces* of North America are separated from the States of the Union by a line of several thousand miles; and, along portions of this line, the amount of population on either side is quite considerable, *while the passage of the boundary is always easy*.

“Offenders against the law *on the one side transfer themselves to the other*. Sometimes, with great difficulty they are brought to justice; but very often they wholly escape. A consciousness of immunity, from the power of avoiding justice in this way, instigates the

unprincipled and reckless to the commission of offences; *and the peace and good neighborhood of the border are consequently often disturbed*.

"In the case of offenders fleeing from Canada into the United States, the governors of States are often applied to for their surrender; and questions of a very embarrassing nature arise from these applications. It has been thought highly important, therefore, to provide for the whole case by a proper treaty stipulation. The article on the subject, in the proposed treaty, is carefully confined to such offences as all mankind agree to regard as heinous and destructive of the security of life and of property. In this careful and specific enumeration of crimes, the object has been to exclude all political offences, or criminal charges arising from wars or intestine commotions. Treason, misprision of treason, libels, desertion from military service, and other offences of a similar character, are excluded."

In these phrases the message recommends the article to the Senate and the country; and yet nothing could be more fallacious and deceptive than such a recommendation. It confines the surrender to border offenders—Canadian fugitives: yet the treaty extends it to all persons committing offences under the "*jurisdiction*" of Great Britain—a term which includes all her territory throughout the world, and every ship or fort over which her flag waves. The message confines the surrender to high crimes: yet we have seen that the treaty includes crimes which may be of low degree—low indeed! A hare or a partridge from a preserve; a loaf of bread to sustain life; a sixpenny counterfeit note passed; a shed burnt; a weapon lifted, without striking! The message says all political crimes, all treasons, misprision of treason, libels, and desertions are excluded. The treaty shows that these offences are not excluded—that the limitations proposed by Mr. Jefferson are not inserted; and, consequently, under the head of murder, the insurgent, the rebel, and the traitor who has shed blood, may be given up; and so of other offences. When once surrendered, he may be tried for any thing. The fate of Jonathan Robbins, alias Nash, is a good illustration of all this. He was a British sailor—was guilty of mutiny, murder, and piracy on the frigate Hermione—deserted to the United States—was demanded by the British minister as a murderer under Jay's treaty—given up as a murderer—then tried by a court-martial on board a man-of-war for mutiny, murder, desertion, and piracy—found guilty—executed—and his body hung in chains from the yard-arm of a man-of-war. And so it would be again. The man given up for one offence, would be tried for another; and in the number and insignificance of the offences for which he might be surrendered, there would be no difficulty in reaching any victim that a foreign government chose to pursue. If this article had been in force in the time of the Irish rebellion, and Lord Edward Fitzgerald had escaped to the United States after wounding, as he did, several of the myrmidons who arrested him, he might have been demanded as a fugitive from justice, for the assault with intent to kill; and then tried for treason, and hanged and quartered; and such will be the operation of the article if it continues.

106. British Treaty; African Squadron For The Suppression Of The Slave Trade; Mr. Benton's Speech; Extract

The suppression of the African slave-trade is the second subject included in the treaty; and here the regret renews itself at the absence of all the customary lights upon the origin and progress of treaty stipulations. No minutes of conference; no protocols; no draughts or counterdraughts; no diplomatic notes; not a word of any kind from one negotiator to the other. Nothing in relation to the subject, in the shape of negotiation, is communicated to us. Even the section of the correspondence entitled "*Suppression of the slave-trade*"—even this section professedly devoted to the subject, contains not a syllable upon it from the negotiators to each other, or to their Governments; but opens and closes with communications from American naval officers, evidently extracted from them by the American negotiator, to justify the forthcoming of preconceived and foregone conclusions. Never since the art of writing was invented could there have been a treaty of such magnitude negotiated with such total absence of necessary light upon the history of its formation. Lamentable as is this defect of light upon the formation of the treaty generally, it becomes particularly so at this point, where a stipulation new, delicate, and embarrassing, has been unexpectedly introduced, and falls upon us as abruptly as if it fell from the clouds. In the absence of all appropriate information from the negotiators themselves, I am driven to glean among the scanty paragraphs of the President's message, and in the answers of the naval officers to the Secretary's inquiries. Though silent as to the origin and progress of the proposition for this novel alliance, they still show the important particular of the motives which caused it.

Passing from the political consequences of this entanglement—consequences which no human foresight can reach—I come to the immediate and practical effects which lie within our view, and which display the enormous inexpediency of the measure. First: the expense in money—an item which would seem to be entitled to some regard in the present deplorable state of the treasury—in the present cry for retrenchment—and in the present heavy taxation upon the comforts and necessaries of life. This expense for 80 guns will be about $750,000 per annum, exclusive of repairs and loss of lives. I speak of the whole expense, as part of the naval establishment of the United States, and not of the mere expense of working the ships after they have gone to sea. Nine thousand dollars per gun is about the expense of the establishment; 80 guns would be $720,000 per annum, which is $3,600,000 for five years. But the squadron is not limited to a maximum of 80 guns; that is the minimum limit: it is to be 80 guns "at the least." And if the party which granted these 80 shall continue in power, Great Britain may find it as easy to double the number, as it was to obtain the first eighty. Nor is the time limited to five years; it is only determinable after that period by giving notice; a notice not to be expected from those who made the treaty. At the least, then, the moneyed expense is to be $3,600,000; if the present party continues in power, it may double or treble that amount; and this, besides the cost of the ships. Such is the moneyed expense. In ships, the wear and tear of vessels must be great. We are to prepare, equip, and maintain in service, on a coast 4,000 miles from home, the adequate number of vessels to carry these 80 guns. It is not sufficient to send the number there; they must be kept up and maintained in service there; and this will require constant expenses to repair injuries, supply losses and cover casualties. In the employment of men, and the waste of life and health, the expenditure must be large. Ten men and two officers to the gun, is the smallest estimate that can be admitted.

This would require a complement of 960 men. Including all the necessary equipage of the ship, and above 1,000 persons will be constantly required. These are to be employed at a vast distance from home; on a savage coast; in a perilous service; on both sides of the equator; and in a climate which is death to the white race. This waste of men—this wear and tear of life and constitution—should stand for something in a Christian land, and in this age of roaming philanthropy; unless, indeed, in excessive love for the blacks, it is deemed meritorious to destroy the whites. The field of operations for this squadron is great; the term "coast of Africa" having an immense application in the vocabulary of the slave-trade. On the western coast of Africa, according to the replies of the naval officers Bell and Paine, the trade is carried on from Senegal to Cape Frio—a distance of 3,600 miles, following its windings as the watching squadrons would have to go. But the track of the slavers between Africa and America has to be watched, as well as the immediate coast; and this embraces a space in the ocean of 35 degrees on each side of the equator (say four thousand miles), and covering the American coast from Cuba to Rio Janeiro; so that the coast of Africa—the western coast alone—embraces a diagram of the ocean of near 4,000 miles every way, having the equator in the centre, and bounded east and west by the New and the Old World. This is for the western coast only: the eastern is nearly as large. The same naval officers say that a large trade in negroes is carried on in the Mahometan countries bordering on the Red Sea and the Persian Gulf, and in the Portuguese East India colonies; and, what is worthy to be told, it is also carried on in the British presidency of Bombay, and other British Asiatic possessions. It is true, the officers say the American slavers are not yet there; but go there they will, according to all the laws of trading and hunting, the moment they are disturbed, or the trade fails on the western coast. Wherever the trade exists, the combined powers must follow it: for good is not to be done by halves, and philanthropy is not to be circumscribed by coasts and latitudes. Among all the strange features in the comedy of errors which has ended in this treaty that of sending American ministers abroad, to close the markets of the world against the slave-trade, is the most striking. Not content with the expenses, loss of life, and political entanglement of this alliance, we must electioneer for insults, and send ministers abroad to receive, pocket, and bring them home.

In what circumstances do we undertake all this fine work? What is our condition at home, while thus going abroad in search of employment? We raise 1,000 men for foreign service, while reducing our little army at home! We send ships to the coast of Africa, while dismounting our dragoons on the frontiers of Missouri and Arkansas! We protect Africa from slave-dealers, and abandon Florida to savage butchery! We send cannon, shot, shells, powder, lead, bombs, and balls, to Africa, while denying arms and ammunition to the young men who go to Florida! We give food, clothes, pay, to the men who go to Africa, and deny rations even to those who go to Florida! We cry out for retrenchment, and scatter $3,600,000 at one broad cast of the hand! We tax tea and coffee, and send the money to Africa! We are borrowing and taxing, and striking paper money, and reducing expenses at home, when engaging in this new and vast expense for the defence of Africa! What madness and folly! Has Don Quixote come to life, and placed himself at the head of our Government, and taken the negroes of Africa, instead of the damsels of Spain, for the objects of his chivalrous protection?

The slave-trade is diabolical and infamous; but Great Britain is not the country to read us a lesson upon its atrocity, or to stimulate our exertions to suppress it. The nation which, at the peace of Utrecht, made the *asiento*—the slave contract—a condition of peace, fighting on till she obtained it; the nation which entailed African slavery upon us—which rejected our colonial statutes for its suppression[15]—which has many, many ten millions, of white

[15] He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another

subjects in Europe and in Asia in greater slavery of body and mind, in more bodily misery and mental darkness, than any black slaves in the United States;—such a nation has no right to cajole or to dragoon us into alliances and expenses for the suppression of slavery on the coast of Africa. We have done our part on that subject. Considering the example and instruction we had from Great Britain, we have done a wonderful part. The constitution of the United States, mainly made by slaveholding States, authorized Congress to put an end to the importation of slaves by a given day. Anticipating the limited day by legislative action, the Congress had the law ready to take effect on the day permitted by the constitution. On the 1st day of January, 1808, Thomas Jefferson being President of the United States, the importation of slaves became unlawful and criminal. A subsequent act of Congress following up the idea of Mr. Jefferson in his first draught of the Declaration of Independence, qualified the crime as piratical, and delivered up its pursuers to the sword of the law, and to the vengeance of the world, as the enemies of the human race. Vessels of war cruising on the coast of Africa, under our act of 1819, have been directed to search our own vessels—to arrest the violators of the law, and bring them in—the ships for confiscation, and the men for punishment. This was doing enough—enough for a young country, far remote in the New World, and whose policy is to avoid foreign connections and entangling alliances. We did this voluntarily, without instigation, and without supervision from abroad; and now there can be no necessity for Great Britain to assume a superiority over us in this particular, and bind us in treaty stipulations, which destroy all the merit of a voluntary action. We have done enough; and it is no part of our business to exalt still higher the fanatical spirit of abolition, which is now become the stalking-horse of nations and of political powers. Our country contains many slaves, derived from Africa; and, while holding these, it is neither politic nor decent to join the crusade of European powers to put down the African slave-trade. From combinations of powers against the present slave-takers, there is but a step to the combination of the same powers against the present slaveholders; and it is not for the United States to join in the first movement, which leads to the second. “No entangling alliances” should be her motto! And as for her part in preventing the foreign slave-trade, it is sufficient that she prevents her own citizens, in her own way, from engaging in it; and that she takes care to become neither the instrument, nor the victim, of European combinations for its suppression.

The eighth and ninth articles of the treaty bind us to this naval alliance with Great Britain. By these articles we stipulate to keep a squadron of at least 80 guns on the coast of Africa for five years for the suppression of this trade—with a further stipulation to keep it up until one or the other party shall give notice of a design to retire from it. This is the insidious way of getting an onerous measure saddled upon the country. Short-sighted people are fascinated with the idea of being able to get rid of the burden when they please; but such burdens are always found to be the most interminable. In this case Great Britain will never give the notice: our government will not without a congressional recommendation, and it will be found difficult to unite the two Houses in a request. The stipulation may be considered permanent under the delusion of a five years’ limit, and an optional continuance.

hemisphere, or to incur miserable death in their transportation thither. This piratical warfare—the opprobrium of *infidel* powers—is the warfare of the Christian king of Great Britain, determined to keep open a market where *men* should be bought and sold. He has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce; and, that this assemblage of horrors might want no fact of distinguished dye, he is now exciting the very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he has obtruded them; thus paying off former crimes committed against the *liberties* of one people, with crimes which he urges them to commit against the *lives* of another.—[*Original draught of the Declaration of Independence, as drawn by Mr. Jefferson, and before it was altered by the committee.*]

The papers communicated do not show at whose instance these articles were inserted; and the absence of all minutes of conferences leaves us at a loss to trace their origin and progress in the hands of the negotiators. The little that is seen would indicate its origin to be wholly American; evidence *aliunde* proves it to be wholly British; and that our Secretary-negotiator was only doing the work of the British minister in assuming the ostensible paternity of the articles. In the papers communicated, there is not a syllable upon the subject from Lord Ashburton. His finger is not seen in the affair. Mr. Webster appears as sole mover and conductor of the proposition. In his letter of the 30th of April to Captains Bell and Paine of the United States navy, he first approaches the subject, and opens it with a series of questions on the African slave-trade. This draws forth the answers which I have already shown. This is the commencement of the business. And here we are struck with the curious fact, that this letter of inquiry, laying the foundation for a novel and extraordinary article in the treaty, bears date 44 days before the first written communication from the British to the American negotiator! and 47 days before the first written communication from Mr. Webster to Lord Ashburton! It would seem that much was done by word of mouth before pen was put to paper; and that in this most essential part of the negotiations, pen was not put to paper at all, from one negotiator to the other, throughout the whole affair. Lord Ashburton's name is never found in connection with the subject! Mr. Webster's only in the notes of inquiry to the American naval officers. Even in these he does not mention the treaty, nor allude to the negotiation, nor indicate the purpose for which information was sought! So that this most extraordinary article is without a clew to its history, and stands in the treaty as if it had fallen from the clouds, and chanced to lodge there! Even the President's message, which undertakes to account for the article, and to justify it, is silent on the point, though laboring through a mass of ambiguities and obscurities, evidently calculated to raise the inference that it originated with us. From the papers communicated, it is an American proposition, of which the British negotiator knew nothing until he signed the treaty. That is the first place where his name is seen in conjunction with it, or seen in a place to authorize the belief that he knew of it. Yet, it is certainly a British proposition; it is certainly a British article. Since the year 1806 Great Britain has been endeavoring to get the United States into some sort of arrangement for co-operation in the suppression of the African slave-trade. It was slightly attempted in Mr. Jefferson's time—again at Ghent; but the warning-voice of the Father of his country—*no entangling alliances*—saved us on each occasion. Now we are yoked—yoked in with the British on the coast of Africa; and when we can get free from it, no mortal can foresee.

107. Expense Of The Navy: Waste Of Money Necessity Of A Naval Peace Establishment, And Of A Naval Policy

The naval policy of the United States was a question of party division from the origin of parties in the early years of the government—the federal party favoring a strong and splendid navy, the republican a moderate establishment, adapted to the purposes of defence more than of offence: and this line of division between the parties (under whatsoever names they have since worn), continues more or less perceptible to the present time. In this time (the administration of Mr. Tyler) all the branches being of the same political party, and retaining the early principles of the party under the name of whig, the policy for a great navy developed itself with great vigor. The new Secretary, Mr. Upshur, recommended a large increase of ships, seamen, and officers, involving an additional expense of about two millions and a half in the naval branch of the service; and that at a time when a deficit of fourteen millions was announced, and a resort to taxes, loans and treasury notes recommended to make it up; and when no emergency required increase in that branch of the public service. Such a recommendation brought on a debate in which the policy of a great navy was discussed—the necessity of a naval peace establishment was urged—the cost of our establishment examined—and the waste of money in the naval department severely exposed. Mr. Calhoun, always attentive to the economical working of the government, opened the discussion on this interesting point.

“The aggregate expense of the British navy in the year 1840 amounted to 4,980,353 pounds sterling, deducting the expense of transport for troops and convicts, which does not properly belong to the navy. That sum, at $4 80 to the pound sterling, is equal to $23,905,694 46. The navy was composed of 392 vessels of war of all descriptions, leaving out 36 steam vessels in the packet service, and 23 sloops fitted for foreign packets. Of the 392, 98 were line of battle ships, of which 19 were building; 116 frigates, of which 14 were building; 68 sloops, of which 13 were building; 44 steam vessels, of which 16 were building; and 66 gun brigs, schooners, and cutters, of which 12 were building.

“The effective force of the year—that which was in actual service, consisted of 3,400 officers, 3,998 petty officers, 12,846 seamen, and 9,000 marines, making an aggregate of 29,244. The number of vessels in actual service were 175, of which 24 were line of battle ships, 31 frigates, 30 steam vessels, and 45 gun brigs, schooners, and cutters, not including the 30 steamers and 24 sloops in the packet service, at an average expenditure of $573 for each individual, including officers, petty officers, seamen, and marines.

“Our navy is composed, at present, according to the report of the Secretary accompanying the President’s message, of 67 vessels—of which 11 are line of battle ships, 17 frigates, 18 sloops of war, 2 brigs, 4 schooners, 4 steamers, 3 store ships, 3 receiving vessels, and 5 small schooners. The estimates for the year are made on the assumption, that there will be in service during the year, 2 ships of the line, 1 razee, 6 frigates, 20 sloops, 11 brigs and schooners, 3 steamers, 3 store ships and 8 small vessels; making in the aggregate, 53 vessels. The estimates for the year, for the navy and marine corps, as has been stated, is $8,705,579 83, considerably exceeding one-third of the entire expenditures of the British navy for 1840.

“Mr. C. contended there should be no difference in the expenses of the two navies. We should build as cheap and employ men as cheap, or we should not be able to compete with

the British navy. If our navy should prove vastly more expensive than the British navy, we might as well give up, and he recommended this matter to the consideration of the Senate.

“Among the objects of retrenchment, I place at the head the great increase that is proposed to be made to the expenditures of the navy, compared with that of last year. It is no less than $2,508,032 13, taking the expenditures of last year from the annual report of the Secretary. I see no sufficient reason, at this time, and in the present embarrassed condition of the Treasury, for this great increase. I have looked over the report of the Secretary hastily, and find none assigned, except general reasons, for an increased navy, which I am not disposed to controvert. But I am decidedly of the opinion, that the commencement ought to be postponed till some systematic plan is matured, both as to the ratio of increase and the description of force of which the addition should consist, and till the department is properly organized, and in a condition to enforce exact responsibility and economy in its disbursements. That the department is not now properly organized, and in that condition, we have the authority of the Secretary himself, in which I concur. I am satisfied that its administration cannot be made effective under the present organization, particularly as it regards its expenditures.”

“The expenses of this government were of three classes: the civil list, the army and the navy; and all of these had been increased enormously since 1823. The remedy now was to compare the present with the past, mark the difference, and compel the difference to be accounted for. He cited 1823, and intended to make that the standard, because that was the standard for him, the government being then economically administered. He selected 1823, also, because in 1824 we commenced a new system, and that of protection, which had done so much evil. We had made two tariffs since then, the origin of all evils. The civil list rose in seventeen years from about $2,000,000 to $6,000,000—nearly a threefold proportion compared with the increase of population. In Congress the increase had been enormous. The increase of contingent expenses had been fivefold, and compared with population, sixfold. The aggregate expenses of the two Houses now amounted to more than $250,000. The expense of collecting revenue had also been enormously increased. From 1823 it had gone up from $700,000 to $1,700,000—an increase of one million of dollars. The expense on collection in 1823 was but one per cent., now one per cent. and 5-100. Under the tariff these increases were made from 1824 to 1828. Estimating the expenses of collection at $800,000, about $1,000,000 would be saved. The judiciary had increased in this proportion, and the light-house department also. In the war department, in 1822 (the only year for which he had estimates), the expenses per man were but $264; now the increase had gone up to $400 for each individual. At one time it had been as much as $480 for each individual—$1,400,000 could be saved here in the army proper, including the military academy alone. It might be said that one was a cheap and the other a dear year. Far otherwise; meat was never cheaper, clothing never as cheap as now. All this resulted from the expansive force of a surplus revenue. In 1822 he had reduced the expenses of every man in the army.

“It had been proposed to increase the expenditures of the navy two and a half millions of dollars over the past year, and he was not ready for this. Deduct two millions from this recommendation, and it would be two millions saved. These appropriations, at least, might go over to the next session. The expenses of the marine corps amounted to nearly six hundred thousand dollars, nearly six hundred dollars a head—two hundred dollars a head higher than the army, cadets and all. He hoped the other expenses of the navy department were not in proportion so high as this. Between the reductions which might be made in the marine corps and the navy, two millions and a half might be saved.

“The Secretary of the Treasury estimates for 32 millions of dollars for the expenses of the current year. I am satisfied that $17,000,000 were sufficient to meet the per annum expenses

of the government, and that this sum would have been according to the ratio of population. This sum, by economy, could be brought down to fifteen millions, and thus save nine millions over the present estimates. This could be done in three or four years—the Executive leading the way, and Congress co-operating and following the Executive."

This was spoken in the year 1842. Mr. Calhoun was then confident that the ordinary expenses of the government should not exceed 17 millions of dollars, and that, with good economy that sum might be further reduced two millions, making the expenses but 15 millions per annum. The navy was one of the great points to which he looked for retrenchment and reduction; and on that point he required that the annual appropriation for the navy should be decreased instead of being augmented; and that the money appropriated should be more judiciously and economically applied. The President should lead the way in economy and retrenchment. Organization as well as economy was wanted in the navy—a properly organized peace establishment. The peace establishment of the British navy in 1840, was 24 millions—there being 173 vessels in commission. Instead of reduction, the expense of our navy, also in time of peace, is gaining largely upon hers. It is nearly doubled since Mr. Calhoun spoke—15 millions in 1855.

Mr. Woodbury, who had been Secretary of the Navy under President Jackson, spoke decidedly against the proposed increase, and against the large expenditure in the department, and its unfavorable comparison with the expenses of the British navy in time of peace. He said:

"There are twenty-nine or thirty post-captains now on leave or waiting orders, and from thirty to forty commanders. Many of them are impatient to be called into active service—hating a life of indolence—an idle loafing life—and who are anxious to be performing some public service for the pay they receive. It was, generally, not their fault that they were not on duty; but ours, in making them so numerous that they could not be employed. He dwelt on the peace establishment of England—for her navy averaged £18,000,000 in time of war, before the year 1820—but her peace establishment was now only £5,000,000 to 6,000,000. Gentlemen talk of 103 post-captains being necessary, for employment in commission; while England has only 70 post-captains employed in vessels in commission. She had fewer commanders so employed than our whole number of the same grade.

"The host of English navy officers was on retired and half-pay—less in amount than ours by one-third when full, and not one-half of full pay often, when retired; and her seamen only half. Her vessels afloat, also, were mostly small ones—63 of them being steamers, with only one or two guns on an average.

"That the navy ought to be regulated by law, every gentleman admits. Without any express law, was there not a manifest propriety in any proviso which should prevent the number of appointments from being carried half up, or quite up to the standard of the British navy, on full pay? It would be a great relief to the Executive, and the head of the Navy Department, to fix some limitation on appointments, by which the importunities with which they are beset shall not be the occasion of overloading the Government with a greater number of officers in any grade than the exigencies of the service actually demand. A clerk in any public office, a lieutenant in the army, a judge could not be appointed without authority of law; and why should there not be a similar check with regard to officers in the navy?

"It was urged heretofore, in official communications by himself, that it would be proper to limit Executive discretion in this; and a benefit to the Executive and the departments would also accrue by passing laws regulating the peace establishment. He had submitted a resolution for that purpose, in December last, which had not been acted on; though he hoped it yet

would be acted upon before our adjournment. It was better to bring this matter forward in an appropriation bill, than that there should be no check at all. It is the only way in which the House now finds it practicable to effect any control on this question. It could only be done in an appropriation bill, which gives that House the power of control as to navy officers. There should be no reflection on the House on this account; for there is no reflection on the Executive or the Senate. It is their right and duty in the present exigency. He considered the introduction of it into this bill under all the circumstances, not only highly excusable, but justifiable. He did not mean to say that a separate law would not, in itself, if prepared early and seasonably, be more desirable; but he contended this check was better than none at all. When acting on this proviso the Senate is acting on the whole bill. It was not put in without some meaning. It was not merely to strip the Executive and the Senate of the appointing power, now unlimited: its object was to reduce the expenses of the navy, from the Secretary of the Navy's estimate of eight and a half millions of dollars, to about $6,293,000. That was the whole effect of the whole measure, and of all the changes in the bill.

"The difference between both sides of the Senate on this subject seemed to be, that one believed the navy ought to be kept upon a *quasi* war establishment; and the other, in peace and not expecting war, believed it ought to be on a peace establishment;—not cut down below that, but left liberally for peace.

"During the administration of the younger Adams, there was a peace establishment of the navy; and was it not then perfectly efficient and prosperous for all peace purposes? Yet the average expenditure then was only from three to four millions. It was so under General Jackson. Under Mr. Adams, piracy was extirpated in the West Indies. Under his successor, the Malays in the farthest India were chastised; and a semi-banditti broken up at the Falkland Islands. It was not till 1836 '37 that a large increase commenced. But why? Because there was an overflowing treasury. We were embarrassed with money, rather than for money. An exploring expedition was then decided upon. But even with that expedition—so noble and glorious in some respects—six millions and a fraction were the whole expenses. But why should it now at once be raised to eight and a half millions?"

The British have a peace as well as a war establishment for their navy; and the former was usually about one-third of the latter. We have no naval peace establishment. It is all on the war footing, and is now (1855) nearly double the expense of what it was in the war with Great Britain. A perpetual war establishment, when there is no war. This is an anomaly which no other country presents, and which no country can stand, and arises from the act of 1806, which authorizes the President "*to keep in actual service, in time of peace, so many of the frigates and other armed public vessels of the United States as in his judgment the nature of the service might require, and to cause the residue thereof to be laid up in ordinary in convenient ports*." This is the discretion which the act of 1806 gives to the President—unlimited so far as that clause goes; but limited by two subsequent clauses limiting the number of officers to be employed to 94, and the whole number of seamen and boys to 925; and placing the unemployed officers on half pay without rations—a degree of reduction which made them anxious to be at sea instead of remaining unemployed at home. Under Mr. Jefferson, then, the act of 1806 made a naval peace establishment; but doing away all the limitations of that act, and leaving nothing of it in force but the presidential discretion to employ as many vessels as the service might require, the whole navy is thrown into the hands of the President: and the manner in which he might exercise that discretion might depend entirely upon the view which he would take of the naval policy which ought to be pursued—whether great fleets for offence, or cruisers for defence. All the limitations of the act of 1806 have been thrown down—even the limitation to half pay; and unemployed pay has been

placed so high as to make it an object with officers to be unemployed. Mr. Reuel Williams, of Maine, exposed this solecism in a few pertinent remarks. He said:

“Half of the navy officers are now ashore, and there can be no necessity for such a number of officers as to admit of half being at sea, and the other half on land. Such was not the case heretofore. It was in 1835 that such increase of shore pay was made, as caused it to be the interest of the officers to be off duty. The only cure for this evil was, either to reduce the pay when off duty, or to limit the time of relaxation, and to adjust the number to the actual requirements of the service.”

The vote was taken upon the increase proposed by the Secretary of the Navy, and recommended by the President, and it was carried by one vote—the yeas and nays being well defined by the party line.

“Yeas—Messrs. Archer, Barrow, Bates, Berrien, Choate, Clayton, Conrad, Crittenden, Evans, Graham, Henderson, Huntington, Kerr, Mangum, Merrick, Miller, Morehead, Porter, Preston, Rives, Simmons, Tallmadge, and Woodbridge—23.”

“Nays—Messrs. Allen, Bagby, Benton, Buchanan, Crafts, Cuthbert, Fulton, King, Linn, McRoberts, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tappan, Walker, White, Wilcox, Williams, Woodbury, Wright and Young—22.”

Mr. Benton spoke chiefly to the necessity of having a naval policy—a policy which would determine what was to be relied on—a great navy for offence, or a moderate one for defence; and a peace establishment in time of peace, or a war establishment in peace as well as war. Some extracts from his speech are given in the next chapter.

108. Expenses Of The Navy: Mr. Benton's Speech: Extracts

I propose to recall to the recollection of the Senate the attempt which was made in 1822—being seven years after the war—to limit and fix a naval peace establishment; and to fix it at about one-fourth of what is now proposed, and that that establishment was rejected because it was too large. Going upon the plan of Mr. Jefferson's act of 1806, it took the number of men and officers for the limitation, discouraged absence on shore by reducing the pay one-half and withholding rations; collected timber for future building of vessels; and directed all to remain in port which the public service did not require to go abroad. It provided for one rear-admiral; five commodores; twenty-five captains; thirty masters commandant; one hundred and ninety lieutenants; four hundred midshipmen; thirty-five surgeons; forty-five surgeon's mates: six chaplains; forty pursers; and three thousand five hundred men and boys—in all a little over four thousand men. Yet Congress refused to adopt this number. This shows what Congress then thought of the size of a naval peace establishment. Mr. B. was contemporary with that bill—supported it—knows the reason why it was rejected—and that was, because Congress would not sanction so large an establishment. To this decision there was a close adherence for many years. In the year 1833—eleven years after that time, and when the present senator from New Hampshire [Mr. Woodbury] was Secretary of the Navy, the naval establishment was but little above the bill of 1822. It was about five thousand men, and cost about four millions of dollars, and was proposed by that Secretary to be kept at about that size. Here Mr. B. read several extracts from Mr. Woodbury's report of 1833—the last which he made as Secretary of the Navy—which verified these statements. Mr. B. then looked to the naval establishment on the 1st of January, 1841, and showed that the establishment had largely increased since Mr. Woodbury's report, and was far beyond my calculation in 1822. The total number of men, of all grades, in the service in 1841, was a little over eight thousand; the total cost about six millions of dollars—being double the amount and cost of the proposed peace establishment of the United States in the year 1822, and nearly double the actual establishment of 1833. Mr. B. then showed the additions made by executive authority in 1841, and that the number of men was carried up to upwards of eleven thousand, and the expense for 1842 was to exceed eight millions of dollars! This (he said) was considered an excessive increase; and the design now was to correct it, and carry things back to what they were a year before. This was the design; and this, so far from being destructive to the navy, was doing far more for it than its most ardent friends proposed or hoped for a few years before.

Mr. B. here exhibited a table showing the actual state of the navy, in point of numbers, at the commencement of the years 1841 and 1842; and showed that the increase in one year was nearly as great as it had been in the previous twenty years; and that its totality at the latter of these periods was between eleven and twelve thousand men, all told. This is what the present administration has done in one year—the first year of its existence: and it is only the commencement of their plan—the first step in a long succession of long steps. The further increases, still contemplated were great, and were officially made known to the Congress, and the estimates increased accordingly. To say nothing of what was in the Senate in its executive capacity, Mr. B. would read a clause from the report of the Senate's Committee on Naval Affairs, which showed the number of vessels which the Secretary of the Navy proposed to have in commission, and the consequent vast increase of men and money which would be required. (The following is the extract from Mr. Bayard's report):

"The second section of the act of Congress of the 21st April, 1806, expressly authorizes the President 'to keep in actual service, in time of peace, so many of the frigates and other public armed vessels of the United States, as in his judgment the nature of the service may require.' In the exercise of this discretion, the committee are informed by the Secretary of the Navy that he proposes to employ a squadron in the Mediterranean, consisting of two ships of the line, four frigates, and four sloops and brigs—in all, ten vessels; another squadron on the Brazil station, consisting, also, of two ships-of-the-line, four frigates, and four sloops and brigs; which two squadrons will be made from time to time to exchange their stations, and thus to traverse the intermediate portion of the Atlantic. He proposes, further, to employ a squadron in the Pacific, consisting of one ship-of-the-line, two frigates, and four sloops; and a similar squadron of one ship of the line, two frigates, and four sloops in the East Indies; which squadrons, in like manner, exchanging from time to time their stations, will traverse the intermediate portion of the Pacific, giving countenance and protection to the whale fishery in that ocean. He proposes, further, to employ a fifth squadron, to be called the home squadron, consisting of one ship-of-the-line, three frigates, and three sloops, which, besides the duties which its name indicates, will have devolved upon it the duties of the West India squadron, whose cruising ground extended to the mouth of the Amazon, and as far as the 30th degree of west longitude from London. He proposes, additionally, to employ on the African coast one frigate and four sloops and brigs—in all, five vessels; four steamers in the Gulf of Mexico, and four steamers on the lakes. There will thus be in commission seven ships-of-the-line, sixteen frigates, twenty-three sloops and brigs, and eight steamers—in all, fifty-four vessels."

This is the report of the committee. This is what we are further to expect. Five great squadrons, headed by ships of the line; and one of them that famous home squadron hatched into existence at the extra session one year ago, and which is the ridicule of all except those who live at home upon it, enjoying the emoluments of service without any service to perform. Look at it. Examine the plan in its parts, and see the enormity of its proportions. Two ships-of-the-line, four frigates, and four sloops and brigs for the Mediterranean—a sea as free from danger to our commerce as is the Chesapeake Bay. Why, sir, our Secretary is from the land of Decatur, and must have heard of that commander, and how with three little frigates, one sloop, and a few brigs and schooners, he humbled Algiers, Tripoli, and Tunis, and put an end to their depredations on American ships and commerce. He must have heard of Lord Exmouth, who, with less force than he proposes to send to the Mediterranean, went there and crushed the fortifications of Algiers, and took the bond of the pirates never to trouble a Christian again. And he must have heard of the French, who, since 1830, are the owners of Algiers. Certainly the Mediterranean is as free from danger to-day as is the Chesapeake Bay; and yet our Secretary proposes to send two ships-of-the-line, four frigates, and four sloops to that safe sea, to keep holiday there for three years. Another squadron of the same magnitude is to go to Brazil, where a frigate and a sloop would be the extent that any emergency could require, and more than has ever been required yet. The same of the Pacific Ocean, where Porter sailed in triumph during the war with one little frigate; and a squadron to the East Indies, where no power has any navy, and where our sloops and brigs would dominate without impediment. In all fifty-four men-of-war! Seven ships-of-the-line, sixteen frigates, twenty-three sloops and brigs, and eight steamers. And all this under Jefferson's act of 1806, when there was not a ship-of-the-line, nor a large frigate, nor twenty vessels of all sorts, and part of them to remain in port—only the number going forth that would require nine hundred and twenty-five men to man them! just about the complement of one of these seven ships-of-the-line. Does not presidential discretion want regulating when such things as these can be done under the act of 1806? Has any one calculated the amount of this increase, and counted up the amount of men and money which it will cost? The report does not, and, in that respect,

is essentially deficient. It ought to be counted, and Mr. B. would attempt it. He acknowledged the difficulty of such an undertaking; how easy it was for a speaker—and especially such a speaker as he was—to get into a fog when he got into masses of millions, and so bewilder others as well as himself. To avoid this, details must be avoided, and results made plain by simplifying the elements of calculation. He would endeavor to do so, by taking a few plain data, in this case—the data correct in themselves, and the results, therefore, mathematically demonstrated.

He would take the guns and the men—show what we had now, and what we proposed to have; and what was the cost of each gun afloat, and the number of men to work it. The number of guns we now have afloat is nine hundred and thirty-seven; the number of men between eleven and twelve thousand; and the estimated cost for the whole, a fraction over eight millions of dollars. This would give about twelve men and about nine thousand dollars to each gun. [Mr. Bayard asked how could these nine thousand dollars a gun be made out?] Mr. Benton replied. By counting every thing that was necessary to give you the use of the gun—every thing incident to its use—every thing belonging to the whole naval establishment. The end, design, and effect of the whole establishment, was to give you the use of the gun. That was all that was wanted. But, to get it, an establishment had to be kept up of vast extent and variety—of shops and yards on land, as well as ships at sea—of salaries and pensions, as well as powder and balls. Every expense is counted, and that gives the cost per gun. Mr. B. said he would now analyze the gentleman's report, and see what addition these five squadrons would make to the expense of the naval establishment. The first point was, to find the number of guns which they were to bear, and which was the element in the calculation that would lead to the results sought for. Recurring to the gentleman's report, and taking the number of each class of vessels, and the number of guns which each would carry, and the results would be:

7 ships-of-the-line, rating 74, but carrying 80 guns,

560

16 frigates, 44 guns each,

704

13 sloops, 20 guns each,

260

10 brigs, 10 guns each,

100

8 steamers, 10 guns each,

80

1,704

Here (said Mr. B.) is an aggregate of 1,704 guns, which, at $9,000 each gun, would give $15,336,000, as the sum which the Treasury would have to pay for a naval establishment which would give us the use of that number. Deduct the difference between the 937, the present number of guns, and this 1,704, and you have 767 for the increased number of guns, which, at $9,000 each, will give $6,903,000 for the increased cost in money. This was the moneyed result of the increase. Now take the personal increase—that is to say, the increased number of men which the five squadrons would require. Taking ten men and two officers to the gun—in all, twelve—and the increased number of men and officers required for 767 guns

would be 8,204. Add these to the 11,000 or 12,000 now in service, and you have close upon 20,000 men for the naval peace establishment of 1843, costing about fifteen millions and a half of dollars.

But I am asked, and in a way to question my computation, how I get at these nine thousand dollars cost for each gun afloat? I answer—by a simple and obvious process. I take the whole annual cost of the navy department, and then see how many guns we have afloat. The object is to get guns afloat, and the whole establishment is subordinate and incidental to that object. Not only the gun itself, the ship which carries it, and the men who work it, are to be taken into the account, but the docks and navy-yards at home, the hospitals and pensions, the marines and guards—every thing, in fact, which constituted the expense of the naval establishment. The whole is employed, or incurred, to produce the result—which is, so many guns at sea to be fired upon the enemy. The whole is incurred for the sake of the guns, and therefore all must be counted. Going by this rule (said Mr. B.), it would be easily shown that his statement of yesterday was about correct—rather under than over; and this could be seen by making a brief and plain sum in arithmetic. We have the number of guns afloat, and the estimated expense for the year: the guns 936; the estimate for the year is $8,705,579. Now, divide this amount by the number of guns, and the result is a little upwards of $9,200 to each one. This proves the correctness of the statement made yesterday; it proves it for the present year, which is the one in controversy. The result will be about the same for several previous years. Mr. B. said he had looked over the years 1841 and 1838, and found this to be the result: in 1841, the guns were 747, and the expense of the naval establishment $6,196,516. Divide the money by the guns, and you have a little upwards of $8,300. In 1838, the guns were 670, and the expense $5,980,971. This will give a little upwards of $8,900 to the gun. The average of the whole three years will be just about $9,000.

Thus, the senator from New Hampshire [Mr. Woodbury] and himself were correct in their statement, and the figures proved it. At the same time, the senator from Delaware [Mr. Bayard] is undoubtedly correct in taking a small number of guns, and saying they may be added without incurring an expense of more than three or four thousand dollars. Small additions may be made, without incurring any thing but the expense of the gun itself, and the men who work it. But that is not the question here. The question is to almost double the number; it is to carry up 937 to 1,700. Here is an increase intended by the Secretary of the Navy of near 800 guns—perhaps quite 800, if the seventy-fours carry ninety guns, as intimated by the senator [Mr. Bayard] this day. These seven or eight hundred guns could not be added without ships to carry them, and all the expense on land which is incident to the construction of these ships. These seven or eight hundred additional guns would require seven or eight thousand men, and a great many officers. Ten men and two officers to the gun is the estimate. The present establishment is near that rate, and the increase must be in the same proportion. The present number of men in the navy, exclusive of officers, is 9,784: which is a fraction over ten to the gun. The number of officers now in service (midshipmen, surgeons, &c., included) is near 1,300, besides the list of nominations not yet confirmed. This is in the proportion of nearly one and a half to a gun. Apply the whole to the intended increase—the increase which the report of the committee discloses to us—and you will have close upon 17,000 men and 2,000 officers for the peace establishment of the navy—in all, near 20,000 men! and this, independent of those employed on land, and the 2,000 mechanics and laborers who are usually at our navy-yards. Now, these men and officers cost money: two hundred and twenty-six dollars per annum per man, and eight hundred and fifty dollars per annum per officer, was the average cost in 1833, as stated in the report of the then Secretary of the Navy, the present senator from New Hampshire [Mr. Woodbury]. What it is now, Mr. B. did not know, but knew it was greater for the officers now, than it was then. But one thing

he did know—and that was, that a naval peace establishment of the magnitude disclosed in the committee's report (six squadrons, 54 vessels, 1,700 guns, 17,000 men, and 2,000 or 3,000 officers) would break down the whole navy of the United States.

Mr. B. said we had just had a presidential election carried on a *hue-and-cry* against extravagance, and a *hurrah* for a change, and a promise to carry on the government for thirteen millions of dollars; and here were fifteen and a half millions for one branch of the service! and those who oppose it are to be stigmatized as architects of ruin, and enemies of the navy; and a *hue-and-cry* raised against them for the opposition. He said we had just voted a set of resolutions [Mr. Clay's] to limit the expenses of the government to twenty-two millions; and yet here are two-thirds of that sum proposed for one branch of the service—a branch which, under General Jackson's administration, cost about four millions, and was intended to be limited to about that amount. This was the economy—the retrenchment—the saving of the people's money, which was promised before the election!

Mr. B. would not go into points so well stated by the senator from New Hampshire [Mr. Woodbury] on yesterday, that our present peace naval establishment exceeds the cost of the war establishment during the late war; that we pay far more money, and get much fewer guns and men than the British do for the same money. He would omit the tables which he had on hand to prove these important points, and would go on to say that it was an obligation of imperious duty on Congress to arrest the present state of things; to turn back the establishment to what it was a year ago; and to go to work at the next session of Congress to regulate the United States naval peace establishment by law. When that bill came up, a great question would have to be decided—the question of a navy for defence, or for offence! When that question came on, he would give his opinion upon it, and his reasons for that opinion. A navy of some degree, and of some kind, all seemed to be agreed upon; but what it is to be—whether to defend our homes, or carry war abroad—is a question yet to be decided, and on which the wisdom and the patriotism of the country would be called into requisition. He would only say, at present, that coasts and cities could be defended without great fleets at sea. The history of continental Europe was full of the proofs. England, with her thousand ships, could do nothing after Europe was ready for her, during the late wars of the French revolution. He did not speak of attacks in time of peace, like Copenhagen, but of Cadiz and Teneriffe in 1797, and Boulogne and Flushing in 1804, where Nelson, with all his skill and personal daring, and with vast fleets, was able to make no impression.

Mr. B. said the navy was popular, and had many friends and champions; but there was such a thing as killing by kindness. He had watched the progress of events for some time, and said to his friends (for he made no speeches about it) that the navy was in danger—that the expense of it was growing too fast—that there would be reaction and revulsion. And he now said that, unless things were checked, and moderate counsels prevailed, and law substituted for executive discretion (or indiscretion, as the case might be), the time might not be distant when this brilliant arm of our defence should become as unpopular as it was in the time of the elder Mr. Adams.

109. Message Of The President At The Opening Of The Regular Session Of 1842-3

The treaty with Great Britain, and its commendation, was the prominent topic in the forepart of the message. The President repeated, in a more condensed form, the encomiums which had been passed upon it by its authors, but without altering the public opinion of its character—which was that it was really a *British* treaty, Great Britain getting every thing settled which she wished, and all to her own satisfaction; while all the subjects of interest to the United States were adjourned to an indefinite future time, as well known then as now never to occur. One of these deferred subjects was a matter of too much moment, and pregnant with too grave consequences, to escape general reprobation in the United States: it was that of the Columbia River, exclusively possessed by the British under a joint-occupation treaty: and which possession only required time to ripen it into a valid title. The indefinite adjournment of that question was giving Great Britain the time she wanted; and the danger of losing the country was turning the attention of the Western people towards saving it by sending emigrants to occupy it. Many emigrants had gone: more were going: a tide was setting in that direction. In fact the condition of this great American territory was becoming a topic of political discussion, and entering into the contests of party; and the President found it necessary to make further excuses for omitting to settle it in the Ashburton treaty, and a necessity to attempt to do something to soothe the public mind. He did so in this message:

"It would have furnished additional cause for congratulation, if the treaty could have embraced all subjects calculated in future to lead to a misunderstanding between the two governments. The territory of the United States, commonly called the Oregon Territory, lying on the Pacific Ocean, north of the forty-second degree of latitude, to a portion of which Great Britain lays claim, begins to attract the attention of our fellow-citizens; and the tide of population, which has reclaimed what was so lately an unbroken wilderness in more contiguous regions, is preparing to flow over those vast districts which stretch from the Rocky Mountains to the Pacific Ocean. In advance of the acquirement of individual rights to these lands, sound policy dictates that every effort should be resorted to by the two governments to settle their respective claims. It became manifest, at an early hour of the late negotiations, that any attempt, for the time being, satisfactorily to determine those rights, would lead to a protracted discussion which might embrace, in its failure, other more pressing matters; and the Executive did not regard it as proper to waive all the advantages of an honorable adjustment of other difficulties of great magnitude and importance, because this, not so immediately pressing, stood in the way. Although the difficulty referred to may not, for several years to come, involve the peace of the two countries, yet I shall not delay to urge on Great Britain the importance of its early settlement."

The excuse given for the omission of this subject in the Ashburton negotiations is lame and insufficient. Protracted discussion is incident to all negotiations, and as to losing other matters of more pressing importance, all that were of importance to the United States were given up any way, and without getting any equivalents for them. The promise to urge an early settlement could promise but little fruit after Great Britain had got all she wanted; and the discouragement of settlement, by denying land titles to the emigrants until an adjustment could be made, was the effectual way to abandon the country to Great Britain. But this subject will have an appropriate chapter in the history of the proceedings of Congress to encourage that emigration which the President would repress.

The termination of the Florida war was a subject of just congratulation with the President, and was appropriately communicated to Congress.

“The vexatious, harassing, and expensive war which so long prevailed with the Indian tribes inhabiting the peninsula of Florida, has happily been terminated; whereby our army has been relieved from a service of the most disagreeable character, and the Treasury from a large expenditure. Some casual outbreaks may occur, such as are incident to the close proximity of border settlers and the Indians; but these, as in all other cases, may be left to the care of the local authorities, aided, when occasion may require, by the forces of the United States.”

The President does not tell by what treaty of peace this war was terminated, nor by what great battle it was brought to a conclusion: and there were none such to be told—either of treaty negotiated, or of battle fought. The war had died out of itself under the arrival of settlers attracted to its theatre by the Florida armed occupation act. No sooner did the act pass, giving land to each settler who should remain in the disturbed part of the territory five years, than thousands repaired to the spot. They went with their arms and ploughs—the weapons of war in one hand and the implements of husbandry in the other—their families, flocks and herds, established themselves in blockhouses, commenced cultivation, and showed that they came to stay, and intended to stay. Bred to the rifle and the frontier, they were an overmatch for the Indians in their own mode of warfare; and, interested in the peace of the country, they soon succeeded in obtaining it. The war died out under their presence, and no person could tell when, nor how; for there was no great treaty held, or great battle fought, to signalize its conclusion. And this is the way to settle all Indian wars—the cheap, effectual and speedy way to do it: land to the armed settler, and rangers, when any additional force is wanted—rangers, not regulars.

But a government bank, under the name of exchequer, was the prominent and engrossing feature of the message. It was the same paper-money machine, borrowed from the times of Sir Robert Walpole, which had been recommended to Congress at the previous session and had been so unanimously repulsed by all parties. Like its predecessor it ignored a gold and silver currency, and promised paper. The phrases “sound currency”—”sound circulating medium”—”safe bills convertible at will into specie,” figured throughout the scheme; and to make this government paper a local as well as a national currency, the denomination of its notes was to be carried down at the start to the low figure of five dollars—involving the necessity of reducing it to one dollar as soon as the banishment of specie which it would create should raise the usual demand for smaller paper. To do him justice, his condensed argument in favor of this government paper, and against the gold and silver currency of the constitution, is here given:

“There can be but three kinds of public currency: 1st. Gold and silver; 2d. The paper of State institutions; or, 3d. A representative of the precious metals, provided by the general government, or under its authority. The sub-treasury system rejected the last, in any form; and, as it was believed that no reliance could be placed on the issues of local institutions, for the purposes of general circulation, it necessarily and unavoidably adopted specie as the exclusive currency for its own use. And this must ever be the case, unless one of the other kinds be used. The choice, in the present state of public sentiment, lies between an exclusive specie currency on the one hand, and government issues of some kind on the other. That these issues cannot be made by a chartered institution, is supposed to be conclusively settled. They must be made, then, directly by government agents. For several years past, they have been thus made in the form of treasury notes, and have answered a valuable purpose. Their usefulness has been limited by their being transient and temporary; their ceasing to bear interest at given periods, necessarily causes their speedy return, and thus restricts their range

of circulation; and being used only in the disbursements of government, they cannot reach those points where they are most required. By rendering their use permanent, to the moderate extent already mentioned, by offering no inducement for their return, and by exchanging them for coin and other values, they will constitute, to a certain extent, the general currency so much needed to maintain the internal trade of the country. And this is the exchequer plan, so far as it may operate in furnishing a currency."

It would seem impossible to carry a passion for paper money, and of the worst kind, that of government paper, farther than President Tyler did; but he found it impossible to communicate his passion to Congress, which repulsed all the exchequer schemes with the promptitude which was due to an unconstitutional, pernicious, and gratuitous novelty. The low state of the public credit, the impossibility of making a loan, and the empty state of the Treasury, were the next topics in the message.

"I cannot forego the occasion to urge its importance to the credit of the government in a financial point of view. The great necessity of resorting to every proper and becoming expedient, in order to place the Treasury on a footing of the highest respectability, is entirely obvious. The credit of the government may be regarded as the very soul of the government itself—a principle of vitality, without which all its movements are languid, and all its operations embarrassed. In this spirit the Executive felt itself bound, by the most imperative sense of duty, to submit to Congress, at its last session, the propriety of making a specific pledge of the land fund, as the basis for the negotiation of the loans authorized to be contracted. I then thought that such an application of the public domain would, without doubt, have placed at the command of the government ample funds to relieve the Treasury from the temporary embarrassments under which it labored. American credit had suffered a considerable shock in Europe, from the large indebtedness of the States, and the temporary inability of some of them to meet the interest on their debts. The utter and disastrous prostration of the United States Bank of Pennsylvania had contributed largely to increase the sentiment of distrust, by reason of the loss and ruin sustained by the holders of its stock—a large portion of whom were foreigners, and many of whom were alike ignorant of our political organization, and of our actual responsibilities. It was the anxious desire of the Executive that, in the effort to negotiate the loan abroad, the American negotiator might be able to point the money-lender to the fund mortgaged for the redemption of the principal and interest of any loan he might contract, and thereby vindicate the government from all suspicion of bad faith, or inability to meet its engagements. Congress differed from the Executive in this view of the subject. It became, nevertheless, the duty of the Executive to resort to every expedient in its power to negotiate the authorized loan. After a failure to do so in the American market, a citizen of high character and talent was sent to Europe—with no better success; and thus the mortifying spectacle has been presented, of the inability of this government to obtain a loan so small as not in the whole to amount to more than one-fourth of its ordinary annual income; at a time when the governments of Europe, although involved in debt, and with their subjects heavily burdened with taxation, readily obtain loans of any amount at a greatly reduced rate of interest. It would be unprofitable to look further into this anomalous state of things; but I cannot conclude without adding, that, for a government which has paid off its debts of two wars with the largest maritime power of Europe, and now owing a debt which is almost next to nothing, when compared with its boundless resources—a government the strongest in the world, because emanating from the popular will, and firmly rooted in the affections of a great and free people—and whose fidelity to its engagements has never been questioned—for such a government to have tendered to the capitalists of other countries an opportunity for a small investment of its stock, and yet to have failed, implies either the most unfounded distrust in its good faith, or a purpose, to obtain which, the course

pursued is the most fatal which could have been adopted. It has now become obvious to all men that the government must look to its own means for supplying its wants; and it is consoling to know that these means are altogether adequate for the object. The exchequer, if adopted, will greatly aid in bringing about this result. Upon what I regard as a well-founded supposition, that its bills would be readily sought for by the public creditors, and that the issue would, in a short time, reach the maximum of $15,000,000, it is obvious that $10,000,000 would thereby be added to the available means of the treasury, without cost or charge. Nor can I fail to urge the great and beneficial effects which would be produced in aid of all the active pursuits of life. Its effects upon the solvent State banks, while it would force into liquidation those of an opposite character, through its weekly settlements, would be highly beneficial; and, with the advantages of a sound currency, the restoration of confidence and credit would follow, with a numerous train of blessings. My convictions are most strong that these benefits would flow from the adoption of this measure; but, if the result should be adverse, there is this security in connection with it—that the law creating it may be repealed at the pleasure of the legislature, without the slightest implication of its good faith."

It is impossible to read this paragraph without a feeling of profound mortification at seeing the low and miserable condition to which the public credit had sunk, both at home and abroad; and equally mortifying to see the wretched expedients which were relied upon to restore it: a government bank, issuing paper founded on its credit and revenues, and a hypothecation of the lands, their proceeds to help to bolster up the slippery and frail edifice of governmental paper: the United States unable to make a loan to the amount of one-fourth of its revenues! unable to borrow five millions of dollars! unable to borrow any thing, while the overloaded governments of Europe could borrow as much as they pleased. It was indeed a low point of depressed credit—the lowest that the United States had ever seen since the declaration of Independence. It was a state of humiliation and disgrace which could not be named without offering some reason for its existence; and that reason was given: it was the "disastrous prostration," as it was called—the crimes and bankruptcy, as should have been called, of the Pennsylvania Bank of the United States! that bank which, in adding Pennsylvania to its name, did not change its identity, or its nature; and which for ten long years had been the cherished idol of the President, his Secretary of State, and his exchequer orator on the floor of the House—for which General Jackson had been condemned and vituperated—and on the continued existence of which the whole prosperity of the government and the people, and their salvation from poverty and misery, was made to depend. That bank was now given as the cause of the woful plight into which the public credit was fallen—and truly so given! for while its plunderings were enormous, its crimes were still greater: and the two put together—an hundred millions plundered, and a mass of crimes committed—the effect upon the American name was such as to drive it with disgrace from every exchange in Europe. And the former champions of the bank, uninstructed by experience, unabashed by previous appalling mistakes, now lavish the same encomiums on an exchequer bank which they formerly did on a national bank; and challenge the same faith for one which they had invoked for the other. The exchequer is now, according to them, the sole hope of the country: the independent treasury and hard money, its only danger. Yet the exchequer was repulsed—the independent treasury and gold was established: and the effect, that that same country which was unable to borrow five millions of dollars, has since borrowed many ten millions, and is now paying a premium of 20 per centum—actually paying twenty dollars on the hundred—to purchase the privilege of paying loans before they are due.

110. Repeal Of The Bankrupt Act: Mr. Benton's Speech; Extracts

The spectacle was witnessed in relation to the repeal of this act which has rarely been seen before—a repeal of a great act of national legislation by the same Congress that passed it—by the same members sitting in the same seats—and the repeal approved by the same President who had approved the enactment. It was a homage to the will of the people, and the result of the general condemnation which the act received from the community. It had been passed as a party measure: its condemnation was general without regard to party: and the universality of the sentiment against it was honorable to the virtue and intelligence of the people. In the commencement of the session 1842-'43, motions were made in both Houses to repeal the act; and in the Senate the practical bad working of the act, and of the previous act, was shown as an evidence of the unfruitfulness of the whole system, and of the justice and wisdom of leaving the whole relation of debtor and creditor in relation to insolvency, or bankruptcy, to the insolvent laws of the States. In offering a petition in the Senate for the repeal of the act from the State of Vermont, Mr. Benton said:

"He would take the opportunity which the presentation of this petition offered, to declare that, holding the bankrupt act to be unconstitutional at six different points (the extinction of the debt without the consent of a given majority of the creditors being at the head of these points), he would vote for no repeal which would permit the act to continue in force for the trial of depending cases, unless with provisions which would bring the action of the law within the constitution. To say nothing, at present, of other points of unconstitutionality, he limited himself to the abolition of debts without the consent of a given majority of the creditors. This, he held, no power in our country can do. Congress can only go as far as the bankrupt systems of England and other countries go; and that is, to require the consent of a given majority of the creditors (four-fifths in number and value in England and Scotland), and that founded upon a judicial certificate of integrity by the commissioners who examined the case, and approved afterwards by the Lord Chancellor. Upon these principles only could Congress act: upon these principles the Congress of 1800 acted, in making a bankrupt act: and to these principles he would endeavor to conform the action of the present act so long as it might run. He held all the certificates granted by the courts to be null and void; and that the question of the validity would be carried before the courts, and before the tribunal of public opinion. The federal judges decided the alien and sedition law to be constitutional. The people reversed that decision, and put down the men who held it. This bankrupt act was much more glaringly unconstitutional—much more immoral—and called more loudly upon the people to rise against it. If he was a United States judge, he would decide the act to be unconstitutional. If he was a State court, and one of these certificates of discharge from debts should be pleaded in bar before him, on an action brought for the recovery of the old debt, he would treat the certificate as a nullity, and throw it out of court. If commanded by the Supreme Court, he would resign first. The English law held all bankrupts, whose certificates were not signed by the given majority of the creditors, to be *uncertificated*; and, as such, he held all these to be who had received certificates under our law. They had no certificate of discharge from a given majority of the creditors; and were, therefore, what the English law called '*uncertificated bankrupts*.' He said the bankrupt systems formed the creditors into a partnership for the management of the debtor's estate, and his discharge from debt; and, in this partnership, a given majority acted for the whole, all having the same interest in what was lost or saved; and, therefore, to be governed by a given majority, doing what was best for

the whole. But even to this there were limitations. The four-fifths could not release the debt of the remaining fifth, except upon a certificate of integrity from the commissioners who tried the case, and a final approval by the Lord Chancellor. The law made itself party to the discharge, as it does in a case of divorce, and for the sake of good morals; and required the judicial certificate of integrity, without which the release of four-fifths of the creditors would not extinguish the debt of the other fifth. It is only in this way that Congress can act. It can only act according to the established principles of the bankrupt systems. It had no inherent or supreme authority over debts. It could not abolish debts as it pleased. It could not confound bankruptcy and insolvency, and so get hold of all debts, and sweep them off as it pleased. All this was despotism, such as only could be looked for in a government which had no limits, either on its moral or political powers. The attempt to confound insolvency and bankruptcy, and to make Congress supreme over both, was the most daring attack on the constitution, on the State laws, on the rights of property, and on public morals, which the history of Europe or America exhibited. There was no parallel to it in Europe or America. It was repudiation—universal repudiation of all debts—at the will of the debtor. The law was subversive of civil society; and he called upon Congress, the State legislatures, the federal and State judiciaries—and, above all, the people—to brand it for unconstitutionality and immorality, and put it down.

"Mr. B. said he had laid down the law, but he would refer to the *forms* which the wisdom of the law provided for executing itself. These *forms* were the highest evidences of the law. They were framed by men learned in the law—approved by the courts—and studied by the apprentices to the law. They should also be studied by the journeymen—by the professors—and by the ermined judges. In this case, especially, they should be so studied. Bankruptcy was a branch of the law but little studied in our country. The mass of the community were uninformed upon it; and the latitudinarians, who could find no limits to the power of our government were daringly presuming upon the general ignorance, by undertaking to confound bankruptcy and insolvency, and claiming for Congress a despotic power over both. This daring attempt must be chastised. Congress must be driven back within the pale of the constitution; and for that purpose, the principles of the bankrupt systems must be made known to the people. The *forms* are one of the best modes of doing this: and here are the *forms* of a bankrupt's certificate in Great Britain—the country from which our constitution borrowed the system. [Mr. B. then read from Jacob's Law Dictionary, title *Bankruptcy*, at the end of the title, the *three* forms of the certificates which were necessary to release a debtor from his debts.] The first form was that of the commissioners who examined the case, and who certified to the integrity of the bankrupt, and that he had conformed in all particulars to the act. The second form was that of the certificate of four-fifths of his creditors, '*allowing him to be discharged from his debts*.' The third was the certificate of the Lord Chancellor, certifying that notice of these two certificates having been published for twenty-one days in the London Gazette, and no cause being shown to the contrary, the certificates granted by the commissioners and by the creditors were '*confirmed*.' Then, and not till then, could the debtor be discharged from his debts; and with all this, the act of 1800 in the United States perfectly agreed, only taking two-thirds instead of four-fifths of the creditors. Congress could only absolve debts in this way, and that among the proper subjects of a bankrupt law: and the moral sense of the community must revolt against any attempt to do it in any other form. The present act was repudiation—criminal repudiation, as far as any one chose to repudiate—and must be put down by the community."

On the question for the repeal of the act, Mr. Benton took occasion to show it to be an invasion of the rights of the States, over the ordinary relations of debtor and creditor within their own limits, and a means of eating up estates to the loss of both debtor and creditor, and

the enrichment of assignees, who make the settlement of the estate a life-long business, and often a legacy to his children.

“A question cannot arise between two neighbors about a dozen of eggs, without being liable to be taken from the custody of the laws of the States, and brought up to the federal courts. And now, when this doctrine that insolvency and bankruptcy are the same, if a continuance of the law is to be contrived, it must be done in conformity with such a fallacy. The law has proved to be nothing but a great insolvent law, for the abolition of debts, for the benefit of debtors; and would it be maintained that a permanent system ought to be built up on such a foundation as that?

“Some months ago, he read in a Philadelphia paper a notice to creditors to come forward for a dividend of half a cent in the dollar, in a case of bankruptcy pending under the old law of 1800, since the year 1801. And, three or four days ago, he read a notice in a London paper, calling on creditors to come in for a dividend of five-sixths of a penny in the pound, in a case of bankruptcy pending since the year 1793. Here has been a case where the waste of property has been going on for fifty years in England, and another case where it has been going on in this country forty-one or forty-two years. He had been himself twenty-three years in the Senate, and, during that time, various efforts were made to revive the old law of 1800 in some shape or other; but never, till last session, in the shape in which the present law passed. And how could this law be expected to stand, when even the law of 1800 (which was in reality a bankrupt law) could not stand; but was, in the first year of its operation, condemned by the whole country?”

The passage of the act had been a reproach to Congress: its repeal should do them honor, and still more the people, under whose manifest and determined will it was to be done. The repeal bill readily passed the Senate, and then went to the House, where it was quickly passed, and under pressure of the previous question, by a vote 128 to 98. The history of the passage of these two measures (bankrupt and distribution) each of which came to an untimely end, is one of those legislative arcana which should be known, that such legislation may receive the reprobation which it deserves. The public only sees the outside proceeding, and imagines a wise and patriotic motive for the enactment of important laws. Too often there is neither wisdom nor patriotism in such enactment, but bargain, and selfishness, and duresse of circumstances. So it was in this case. The misconduct and misfortunes of the banks and the vices inherent in paper money, which had so long been the currency of the country, had filled the Union with pecuniary distress, and created an immense body of insolvent debtors, estimated by some at five hundred thousand: and all these were clamorous for a bankrupt act. The State of Mississippi was one of those most sorely afflicted with this state of things, and most earnest for the act. Her condition governed the conduct of her senators, and their votes made the bankrupt act, and passed the fiscal bank through the Senate. Such are the mysteries of legislation.

A bankrupt act, though expressly authorized by the constitution, had never been favored by the American people. It was tried fifty years ago, and condemned upon a two years’ experience. Persevering efforts had since been made for a period of twenty years to obtain another act, but in vain. It was the opinion of Mr. Lowndes, expressed at the last session that he served, that no act framed upon the principles of the British system would ever be suitable to our country—that the complex and expensive machinery of the system, so objectionable in England, where debtors and creditors were comparatively near together, would be intolerable in the United States, where they were so widely separated, and the courts so sparsely scattered over the land, and so inconvenient to the majority of parties and witnesses. He believed a simple system might be adopted, reducing the process to a transaction between the

debtor and his creditors, in which courts would have but little to do except to give effect to their agreement. The principle of his plan was that there should be a meeting of the creditors, either on the invitation of the failing debtor, or the summons of a given number of creditors; and when together, and invested with power to examine into the debtor's affairs, and to examine books and take testimony, that they themselves, by a given majority of two-thirds or three-fourths in value, should decide every question, make a *pro rata* division of the effects, and grant a certificate of release: the release to be of right if the effects were taken. This simple process would dispense with the vexatious question, of what constitutes an act of bankruptcy? And substitute for it the broad inquiry of failing circumstances—in the solution of which, those most interested would be the judges. It would also save the devouring expenses of costs and fees, and delays equally devouring, and the commissioners that must be paid, and the assignees who frequently become the beneficiaries of the debtor's effects—taking what he collects for his own fees, and often making a life estate of it. The estate of a bankrupt, in the hands of an assignee, Mr. Randolph was accustomed to call, "a lump of butter in a dog's mouth;" a designation which it might sometimes bear from the rapidity with which it was swallowed; but more frequently it was a bone to gnaw, and to be long gnawed before it was gnawed up. As an evidence of this, Mr. Benton read a notice from a Philadelphia paper, published while this debate was going on, inviting creditors to come forward and receive from the assignee a dividend of half a cent in the dollar, in a case of bankruptcy under the old act of 1800; also a notice in a London paper for the creditors to come in and receive a dividend of five-sixths of a penny in the pound in a case depending since 1793—the assignees respectively having been administering, one of them forty-one years, and the other fifty-two years, the estate of the debtor; and probably collecting each year about as much as paid his own fees.

The system has become nearly intolerable in England. As far back as the year 1817, the British Parliament, moved by the pervading belief of the injustice and abuses under their bankrupt laws, appointed a commissioner to examine into the subject, and to report the result of their investigation. It was done; and such a mass of iniquity revealed, as to induce the Lord Chancellor to say that the system was a disgrace to the country—that the assignees had no mercy either upon the debtor or his creditors—and that it would be better to repeal every law on the subject. The system, however, was too much interwoven with the business of the country to be abandoned. The report of the commissioners only led to a revision of the laws and attempted ameliorations; the whole of which were disregarded by our Congress of 1841, as were the principles of all previous bankrupt acts either in Great Britain, on the European Continent, or in the United States. That Congress abandoned the fundamental principle of all bankrupt systems—that of a proceeding of the creditors for their own benefit, and made it practically an insolvent law at the will of the debtor, for the abolition of his debt at his own pleasure. Iniquitous in itself, vicious in its mode of being passed, detested by the community, the life of the act was short and ignominious. Mr. Buchanan said it would be repealed in two years: and it was. Yet it was ardently contended for. Crowds attended Congress to demand it. Hundreds of thousands sent up their petitions. The whole number of bankrupts was stated by the most moderate at one hundred thousand: and Mr. Walker declared in his place that, if the act was not passed, thousands of unfortunate debtors would have to wear the chains of slavery, or be exiled from their native land.

111. Military Academy And Army Expenses

The instincts of the people have been against this academy from the time it took its present form under the act of 1812, and those subsequent and subsidiary to it: many efforts have been made to abolish or to modify it: and all unsuccessful—partly from the intrinsic difficulty of correcting any abuse—partly from the great number interested in the Academy as an eleemosynary institution of which they have the benefit—and partly from the wrong way in which the reformers go to work. They generally move to abolish the whole system, and are instantly met by Washington's recommendation in favor of it. In the mean time Washington never saw such an institution as now shelters behind his name; and possibly would never have been in the army, except as a private soldier, if it had existed when he was a young man. He never recommended such an academy as we have: he never dreamed of such a thing: he recommended just the reverse of it, in recommending that cadets, serving in the field with the companies to which they were attached, and receiving the pay, clothing, and ration of a sergeant, should be sent—such of them as showed a stomach for the hardships, as well as a taste for the pleasures and honors of the service, and who also showed a capacity for the two higher branches of the profession (engineering and artillery)—to West Point, to take instruction from officers in these two branches of the military art: and no more. At this session one of the usual movements was made against it—an attack upon the institution in its annual appropriation bill, by moving to strike out the appropriation for its support, and substitute a bill for its abolition. Mr. Hale made the motion, and was supported in it by several members. Mr. McKay, chairman of the committee, which had the appropriation bill in charge, felt himself bound to defend it, but in doing so to exclude the conclusion that he was favorable to the academy. Begging gentlemen, therefore, to withdraw their motion, he went on to say:

"He was now, and always had been, in favor of a very material alteration in the organization of this institution. He did not think that the government should educate more young men than were necessary to fill the annual vacancies in the army. It was beyond dispute, that the number now educated was more than the average annual vacancies in the army required; and hence the number of supernumerary second lieutenants—which he believed was now something like seventy; and would be probably thirty more the next year. This, however, did not present the true state of the question. In a single year, in consequence of an order issued from the war department, that all the officers who were in the civil service of the railroad and canal companies, &c., should join their respective regiments, there were upwards of one hundred resignations. Now, if these resignations had not taken place, the army would have been overloaded with supernumerary second lieutenants. He was for reducing the number of cadets, but at the same time would make a provision by which parents and guardians should have the privilege of sending their sons and wards there to be educated, at their own expense. This (Mr. M. said) was the system adopted in Great Britain; and it appeared, by a document he had in his hand, that there were three hundred and twenty gentlemen cadets, and fifteen officers educated at the English Military Academy, at a much less expense than it required to educate two hundred and twenty cadets at West Point. He agreed with much of what had been said by the gentleman from Connecticut, Mr. Seymour, that it would be an amelioration of our military service, to open the door of promotion to meritorious non-commissioned officers and privates. Under the present system, no man who was a non-commissioned officer or private, however meritorious, had the least chance of promotion. It was true that there were instances of such men getting commissions, but they were very rare; and the consequence was, that the ranks of the army were filled with some of the worst men in the country, and

desertions had prevailed to an enormous extent. Mr. McK. here gave from the documents, the number of annual desertions, from the year 1830 to 1836, showing an average of one thousand. He would not now, however, enlarge on this subject, but would reserve his remarks till the bill for reorganizing the academy, which he understood was to be reported by the Military Committee, should come in."

Mr. McKay was not counted among the orators of the House: he made no pretension to fine speaking: but he was one of those business, sensible, upright men, who always spoke sense and reason, and to the point, and generally gave more information to the House in a few sentences than could often be found in one of the most pretentious speeches. Of this character were the remarks which he made on this occasion; and in the four statements that he made, *first*, that upwards of one hundred West Point officers had resigned their commissions in one year when ordered to quit civil service and join their corps; *secondly*, that there was a surplus of seventy graduates at that time for whom there was no place in the army; *thirdly*, that at the English Military Academy, three hundred and thirty-five cadets and officers were instructed at much less expense than two hundred and twenty with us; *fourthly*, that the annual desertions from the rank and file of the army had averaged one thousand men per annum for six years together, these desertions resulting from want of promotion and disgust at a service which was purely necessary. Mr. McKay was followed by another speaker of the same class with himself—Mr. Cave Johnson, of Tennessee; who stood up and said:

"That there was no certainty that the bill to be reported by the Military Committee, which the gentleman referred to, would be reached this session; and he was therefore for effecting a reform now that the subject was before them. He would, therefore, suggest to the gentleman from New Hampshire to withdraw his amendment, and submit another, to the following effect: That no money appropriated in this bill, or hereafter to be appropriated, shall be applied to the payment of any cadet hereafter to be appointed; and the terms of service of those who have warrants now in the academy shall be held to cease from and after four years from the time of their respective appointments. The limitation of this appropriation now, would put an end to the academy, unless the House would act on the propositions which would be hereafter made. He was satisfied it ought to be abolished, and he would at once abolish it, but for the remarks of his friend from North Carolina; he therefore hoped his friend from New Hampshire would adopt the suggestions which had been made."

Mr. Harralson, of Georgia, chairman of the Committee on Military Affairs, felt himself called upon by his position to come to the defence of the institution, which he did in a way to show that it was indefensible. He

"Intimated that that committee would propose some reductions in the number of cadets; and when that proposition came before the House, these amendments could be appropriately offered. The proposition would be made to reduce the number of the cadets to the wants of the army. But this appropriation should now be made; and if, by any reductions hereafter made, it should be found more than adequate to the wants of the institution, the balance would remain in the Treasury, and would not be lost to the country. He explained the circumstances under which, in 1836, some persons educated as cadets at West Point became civil engineers, and accepted employment on projected lines of railroad; and asserted that no class of our countrymen were more ready to obey the call of their country, in any exigency which might arise."

Mr. Orlando Ficklin, of Illinois, not satisfied with the explanations made by the chairman on military affairs, returned to the charge of the one hundred resignations in one year; and said:

“He had listened to the apology or excuse rendered by the chairman of the Committee on Military Affairs, for the cadets who resigned in 1836. And what was that excuse? Why, forsooth, though they had been educated at the government expense, yet, because they could get better pay by embarking in other pursuits, they deserted the service of the country which had educated them, and prepared them for her service. He did not intend to detain the committee at present, but he must be permitted to say to those who were in favor of winding up the concern, that they ought not to vote an appropriation of a single dollar to that institution, unless the same bill contained a provision, in language as emphatic as it could be made, declaring that this odious, detestable, and aristocratic institution, shall be brought to a close. If it did not cost this government a single dollar, he would still be unwilling that it should be kept up. He was not willing that the door of promotion should be shut against the honest and deserving soldier, and that a few dandies and band-box heroes, educated at that institution, should enjoy the monopoly of all the offices. Mr. F. adverted to the present condition of the army. It was filled up, he said, by foreigners. Native Americans, to whom they should naturally look as the defenders of the country, were deterred from entering it. It would be well, he thought, to have a committee of investigation, that the secrets of the prison-house might be disclosed, and its abuses brought to light.”

Mr. Black, of Georgia, proposed an amendment, compelling the cadets to serve ten years, and keeping up the number: upon which Mr. Hale remarked:

“The amendment of the gentleman from Georgia would seem to imply that there were not officers enough: whereas the truth was there were more than enough. The difficulty was, there were already too many. The Army Register showed a list already of seventy supernumeraries; and more were being turned out upon us every year. The gentleman from New York had made a most unhappy illustration of the necessity for educating cadets for the army, by comparing them with the midshipmen in the navy. What was the service rendered by midshipmen on board our national vessels? Absolutely none. They were of no sort of use; and precisely so was it with these cadets. He denied that General Washington ever recommended a military academy like the present institution; and, if he had done so, he would, instead of proclaiming it, have endeavored to shield his great name from such a reproach.”

The movement ended as usual, in showing necessity for a reform, and in failing to get it.

112. Emigration To The Columbia River, And Foundation Of Its Settlement By American Citizens: Fremont's First Expedition

The great event of carrying the Anglo-Saxon race to the shore of the Pacific Ocean, and planting that race firmly on that sea, took place at this time, beginning in 1842, and largely increasing in 1843. It was not an act of the government, leading the people and protecting them; but, like all the other great emigrations and settlements of that race on our continent, it was the act of the people, going forward without government aid or countenance, establishing their possession, and compelling the government to follow with its shield, and spread it over them. So far as the action of the government was concerned, it operated to endanger our title to the Columbia, to prevent emigration, and to incur the loss of the country. The first great step in this unfortunate direction was the treaty of joint occupation, as it was called, of 1818; by which the British, under the fallacious idea of mutuality, where there was nothing mutual, were admitted to a delusive joint occupation, with ourselves, intended to be equal—but which quickly became exclusive on their part: and was obliged to become so, from the power and organization of their Hudson Bay Company, already flanking the country and ready to cross over and cover it. It is due to the memory of President Monroe, under whose administration this unfortunate treaty was made, to say that, since the publication of the first volume of this View, the author has been informed by General Jesup (who had the fact from Mr. Monroe himself at the time), that his instructions had not authorized this arrangement (which in fact the commissioners intimated in their correspondence), and only after much hesitation prevailed on himself to send it to the Senate. That treaty was for ten years, and the second false step was in its indefinite extension by another of 1828, until one or the other of the parties should give notice for its discontinuance—the most insidious and pernicious of all agreements, being so easy to be adopted, and so hard to be got rid of. The third great blunder was in not settling the Oregon question in the Ashburton negotiation, when we had a strong hold upon the British government in its earnest desire to induce us to withdraw our northeastern boundary from the neighborhood of Lower Canada, and to surrender a part of Maine for the road from Halifax to Quebec. The fourth step in this series of governmental blunders, was the recommendation of President Tyler to discountenance emigration to Oregon, by withholding land from the emigrants, until the two governments had settled the title—a contingency too remote to be counted upon within any given period, and which every year's delay would make more difficult. The title to the country being thus endangered by the acts of the government, the saving of it devolved upon the people—and they saved it. In 1842, incited by numerous newspaper publications, upwards of a thousand American emigrants went to the country, making their long pilgrimage overland from the frontiers of Missouri, with their wives and children, their flocks and herds, their implements of husbandry and weapons of defence—traversing the vast inclined plane to the base of the Rocky Mountains, crossing that barrier (deemed impassable by Europeans), and descending the wide slope which declines from the mountains to the Pacific. Six months would be consumed in this journey, filled with hardships, beset by dangers from savage hostility, and only to be prosecuted in caravans of strength and determination. The Burnets and Applegates from Missouri were among the first leaders, and in 1843, some two thousand more joined the first emigration. To check these bold adventurers was the object of the government: to encourage them, was the object of some Western members of Congress, on whom (in conjunction with the people) the task of saving the Columbia evidently devolved. These

members were ready for their work, and promptly began. Early in the session, Mr. Linn, a senator from Missouri, introduced a bill for the purpose, of which these were the leading provisions:

"That the President of the United States is hereby authorized and required to cause to be erected, at suitable places and distances, a line of stockade and blockhouse forts, not exceeding five in number, from some point on the Missouri and Arkansas rivers into the best pass for entering the valley of the Oregon; and, also, at or near the mouth of the Columbia River.

"That provision hereafter shall be made by law to secure and grant six hundred and forty acres, or one section of land, to every white male inhabitant of the territory of Oregon, of the age of eighteen years and upward, who shall cultivate and use the same for five consecutive years; or to his heir or heirs-at-law, if such there be, in case of his decease. And to every such inhabitant or cultivator (being a married man) there shall be granted, in addition, one hundred and sixty acres to the wife of said husband, and the like quantity of one hundred and sixty acres to the father for each child under the age of eighteen years he may have, or which may be born within the five years aforesaid.

"That no sale, alienation, or contract of any kind, shall be valid, of such lands, before the patent is issued therefor; nor shall the same be liable to be taken in execution, or bound by any judgment, mortgage, or lien, of any kind, before the patent is so issued; and all pretended alienations or contracts for alienating such lands, made before the issuing of the patents, shall be null and void against the settler himself, his wife, or widow, or against his heirs-at-law, or against purchasers, after the issuing of the patent.

"That the President is hereby authorized and required to appoint two additional Indian agents, with a salary of two thousand dollars each, whose duty it shall be (under his direction and control) to superintend the interests of the United States with any or every Indian tribe west of any agency now established by law.

"That the sum of one hundred thousand dollars be appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act.

"Sec. 2. *And be it further enacted*, That the civil and criminal jurisdiction of the supreme court and district courts of the territory of Iowa, be, and the same is hereby, extended over that part of the Indian territories lying west of the present limits of the said territory of Iowa, and south of the forty-ninth degree of north latitude, and west of the Rocky Mountains, and north of the boundary line between the United States and the Republic of Texas, not included within the limits of any State; and also, over the Indian territories comprising the Rocky Mountains and the country between them and the Pacific Ocean, south of fifty-four degrees and forty minutes of north latitude, and north of the forty-second degree of north latitude; and justices of the peace may be appointed for the said territory, in the same manner and with the same powers as now provided by law in relation to the territory of Iowa: *Provided*, That any subject of the government of Great Britain, who shall have been arrested under the provisions of this act for any crime alleged to have been committed within the territory westward of the Stony or Rocky Mountains, while the same remains free and open to the vessels, citizens, and subjects of the United States and of Great Britain, pursuant to stipulations between the two powers, shall be delivered up, on proof of his being such British subject, to the nearest or most convenient authorities having cognizance of such offence by the laws of Great Britain, for the purpose of being prosecuted and tried according to such laws.

"Sec. 3. *And be it further enacted*, That one associate judge of the supreme court of the territory of Iowa, in addition to the number now authorized by law, may, in the discretion of

the President, be appointed, to hold his office by the same tenure and for the same time, receive the same compensation, and possess all the powers and authority conferred by law upon the associate judges of the said territory; and one judicial district shall be organized by the said supreme court, in addition to the existing number, in reference to the jurisdiction conferred by this act; and a district court shall be held in the said district by the judge of the supreme court, at such times and places as the said court shall direct; and the said district court shall possess all the powers and authority vested in the present district courts of the said territory, and may, in like manner, appoint its own clerk.

"Sec. 4. *And be it further enacted*, That any justice of the peace, appointed in and for the territories described in the second section of this act, shall have power to cause all offenders against the laws of the United States to be arrested by such persons as they shall appoint for that purpose, and to commit such offenders to safe custody for trial, in the same cases and in the manner provided by law in relation to the Territory of Iowa; and to cause the offenders so committed to be conveyed to the place appointed for the holding of a district court for the said Territory of Iowa, nearest and most convenient to the place of such commitment, there to be detained for trial, by such persons as shall be authorized for that purpose by any judge of the supreme court, or any justice of the peace of the said Territory; or where such offenders are British subjects, to cause them to be delivered to the nearest and most convenient British authorities, as hereinbefore provided; and the expenses of such commitment, removal, and detention, shall be paid in the same manner as provided by law in respect to the fees of the marshal of the said territory."

These provisions are all just and necessary for the accomplishment of their object, and carefully framed to promote emigration, and to avoid collisions with the British, or hostilities with the Indians. The land grants were the grand attractive feature to the emigrants: the provision for leaving British offenders to British jurisdiction was to avoid a clash of jurisdictions, and to be on an equality with the British settlers over whom the British Parliament had already extended the laws of Canada; and the boundaries within which our settlers were to be protected, were precisely those agreed upon three years later in a treaty between the two powers. The provisions were all necessary for their object, and carefully framed to avoid infraction of any part of the unfortunate treaty of 1818; but the bill encountered a strenuous, and for a long time a nearly balanced, opposition in the Senate—some opposed to the whole object of settling the country at any time—some to its present settlement, many to the fear of collision with the British subjects already there, or infraction of the treaty of 1818. Mr. McDuffie took broad ground against it.

"For whose benefit are we bound to pass this bill? Who are to go there, along the line of military posts, and take possession of the only part of the territory fit to occupy—that part lying upon the sea-coast, a strip less than one hundred miles in width; for, as I have already stated, the rest of the territory consists of mountains almost inaccessible, and low lands which are covered with stone and volcanic remains, where rain never falls, except during the spring; and even on the coast no rain falls, from April to October, and for the remainder of the year there is nothing but rain. Why, sir, of what use will this be for agricultural purposes? I would not for that purpose give a pinch of snuff for the whole territory. I wish to God we did not own it. I wish it was an impassable barrier to secure us against the intrusion of others. This is the character of the country. Who are we to send there? Do you think your honest farmers in Pennsylvania, New York, or even Ohio or Missouri, will abandon their farms to go upon any such enterprise as this? God forbid! if any man who is to go to that country, under the temptations of this bill, was my child—if he was an honest industrious man, I would say to him, for God's sake do not go there. You will not better your condition. You will exchange the comforts of home, and the happiness of civilized life, for the pains and perils of a

precarious existence. But if I had a son whose conduct was such as made him a fit subject for Botany Bay, I would say in the name of God, go. This is my estimate of the importance of the settlement. Now, what are we to gain by making the settlement? In what shape are our expenditures there to be returned? When are we to get any revenue from the citizens of ours who go to that distant territory—3,300 miles from the seat of government, as I have it from the senator from Missouri? What return are they going to make us for protecting them with military posts, at the expense at the outset of $200,000, and swelling hereafter God knows how much—probably equalling the annual expenses of the Florida war. What will they return us for this enormous expense, after we have tempted them, by this bill, to leave their pursuits of honest industry, to go upon this wild and gambling adventure, in which their blood is to be staked?"

Besides repulsing the country as worthless, Mr. McDuffie argued that there was danger in taking possession of it—that the provisions of the bill conflicted with the stipulations of the treaty of 1818—and that Great Britain, though desirous of peace with the United States, would be forced into war in defence of her rights and honor. Mr. Calhoun was equally opposed as his colleague to the passage of the bill, but not for the same reasons. He deemed the country well worth having, and presenting great commercial advantages in communicating with China and Japan, which should not be lost.

"I do not agree with my eloquent and able colleague that the country is worthless. He has underrated it, both as to soil and climate. It contains a vast deal of land, it is true, that is barren and worthless; but not a little that is highly productive. To that may be added its commercial advantages, which will, in time, prove to be great. We must not overlook the important events to which I have alluded as having recently occurred in the Eastern portion of Asia. As great as they are, they are but the beginning of a series of a similar character, which must follow at no distant day. What has taken place in China, will, in a few years, be followed in Japan, and all the eastern portions of that continent. Their ports, like the Chinese, will be opened, and the whole of that large portion of Asia, containing nearly half of the population and wealth of the globe, will be thrown open to the commerce of the world, and be placed within the pales of European and American intercourse and civilization. A vast market will be created, and a mighty impulse will be given to commerce. No small portion of the share that would fall to us with this populous and industrious portion of the globe, is destined to pass through the ports of the Oregon Territory to the valley of the Mississippi, instead of taking the circuitous and long voyage round Cape Horn; or the still longer, round the Cape of Good Hope. It is mainly because I place this high estimate on its prospective value, that I am so solicitous to preserve it, and so adverse to this bill, or any other precipitate measure which might terminate in its loss. If I thought less of its value, or if I regarded our title less clear, my opposition would be less decided."

Infraction of the treaty and danger of war—the difficulty and expense of defending a possession so remote—the present empty condition of the treasury—were further reasons urged by Mr. Calhoun in favor of rejecting the bill; but having avowed himself in favor of saving our title to the country, it became necessary to show his mode of doing so, and fell upon the same plan to ripen and secure our title, which others believed was wholly relied upon by Great Britain to ripen and secure hers—Time! an element which only worked in favor of the possessor; and that possessor was now Great Britain. On this head he said:

"The question presents itself, how shall we preserve this country? There is only one means by which it can be; but that, fortunately, is the most powerful of all—*time*. *Time* is acting for us; and, if we shall have the wisdom to trust its operation, it will assert and maintain our right with resistless force, without costing a cent of money, or a drop of blood. There is often in the

affairs of government, more efficiency and wisdom in non-action, than in action. All we want to effect our object in this case, is ‘a wise and masterly inactivity.’ Our population is rolling towards the shores of the Pacific, with an impetus greater than what we realize. It is one of those forward movements which leaves anticipation behind. In the period of thirty-two years which have elapsed since I took my seat in the other House, the Indian frontier has receded a thousand miles to the West. At that time, our population was much less than half what it is now. It was then increasing at the rate of about a quarter of a million annually; it is now not less than six hundred thousand; and still increasing at the rate of something more than three per cent. compound annually. At that rate, it will soon reach the yearly increase of a million. If to this be added, that the region west of Arkansas and the State of Missouri, and south of the Missouri River, is occupied by half civilized tribes, who have their lands secured to them by treaty (and which will prevent the spread of population in that direction), and that this great and increasing tide will be forced to take the comparatively narrow channel to the north of that river and south of our northern boundary, some conception may be formed of the strength with which the current will run in that direction, and how soon it will reach the eastern gorges of the Rocky Mountains. It will soon—far sooner than anticipated—reach the Rocky Mountains, and be ready to pour into the Oregon Territory, when it will come into our possession without resistance or struggle—or, if there should be resistance, it would be feeble and ineffectual. We would then be as much stronger there, comparatively, than Great Britain, as she is now stronger than we are; and it would then be as idle in her to attempt to assert and maintain her exclusive claim to the territory against us, as it would now be in us to attempt it against her. Let us be wise, and abide our time, and it will accomplish all that we desire, with far more certainty and with infinitely less sacrifice, than we can without it.”

Mr. Calhoun averred and very truly, that his opposition to the bill did not grow out of any opposition to the growth of the West—declared himself always friendly to the interests of that great section of our country, and referred to his course when he was Secretary at war to prove it.

“I go back to the time when I was at the head of the War Department. At that early period I turned my attention particularly to the interest of the West. I saw that it required increased security to its long line of frontier, and greater facility of carrying on intercourse with the Indian tribes in that quarter, and to enable it to develope its resources—especially that of its fur-trade. To give the required security, I ordered a much larger portion of the army to that frontier; and to afford facility and protection for carrying on the fur-trade, the military posts were moved much higher up the Mississippi and Missouri rivers. Under the increased security and facility which these measures afforded, the fur-trade received a great impulse. It extended across the continent in a short time, to the Pacific, and north and south to the British and Mexican frontiers; yielding in a few years, as stated by the Senator from Missouri [Mr. Linn], half a million of dollars annually. But I stopped not there. I saw that individual enterprise on our part, however great, could not successfully compete with the powerful incorporated Canadian and Hudson Bay Companies, and that additional measures were necessary to secure permanently our fur-trade. For that purpose I proposed to establish a post still higher up the Missouri, at the mouth of the Yellow Stone River, and to give such unity and efficiency to our intercourse and trade with the Indian tribes between our Western frontier and the Pacific ocean, as would enable our citizens engaged in the fur-trade to compete successfully with the British traders. Had the measures proposed been adopted, we would not now have to listen to the complaint, so frequently uttered in this discussion, of the loss of that trade.”

The inconsistent argument of Mr. McDuffie, that the country was worthless, and yet that Great Britain would go to war for it, was thus answered by Mr. Linn:

"The senator from South Carolina somewhat inconsistently urges that the country is bleak, barren, volcanic, rocky, a waste always flooded when it is not parched; and insists that, worthless as it is, Great Britain will go at once to war for it. Strange that she should in 1818 have held so tenaciously to what is so worthless! Stranger still, that she should have stuck yet closer to it in 1827, when she had had still ampler time to learn the bootlessness of the possession! And strangest of all, that she should still cling to it with the grasp of death! Sir, I cannot for my life help thinking that she and the senator have formed a very different estimate of the territory, and that she is (as she ought to be) a good deal the better informed. She knows well its soil climate, and physical resources, and perfectly comprehends its commercial and geographical importance. And knowing all this, she was ready to sink all sense of justice, stifle all respect for our clear title, and hasten to root her interests in the soil, so as to secure the strong, even when most wrongful, title of possession."

The danger of waiting for Great Britain to strengthen her claim was illustrated by Mr. Linn, by what had happened in Maine. In 1814 she proposed to purchase the part she wanted. She afterwards endeavored to negotiate for a right of way across the State. Failing in that attempted negotiation, as in the offer to purchase, she boldly set up a claim to all she wanted—demanded it as matter of right—and obtained it by the Ashburton treaty—the United States paying Massachusetts and Maine for the dismembered part. Deprecating a like result from temporizing measures with respect to Oregon, Mr. Linn said:

"So little before 1813 or 1814 did Great Britain ever doubt your claim to the lately contested territory in Maine, that in 1814 she proposed to *purchase* that part of it which she desired. She next treated for a right of way. It was refused; and she then set up a claim to the soil. This method has sped no ill with her; for she has got what she wanted, AND MADE YOU PAY FOR IT. Her Oregon game is the same. She has set her heart upon a strip of territory north of the Oregon, and seems determined to pluck it from us, either by circumvention or force. Aware of the political as well as legal advantages of possession, she is strengthening hers in every way not too directly responsible. She is selecting and occupying the best lands, the most favorable sites. These she secures to the settlers under contracts. For any counteraction of yours, she may take, and is taking, possession of the whole territory. She has appropriated sites for mills, manufactories, and farms. If one of these has been abandoned for a better, she reverts to it, if a citizen of yours occupies it, and ejects him. She tells her people she will protect them in whatever they have laid, or may lay, their hands upon. If she can legitimately do this, why may not we? Is this a joint occupation of which she is to have the sole benefit? Had you as many citizens there as she, you would be compelled to protect them; and if you have not, why is it but because she keeps them off, and you refuse to offer them the inducements which she holds out? Give them a prospective grant of lands, and insure them the shelter of your laws, and they will soon congregate there in force enough to secure your rights and their own."

The losses already sustained by our citizens from the ravages of Indians, incited against them by the British Hudson Bay company, were stated by Mr. Linn upon good authority, to be five hundred men in lives taken in the first ten years of the joint occupation treaty, and half a million of dollars in property robbed or destroyed, besides getting exclusive possession of our soil, and the command of our own Indians within our own limits: and he then contrasted this backwardness to protect our own citizens on their own soil with the readiness to expend untold amounts on the protection of our citizens engaged in foreign commerce; and even in going to the coast of Africa to guard the freedom of the negro race.

"Wherever your sails whiten the sea, in no matter what clime, against no matter whom, the national arm stretches out its protection. Every where but in this unhappy territory, the

persons and the pursuits of your citizens are watched over. You count no cost when other interests are concerned, when other rights are assailed; but you recoil here from a trifling appropriation to an object of the highest national importance, because it enlists no sectional influence. Contrast, for instance, your supineness about the Oregon Territory, with your alacrity to establish, for guarding the slave coast and Liberia, a squadron costing $600,000 annually, and which you have bound yourself by treaty to keep up for five years, with great exposure of lives and vessels. By stipulation, eighty guns (one-twelfth of your force afloat) is kept upon this service; and, as your naval expenditure amounts to about seven millions a year, this (its twelfth part) will make, in five years, three millions bestowed in watching the coast of Africa, and guarding the freedom of the negro race! For this you lavish millions; and you grudge $100,000 to the great American and national object of asserting your territorial rights and settling your soil. You grant at once what furthers the slave policy of a rival power, and deny the means of rescuing from its grasp your own property and soil."

This African squadron has now been kept up more than twice five years, and promises to be perpetual; for there was that delusive clause in the article, so tempting to all temporizing spirits, that after the lapse of the five years, the squadron was still to be kept up until the United States should give notice to terminate the article. This idea of notice to terminate a treaty, so easy to put in it, and so difficult to be given when entanglement and use combine to keep things as they are, was shown to be almost impossible in this treaty of joint occupation of the Columbia. Mr. Calhoun had demanded of Mr. Linn, why not give the notice to terminate the treaty before proceeding to settle the country? to which he answered:

"The senator from South Carolina [Mr. Calhoun], has urged that we should, first of all, give the twelve months' notice of our renunciation of the treaty. He [Mr. Linn] could only answer that he had repeatedly, by resolutions, urged that course in former years; but always in vain. He had ever been met with the answer: 'This is not the proper time—wait.' Meanwhile, the adverse possession was going on, fortifying from year to year the British claim and the British resources, to make it good. Mr. Madison had encouraged the bold and well-arranged scheme of Astor to fortify and colonize. He was dispossessed; and the nucleus of empire which his establishments formed, passed into the hands of the Hudson Bay Company, now the great instrument of English aggrandizement in that quarter. The senator insists that, by the treaty, there should be a joint possession. Be it so, if you will. But where is our part of this joint possession? In what does it consist, or has it consisted? We have no posts there, no agent, no military power to protect traders. Nay, indeed, no traders! For they have disappeared before foreign competition; or fallen a sacrifice to the rifle, the tomahawk, or the scalping knife of those savages whom the Hudson Bay Company can always make the instruments of systematic massacre of adventurous rivals."

Mr. Benton spoke at large in defence of the bill, and first of the clause in it allotting land to the settlers, saying:

"The objections to this bill grew out of the clause granting land to the settlers, not so much on account of the grants themselves, as on account of the exclusive jurisdiction over the country, which the grants would seem to imply. This was the objection; for no one defended the title of the British to one inch square of the valley of Oregon. The senator from Arkansas [Mr. Sevier], who has just spoken, had well said that this was an objection to the whole bill; for the rest would be worth nothing, without these grants to the settlers. Nobody would go there without the inducement of land. The British had planted a power there—the Hudson Bay Fur Company—in which the old Northwest Company was merged; and this power was to them in the New World what the East India company was to them in the Old World: it was an arm of the government, and did every thing for the government which policy, or treaties

prevented it from doing for itself. This company was settling and colonizing the Columbia for the British government, and we wish American citizens to settle and colonize it for us. The British government gives inducement to this company. It gives them trade, commerce, an exclusive charter, laws, and national protection. We must give inducement also; and our inducement must be land and protection. Grants of land will carry settlers there; and the senator from Ohio [Mr. Tappan] was treading in the tracks of Mr. Jefferson (perhaps without having read his recommendation, although he has read much) when he proposed, in his speech of yesterday, to plant 50,000 settlers, with their 50,000 rifles, on the banks of the Oregon. Mr. Jefferson had proposed the same thing in regard to Louisiana. He proposed that we should settle that vast domain when we acquired it; and for that purpose, that donations of land should be made to the first 30,000 settlers who should go there. This was the right doctrine, and the old doctrine. The white race were a land-loving people, and had a right to possess it, because they used it according to the intentions of the Creator. The white race went for land, and they will continue to go for it, and will go where they can get it. Europe, Asia, and America, have been settled by them in this way. All the States of this Union have been so settled. The principle is founded in their nature and in God's command; and it will continue to be obeyed. The valley of the Columbia is a vast field open to the settler. It is ours, and our people are beginning to go upon it. They go under the expectation of getting land; and that expectation must be confirmed to them. This bill proposes to confirm it; and if it fails in this particular, it fails in all. There is nothing left to induce emigration; and emigration is the only thing which can save the country from the British, acting through their powerful agent—the Hudson Bay Company."

Mr. Benton then showed from a report of Major Pilcher, Superintendent of Indian Affairs, and who had visited the Columbia River, that actual colonization was going on there, attended by every circumstance that indicated ownership and the design of a permanent settlement. Fort Vancouver, the principal of these British establishments, for there are many of them within our boundaries, is thus described by Major Pilcher:

"This fort is on the north side of the Columbia, nearly opposite the mouth of the Multnomah, in the region of tide-water, and near the head of ship navigation. It is a grand position, both in a military and commercial point of view, and formed to command the whole region watered by the Columbia and its tributaries. The surrounding country, both in climate and soil, is capable of sustaining a large population; and its resources in timber give ample facilities for ship-building. This post is fortified with cannon; and, having been selected as the principal or master position, no pains have been spared to strengthen or improve it. For this purpose, the old post near the mouth of the river has been abandoned. About one hundred and twenty acres of ground are in cultivation; and the product in wheat, barley, oats, corn, potatoes, and other vegetables, is equal to what is known in the best parts of the United States. Domestic animals are numerous—the horned cattle having been stated to me at three hundred; hogs, horses, sheep, and goats, in proportion; also, the usual domestic fowls: every thing, in fact, indicating a permanent establishment. Ship-building has commenced at this place. One vessel has been built and rigged, sent to sea, and employed in the trade of the Pacific Ocean. I also met a gentleman, on my way to Lake Winnipec, at the portage between the Columbia and Athabasca, who was on his way from Hudson's Bay to Fort Colville, with a master ship-carpenter, and who was destined for Fort Vancouver, for the purpose of building a ship of considerable burden. Both grist and saw-mills have been built at Fort Vancouver: with the latter, they saw the timber which is needed for their own use, and also for exportation to the Sandwich Islands; upon the former, their wheat is manufactured into flour. And, from all that I could learn, this important post is silently growing up into a colony; and is, perhaps,

intended as a future military and naval station, which was not expected to be delivered up at the expiration of the treaty which granted them a temporary and joint possession."

Mr. Benton made a brief deduction of our title to the Columbia to the 49th parallel under the treaty of Utrecht, and rapidly traced the various British attempts to encroach upon that line, the whole of which, though earnestly made and perseveringly continued, failed to follow that great line from the Lake of the Woods to the shores of the Pacific. He thus made this deduction of title:

"Louisiana was acquired in 1803. In the very instant of signing the treaty which brought us that province, another treaty was signed in London (without a knowledge of what was done in Paris), fixing, among other things, the line from the Lake of the Woods to the Mississippi. This treaty, signed by Mr. Rufus King and Lord Hawkesbury, was rejected by Mr. Jefferson, without reference to the Senate, on account of the fifth article (which related to the line between the Lake of the Woods and the head of the Mississippi), for fear it might compromise the northern boundary of Louisiana and the line of 49 degrees. In this negotiation of 1803, the British made no attempt on the line of the 49th degree, because it was not then known to them that we had acquired Louisiana; but Mr. Jefferson, having a knowledge of this acquisition, was determined that nothing should be done to compromise our rights, or to unsettle the boundaries established under the treaty of Utrecht.

"Another treaty was negotiated with Great Britain in 1807, between Messrs. Monroe and William Pinckney on one side, and Lords Holland and Auckland on the other. The English were now fully possessed of the fact that we had acquired Louisiana, and become a party to the line of 49 degrees; and they set themselves openly to work to destroy that line. The correspondence of the ministers shows the pertinacity of these attempts; and the instructions of Mr. Adams, in 1818 (when Secretary of State, under Mr. Monroe), to Messrs. Rush and Gallatin, then in London, charged with negotiating a convention on points left unsettled at Ghent, condense the history of the mutual propositions then made. Finally, an article was agreed upon, in which the British succeeded in mutilating the line, and stopping it at the Rocky Mountains. This treaty of 1807 shared the fate of that of 1803, but for a different reason. It was rejected by Mr. Jefferson, without reference to the Senate, because it did not contain an explicit renunciation of the pretension of impressment!

"At Ghent the attempt was renewed: the arrest of the line at the Rocky Mountains was agreed upon, but the British coupled with their proposition a demand for the free navigation of the Mississippi, and access to it through the territories of the United States; and this demand occasioned the whole article to be omitted. The Ghent treaty was signed without any stipulation on the subject of the line along the 49th degree, and that point became a principal object of the ministers charged with completing at London, in 1818, the subjects unfinished at Ghent in 1814. Thus the British were again foiled; but, true to their design, they persevered and accomplished it in the convention signed at London in 1818. That convention arrested the line at the mountains, and opened the Columbia to the joint occupation of the British; and, being ratified by the United States, it has become binding and obligatory on the country. But it is a point not to be overlooked, or undervalued, in this case, that it was in the year 1818 that this arrestation of the line took place; that up to that period it was in full force in all its extent, and, consequently, in full force to the Pacific Ocean; and a complete bar (leaving out all other barriers) to any British acquisition, by discovery, south of 49 degrees in North America."

The President in his message had said that "informal conferences" had taken place between Mr. Webster and Lord Ashburton on the subject of the Columbia, but he had not communicated them. Mr. Benton obtained a call of the Senate for them: the President answered it was incompatible with the public interest to make them public. That was a

strange answer, seeing that all claims by either party, and all negotiations on the subjects between them, whether concluded or not, and whether successful or not should be communicated.

"The President, in his message recommending the peace treaty, informs us that the Columbia was the subject of "*informal conferences*" between the negotiators of that treaty; but that it could not then be included among the subjects of formal negotiation. This was an ominous annunciation, and should have opened the eyes of the President to a great danger. If the peace mission, which came here to settle every thing, and which had so much to gain in the Maine boundary and the African alliance;—if this mission could not agree with us about the Columbia, what mission ever can? To an inquiry from the Senate to know the nature and extent of these "*informal conferences*" between Mr. Webster and Lord Ashburton, and to learn the reason why the Columbia question could not have been included among the subjects of formal negotiation—to these inquiries, the President answers, that it is incompatible with the public interest to communicate these things. This is a strange answer, and most unexpected. We have no political secrets in our country, neither among ourselves nor with foreigners. On this subject of the Columbia, especially, we have no secrets. Every thing in relation to it has been published. All the conferences heretofore have been made public. The protocols, the minutes, the conversations, on both sides, have all been published. The British have published their claim, such as it is: we have published ours. The public documents are full of them, and there can be nothing in the question itself to require secrecy. The negotiator, and not the subject, may require secrecy. Propositions may have been made, and listened to, which no previous administration would tolerate, and which it may be deemed prudent to conceal until it has taken the form of a stipulation, and the cry of war can be raised to ravish its ratification from us. All previous administrations, while claiming the whole valley of the Columbia, have refused to admit a particle of British claim *south* of 49 degrees. Mr. Adams, under Mr. Monroe, peremptorily refused to submit any such claim even to arbitration. The Maine boundary, settled by the treaty of 1783, had been submitted to arbitration; but this boundary of 49 was refused. And now, if, after all this, any proposition has been made by our government to give up the north bank of the river, I, for one, shall not fail to brand such a proposition with the name of treason."

This paragraph was not without point, and even inuendo. The north bank of the Columbia with equal rights of navigation in the river, and to the harbor at its mouth, had been the object of the British from the time that the fur-trader, and explorer, Sir Alexander McKenzie, had shown that there was no river and harbor suitable to commerce and settlement north of that stream. They had openly proposed it in negotiations: they had even gone so far as to tell our commissioners of 1818, that no treaty of boundaries could be made unless that river became the line, and its waters and the harbor at the mouth made common to both nations—a declaration which should have utterly forbid the idea of a joint occupation, as such occupation was admitting an equality of title and laying a foundation for a division of the territory. This cherished idea of dividing by the river had pervaded every British negotiation since 1818. It was no secret: the British begged it: we refused it. Lord Ashburton, there is reason to know, brought out the same proposition. In his first diplomatic note he stated that he came prepared to settle all the questions of difference between the two countries; and this affair of the Columbia was too large, and of too long standing, and of too much previous negotiation to have been overlooked. It was not overlooked. The President says that there were conferences about it, qualified as informal: which is evidence there would have been formal negotiation if the informal had promised success. The informal did not so promise; and the reason was, that the two senators from Missouri being sounded on the subject of a conventional divisional line, repulsed the suggestion with an earnestness which put an end to

it; and this knowledge of a proposition for a conventional line induced the indignant language which those two senators used on the subject in all their speeches. If they had yielded, the valley of the Columbia would have been divided; for that is the way the whole Ashburton treaty was made. Senators were sounded by the American negotiator, each on the point which lay nearest to him; and whatever they agreed to was put into the treaty. Thus the cases of the liberated slaves at Nassau and Bermuda were given up—the leading southern senators agreeing to it beforehand, and voting for the treaty afterwards. The writer of this View had this fact from Mr. Bagby, who refused to go with them, and voted against the ratification of the treaty.

"This pretension to the Columbia is an encroachment upon our rights and possession. It is a continuation of the encroachments which Great Britain systematically practises upon us. Diplomacy and audacity carry her through, and gain her position after position upon our borders. It is in vain that the treaty of 1783 gave us a safe military frontier. We have been losing it ever since the late war, and are still losing it. The commission under the treaty of Ghent took from us the islands of Grand Menan, Campo Bello, and Indian Island, on the coast of Maine, and which command the bays of Fundy and Passamaquoddy. Those islands belonged to us by the treaty of peace, and by the laws of God and nature; for they are on our coast, and within wading distance of it. Can we not wade to these islands? [Looking at senator Williams, who answered, 'We can wade to one of them.'] Yes, wade to it! And yet the British worked them out of us; and now can wade to us, and command our land, as well as our water. By these acquisitions, and those of the late treaty, the Bay of Fundy will become a great naval station to overawe and scourge our whole coast, from Maine to Florida. Under the same commission of the Ghent treaty, she got from us the island of Boisblanc, in the mouth of the Detroit River, and which commands that river and the entrance into Lake Erie. It was ours under the treaty of 1783; it was taken from us by diplomacy. And now an American ship must pass between the mouths of two sets of British batteries—one on Boisblanc; the other directly opposite, at Malden; and the two batteries within three or four hundred yards of each other. Am I right as to the distance? [Looking at Senator Woodbridge, who answered, 'The distance is three hundred yards.'] Then comes the late treaty, which takes from us (for I will say nothing of what the award gave up beyond the St. John) the mountain frontier, 3,000 feet in height, 150 miles long, approaching Quebec and the St. Lawrence, and, in the language of Mr. Featherstonhaugh, 'commanding all their communications, and commanding and overawing Quebec itself.' This we have given up; and, in doing so, have given up our military advantages in that quarter, and placed them in the hands of Great Britain, to be used against ourselves in future wars. The boundary between the Lake Superior and the Lake of the Woods has been altered by the late treaty, and subjected us to another encroachment, and to the loss of a military advantage, which Great Britain gains. To say nothing about Pigeon River as being or not being the '*long lake*' of the treaty of 1783; to say nothing of that, there are yet two routes commencing in that stream—one bearing far to the south, and forming the large island called 'Hunter's.' By the old boundary the line went the northern route; by the new, it goes to the south; giving to the British a large scope of our territory (which is of no great value), but giving them, also, the exclusive possession of the old route, the best route, and the one commanding the Indians, which is of great importance. The encroachment now attempted upon the Columbia, is but a continuation of this system of encroachments which is kept up against us, and which, until 1818, labored even to get the navigation of the Mississippi, by laboring to make the line from the Lake of the Woods reach its head spring. If Great Britain had succeeded in getting this line to touch the Mississippi, she was then to claim the navigation of the river, under the law of nations, contrary to her doctrine in the case of the people of Maine and the river St. John. The line of the 49th parallel of north latitude is another instance of her encroaching policy; it has been mutilated by the

persevering efforts of British diplomacy; and the breaking of that line was immediately followed by the most daring of all her encroachments—that of the Columbia River."

The strength of the bill was tested by a motion to strike out the land-donation clause, which failed by a vote of 24 to 22. The bill was then passed by the same vote—the yeas and nays being:

"Yeas.—Messrs. Allen, Benton, Buchanan, Clayton, Fulton, Henderson, King, Linn, McRoberts, Mangum, Merrick, Phelps, Sevier, Smith of Connecticut, Smith of Indiana, Sturgeon, Tappan, Walker, White, Wilcox, Williams, Woodbury, Wright, Young."

"Nays.—Messrs. Archer, Bagby, Barrow, Bates, Bayard, Berrien, Calhoun, Choate, Conrad, Crafts, Dayton, Evans, Graham, Huntington, McDuffie, Miller, Porter, Rives, Simmons, Sprague, Tallmadge, Woodbridge."

The bill went to the House, where it remained unacted upon during the session; but the effect intended by it was fully produced. The vote of the Senate was sufficient encouragement to the enterprising people of the West. Emigration increased. An American settlement grew up at the mouth of the Columbia. Conventional agreements among themselves answered the purpose of laws. A colony was planted—had planted itself—and did not intend to retire from its position—and did not. It remained and grew; and that colony of self-impulsion, without the aid of government, and in spite of all its blunders, saved the Territory of Oregon to the United States: one of the many events which show how little the wisdom of government has to do with great events which fix the fate of countries.

Connected with this emigration, and auxiliary to it, was the first expedition of Lieutenant Frémont to the Rocky Mountains, and undertaken and completed in the summer of 1842—upon its outside view the conception of the government, but in fact conceived without its knowledge, and executed upon solicited orders, of which the design was unknown. Lieutenant Frémont was a young officer, appointed in the topographical corps from the class of citizens by President Jackson upon the recommendation of Mr. Poinsett, Secretary at War. He did not enter the army through the gate of West Point, and was considered an intrusive officer by the graduates of that institution. Having, before his appointment, assisted for two years the learned astronomer, Mr. Nicollet, in his great survey of the country between the Missouri and Mississippi, his mind was trained to such labor; and instead of hunting comfortable berths about the towns and villages, he solicited employment in the vast regions beyond the Mississippi. Col. Abert, the chief of the corps, gave him an order to go to the frontier beyond the Mississippi. That order did not come up to his views. After receiving it he carried it back, and got it altered, and the Rocky Mountains inserted as an object of his exploration, and the South Pass in those mountains named as a particular point to be examined, and its position fixed by him. It was through this Pass that the Oregon emigration crossed the mountains, and the exploration of Lieutenant Frémont had the double effect of fixing an important point in the line of the emigrants' travel, and giving them encouragement from the apparent interest which the government took in their enterprise. At the same time the government, that is, the executive administration, knew nothing about it. The design was conceived by the young lieutenant: the order for its execution was obtained, upon solicitation, from his immediate chief—importing, of course, to be done by his order, but an order which had its conception elsewhere.

113. Lieutenant Fremont's First Expedition: Speech, And Motion Of Senator Linn

A communication was received from the War Department, in answer to a call heretofore made for the report of Lieutenant Frémont's expedition to the Rocky Mountains. Mr. Linn moved that it be printed for the use of the Senate; and also that one thousand extra copies be printed.

"In support of his motion," Mr. L. said, "that in the course of the last summer a very interesting expedition had been undertaken to the Rocky Mountains, ordered by Col. Abert, chief of the Topographical Bureau, with the sanction of the Secretary at War, and executed by Lieutenant Frémont of the topographical engineers. The object of the expedition was to examine and report upon the rivers and country between the frontiers of Missouri and the base of the Rocky Mountains; and especially to examine the character, and ascertain the latitude and longitude of the South Pass, the great crossing place to these mountains on the way to the Oregon. All the objects of the expedition have been accomplished, and in a way to be beneficial to science, and instructive to the general reader, as well as useful to the government.

"Supplied with the best astronomical and barometrical instruments, well qualified to use them, and accompanied by twenty-five *voyageurs*, enlisted for the purpose at St. Louis, and trained to all the hardships and dangers of the prairies and the mountains, Mr. Frémont left the mouth of the Kansas, on the frontiers of Missouri, on the 10th of June; and, in the almost incredibly short space of four months returned to the same point, without an accident to a man, and with a vast mass of useful observations, and many hundred specimens in botany and geology.

"In executing his instructions, Mr. Frémont proceeded up the Kansas River far enough to ascertain its character, and then crossed over to the Great Platte, and pursued that river to its source in the mountains, where the Sweet Water (a head branch of the Platte) issues from the neighborhood of the South Pass. He reached the Pass on the 8th of August, and describes it as a wide and low depression of the mountains, where the ascent is as easy as that of the hill on which this Capitol stands, and where a plainly beaten wagon road leads to the Oregon through the valley of Lewis's River, a fork of the Columbia. He went through the Pass, and saw the head-waters of the Colorado, of the Gulf of California; and, leaving the valleys to indulge a laudable curiosity and to make some useful observations, and attended by four of his men, he climbed the loftiest peak of the Rocky Mountains, until then untrodden by any known human being; and, on the 15th of August, looked down upon ice and snow some thousand feet below, and traced in the distance the valleys of the rivers which, taking their rise in the same elevated ridge, flow in opposite directions to the Pacific Ocean and to the Mississippi. From that ultimate point he returned by the valley of the Great Platte, following the stream in its whole course, and solving all questions in relation to its navigability, and the character of the country through which it flows.

"Over the whole course of this extended route, barometrical observations were made by Mr. Frémont, to ascertain elevations both of the plains and of the mountains; astronomical observations were taken, to ascertain latitudes and longitudes; the face of the country was marked as arable or sterile; the facility of travelling, and the practicability of routes, noted; the grand features of nature described, and some presented in drawings; military positions indicated; and a large contribution to geology and botany was made in the varieties of plants,

flowers, shrubs, trees, and grasses, and rocks and earths, which were enumerated. Drawings of some grand and striking points, and a map of the whole route, illustrate the report, and facilitate the understanding of its details. Eight carts, drawn by two mules each, accompanied the expedition; a fact which attests the facility of travelling in this vast region. Herds of buffaloes furnished subsistence to the men; a short, nutritious grass, sustained the horses and mules. Two boys (one of twelve years of age, the other of eighteen), besides the enlisted men, accompanied the expedition, and took their share of its hardships; which proves that boys, as well as men, are able to traverse the country to the Rocky Mountains.

"The result of all his observations Mr. Frémont had condensed into a brief report—enough to make a document of ninety or one hundred pages; and believing that this document would be of general interest to the whole country, and beneficial to science, as well as useful to the government, I move the printing of the extra number which has been named.

"In making this motion, and in bringing this report to the notice of the Senate, I take a great pleasure in noticing the activity and importance of the Topographical Bureau. Under its skilful and vigilant head [Colonel Abert], numerous valuable and incessant surveys are made; and a mass of information collected of the highest importance to the country generally, as well as to the military branch of the public service. This report proves conclusively that the country, for several hundred miles from the frontier of Missouri, is exceedingly beautiful and fertile; alternate woodland and prairie, and certain portions well supplied with water. It also proves that the valley of the river Platte has a very rich soil, affording great facilities for emigrants to the west of the Rocky Mountains.

"The printing was ordered."

114. Oregon Colonization Act: Mr. Benton's Speech

Mr. Benton said: On one point there is unanimity on this floor; and that is, as to the title to the country in question. All agree that the title is in the United States. On another point there is division; and that is, on the point of giving offence to England, by granting the land to our settlers which the bill proposes. On this point we divide. Some think it will offend her—some think it will not. For my part, I think she will take offence, do what we may in relation to this territory. She wants it herself, and means to quarrel for it, if she does not fight for it. I think she will take offence at our bill, and even at our discussion of it. The nation that could revive the question of impressment in 1842—which could direct a peace mission to revive that question—the nation that can insist upon the right of search, and which was ready to go to war with us for what gentlemen call a few acres of barren ground in a frozen region—the nation that could do these things, and which has set up a claim to our territory on the western coast of our own continent, must be ripe and ready to take offence at any thing that we may do. I grant that she will take offence; but that is not the question with me. Has she a *right* to take offence? That is my question! and this being decided in the negative, I neither fear nor calculate consequences. I take for my rule of action the maxim of President Jackson in his controversy with France—ask nothing but what is right, submit to nothing wrong and leave the consequences to God and the country. That maxim brought us safely and honorably out of our little difficulty with France, notwithstanding the fears which so many then entertained; and it will do the same with Great Britain, in spite of our present apprehensions. Courage will keep her off, fear will bring her upon us. The assertion of our rights will command her respect; the fear to assert them will bring us her contempt. The question, then, with me, is the question of right, and not of fear! Is it right for us to make these grants on the Columbia? Has Great Britain just cause to be offended at it? These are my questions; and these being answered to my satisfaction, I go forward with the grants, and leave the consequences to follow at their pleasure.

The fear of Great Britain is pressed upon us; at the same time her pacific disposition is enforced and insisted upon. And here it seems to me, that gentlemen fall into a grievous inconsistency. While they dwell on the peaceable disposition of Great Britain, they show her ready to go to war with us for nothing, or even for our own! The northeastern boundary is called a dispute for a few acres of barren land in a frozen region, worth nothing; yet we are called upon to thank God Almighty and Daniel Webster for saving us from a war about these few frozen and barren acres. Would Great Britain have gone to war with us for these few acres? and is that a sign of her pacific temper? The Columbia is admitted on all hands to be ours; yet gentlemen fear war with Great Britain if we touch it—worthless as it is in their eyes. Is this a sign of peace? Is it a pacific disposition to go to war with us, for what is our own; and which is besides, according to their opinion, not worth a straw? Is this peaceful? If it is, I should like to know what is hostile. The late special minister is said to have come here, bearing the olive branch of peace in his hand. Granting that the olive branch was in one hand, what was in the other? Was not the war question of impressment in the other? also, the war question of search, on the coast of Africa? also, the war question of the Columbia, which he refused to include in the peace treaty? Were not these three war questions in the other hand?—to say nothing of the Caroline; for which he refused atonement; and the Creole, which he says would have occasioned the rejection of the treaty, if named in it. All these war questions were in the other hand; and the special mission, having accomplished its peace object in getting possession of the military frontiers of Maine, has adjourned all the war questions to London, where we may follow them if we please. But there is one of these

subjects for which we need not go to London—the Creole, and its kindred cases. The conference of Lord Ashburton with the abolition committee of New York shows that that question need not go to London—that England means to maintain all her grounds on the subject of slaves, and that any treaty inconsistent with these grounds would be rejected. This is what he says:

"Lord Ashburton said that, when the delegation came to read his correspondence with Mr. Webster, they would see that he had taken all possible care to prevent any injury being done to the people of color; that, if he had been willing to introduce an article including cases similar to that of the Creole, his government would never have ratified it, as they will adhere to the great principles they have so long avowed and maintained; and that the friends of the slave in England would be very watchful to see that no wrong practice took place under the tenth article."

This is what his lordship said in New York, and which shows that it was not want of instructions to act on the Creole case, as alleged in Mr. Webster's correspondence, but want of inclination in the British government to settle the case. The treaty would have been rejected, if the Creole case had been named in it; and if we had had a protocol showing that fact, I presume the important note of Lord Ashburton would have stood for as little in the eyes of other senators as it did in mine, and that the treaty would have found but few supporters. The Creole case would not be admitted into the treaty; and what was put in it, is to give the friends of the slaves in England a right to watch us, and to correct our wrong practices under the treaty! This is what the protocol after the treaty informs us; and if we had had a protocol before it, it is probable that there would have been no occasion for this conference with the New York abolitionists. Be that as it may, the peace mission, with its olive branch in one hand, brought a budget of war questions in the other, and has carried them all back to London, to become the subject of future negotiations. All these subjects are pregnant with danger. One of them will force itself upon us in five years—the search question—which we have purchased off for a time; and when the purchase is out we must purchase again, or submit to be searched, or resist with arms. I repeat it: the pacific England has a budget of war questions now in reserve for us, and that we cannot escape them by fearing war. Neither nations nor individuals ever escaped danger by fearing it. They must face it, and defy it. An abandonment of a right, for fear of bringing on an attack, instead of keeping it off, will inevitably bring on the outrage that is dreaded.

Other objections are urged to this bill, to which I cannot agree. The distance is objected to it. It is said to be eighteen thousand miles by water (around Cape Horn), and above three thousand miles by land and water, through the continent. Granted. The very distance, by Cape Horn, was urged by me, twenty years ago, as a reason for occupying and fortifying the mouth of the Columbia. My argument was, that we had merchant ships and ships of war in the North Pacific Ocean; that these vessels were twenty thousand miles from an Atlantic port; that a port on the western coast of America was indispensable to their safety; and that it would be suicidal in us to abandon the port we have there to any power, and especially to the most formidable and domineering naval power which the world ever saw. And I instanced the case of Commodore Porter, his prizes lost, and his own ship eventually captured in a neutral port, because we had no port of our own to receive and shelter him. The twenty thousand miles distance, and dangerous and tempestuous cape to be doubled, were with me arguments in favor of a port on the western coast of America, and, as such, urged on this floor near twenty years ago. The distance through the continent is also objected to. It is said to exceed three thousand miles. Granted. But it is further than that to Africa, where we propose to build up a colony of negroes out of our recaptured Africans. Our eighty-gun fleet is to carry her intercepted slaves to Liberia: so says the correspondence of the naval captains (Bell and

Paine) with Mr. Webster. Hunting in couples with the British, at an expense of money (to say nothing of the loss of lives and ships) of six hundred thousand dollars per annum, to recapture kidnapped negroes, we are to carry them to Liberia, and build up a black colony there, four thousand miles from us, while the Columbia is too far off for a white colony! The English are to carry their redeemed captives to Jamaica, and make apprentices of them for life. We are to carry ours to Liberia; and then we must go to Liberia to protect and defend them. Liberia is four thousand miles distant, and not objected to on account of the distance; the Columbia is not so far, and distance becomes a formidable objection.

The expense is brought forward as another objection, and repeated, notwithstanding the decisive answer it has received from my colleague. He has shown that it is but a fraction of the expense of the African squadron; that this squadron is the one-twelfth part of our whole naval establishment, which is to cost us seven millions of dollars per annum, and that the annual cost of the squadron must be near six hundred thousand dollars, and its expense for five years three millions. For the forts in the Oregon—forts which are only to be stockades and block-houses, for security against the Indians—for these forts, only one hundred thousand dollars is appropriated; being the sixth part of the annual expense, and the thirtieth part of the whole expense, of the African fleet. Thus the objection of expense becomes futile and ridiculous. But why this everlasting objection of expense to every thing western? Our dragoons dismounted, because, they say, horses are too expensive. The western rivers unimproved, on account of the expense. No western armory, because of the expense. Yet hundreds of thousands, and millions, for the African squadron!

Another great objection to the bill is the land clause—the grants of land to the settler, his wife, and his children. Gentlemen say they will vote for the bill if that clause is stricken out; and I say, I will vote against it if that clause is stricken out. It is, in fact, the whole strength and essence of the bill. Without these grants, the bill will be worth nothing. Nobody will go three thousand miles to settle a new country, unless he gets land by it. The whole power of the bill is in this clause; and if it is stricken out, the friends of the bill will give it up. They will give it up now, and wait for the next Congress, when the full representation of the people, under the new census, will be in power, and when a more auspicious result might be expected.

Time is invoked, as the agent that is to help us. Gentlemen object to the present time, refer us to the future, and beg us to wait, and rely upon TIME and NEGOTIATIONS to accomplish all our wishes. Alas! *time* and *negotiation* have been fatal agents to us, in all our discussions with Great Britain. Time has been constantly working for her, and against us. She now has the exclusive possession of the Columbia; and all she wants is *time*, to ripen her possession into title. For above twenty years—from the time of Dr. Floyd's bill, in 1820, down to the present moment—the present time, for vindicating our rights on the Columbia, has been constantly objected to; and we were bidden to wait. Well, we have waited: and what have we got by it? Insult and defiance!—a declaration from the British ministers that large British interests have grown up on the Columbia during this time, which they will protect!—and a flat refusal from the olive-branch minister to include this question among those which his peaceful mission was to settle! No, sir; time and negotiation have been bad agents for us, in our controversies with Great Britain. They have just lost us the military frontiers of Maine, which we had held for sixty years; and the trading frontier of the Northwest, which we had held for the same time. Sixty years' possession, and eight treaties, secured these ancient and valuable boundaries: one negotiation, and a few days of time, have taken them from us! And so it may be again. The Webster treaty of 1842 has obliterated the great boundaries of 1783—placed the British, their fur company and their Indians, within our ancient limits: and I, for one, want no more treaties from the hand which is always seen on the side of the British. I go

now for vindicating our rights on the Columbia; and, as the first step towards it, passing this bill, and making these grants of land, which will soon place the thirty or forty thousand rifles beyond the Rocky Mountains, which will be our effective negotiators.

115. Navy Pay And Expenses: Proposed Reduction: Speech Of Mr. Meriwether, Of Georgia: Extracts

Mr. Meriwether said "that it was from no hostility to the service that he desired to reduce the pay of the navy. It had been increased in 1835 to meet the increase of labor elsewhere, &c.; and a decline having taken place there, he thought a corresponding decline should take place in the price of labor in the navy. At the last session of Congress, this House called on the Secretary of the Navy for a statement of the pay allowed each officer previous to the act of 1835. From the answer to that resolution, Mr. M. derived the facts which he should state to the House. He was desirous of getting the exact amount received by each grade of officers, to show the precise increase by the act of 1835. Aided by that report, the Biennial Register of 1822, and the Report of the Secretary of the Navy for 1822, furnishing the estimates for the 'full pay and full rations' of each grade of officers, he was enabled to present the entire facts accurately. Previous to that time, the classification of officers was different from what it has been since; but, as far as like services have been rendered under each classification, the comparative pay is presented under each. Previous to 1835, the pay of the 'commanding officer of the navy' was $100 per month, and sixteen rations per day, valued at 25 cents each ration; which amounted, 'full pay and full rations,' to $2,660 per annum. The same officer as senior captain in service receives now $4,500; while 'on leave,' he receives $3,500 per annum. Before 1835, a 'captain commanding a squadron' received the same pay as the commanding officer of the navy, and the same rations; amounting, in all, to $2,660; that same officer, exercising the same command, receives now $4,000. Before 1835, a captain commanding a vessel of 32 guns and upwards, received $100 per month and eight rations per day—being a total of $1,930 per annum; a captain commanding a vessel of 20 and under 32 guns, received $75 per month and six rations per day—amounting to $1,447 50 per annum. Since 1835, these same captains, when performing these same duties, receive $3,500; and when at home, by their firesides, 'waiting orders,' receive $2,500 per annum. Before 1835, a 'master commanding' received $60 per month and five rations per day—amounting to $1,176 per annum. Since that time, the same officer, in sea service, receives $2,500 per annum; at other duty, $2,100 per annum; and 'waiting orders,' $1,800 per annum. Before 1835, a 'lieutenant commanding' received $50 per month and four rations per day; which amounted to $965 per annum. Since that time, the same officer receives, for similar services, $1,800 per annum. Before 1835, a lieutenant on other duty received $40 per month, and three rations per day—amounting to $761 per annum. Since that time, for the same services, that same officer has received $1,500 per annum; and when 'waiting orders,' $1,200 per annum. Before 1835, a midshipman received $19 per month and one ration per day—making $319 25 per annum. Since that time, a passed midshipman on duty received $750 per annum; if 'waiting orders,' $600; a midshipman received, in sea service, $400; on other duty, $350; and 'waiting orders,' $300 per annum. Surgeons, before 1835, received $50 per month and two rations per day—amounting to $787 50; they now receive from $1,000 to $2,700 per annum. Before 1835, a 'schoolmaster' received $25 per month and two rations per day; now, under the name of a professor, he receives $1,200 per annum.

"Before 1835, a carpenter, boatswain, and gunner received $20 per month and two rations per day—making $427 50 each per annum; they now receive, if employed on a ship-of-the-line, $750, on a frigate $600, on other duty $500, and 'waiting orders' $360 per annum. A similar increase has been made in the pay of all other officers. The pay of seamen has not been enlarged, and it is proposed to leave it as it is. In several instances, an officer idle, 'waiting

orders,' receives more pay now than one of similar grade received during the late war, when he exposed his life in battle in defence of his country. At the navy-yards the pay of officers was greater than at sea. Before 1835, a captain commandant received for pay, rations, candles, and servants' hire, $3,013 per annum, besides fuel; the same officer, for the same services, receives now $3,500 per annum. A master commandant received $1,408 per annum, with fuel; the same officer now receives $2,100 per annum. A lieutenant received $877, with fuel; the same officer receives now $1,500. At naval stations, before the act of 1835, a captain received $2,660 per annum; he now receives $3,500 per annum. A lieutenant received $761 per annum, and he now receives $1,500 per annum. Before and since the act of 1835, quarters were furnished the officers at navy yards and stations. Before that time, the pay and emoluments were estimated for in dollars and cents, and appropriated for as pay; and the foregoing statements are taken from the actual 'estimates' of the navy department, and, as such, show the whole pay and emoluments received by each officer.

"The effect of this increase of pay has been realized prejudicially in more ways than one. In the year 1824, there were afloat in the navy, 404 guns; in 1843, 946 guns. The cost of the item of pay alone for each gun, then, was $2,360; now the cost is $3,500.

"The naval service has become, to a great extent, one of ease and of idleness. The high pay has rendered its offices mostly sinecures; hence the great effort to increase the number of officers. Every argument has been used, every entreaty resorted to, to augment that corps. We have seen the effect of this, that in one year (1841) there were added 13 captains, 41 commanders, 42 lieutenants, and 163 midshipmen, without any possibly conceivable cause for the increase; and when, at the same time, these appointments were made, there were 20 captains 'waiting orders,' and 6 'on leave;' 26 commanders 'waiting orders,' and 3 'on leave;' 103 lieutenants 'on leave and waiting orders,' and 16 midshipmen 'on leave and waiting orders.' The pay of officers 'waiting orders' amounted, during the year 1841, to $261,000; and now the amount required for the pay of that same idle corps, increased by a useless and unnecessary increase of the navy, is $395,000! It is a fact worthy of notice that, under the old pay in 1824, there were 28 captains, 4 of whom were 'waiting orders,' of 30 commanders, only 7 were 'waiting orders.' Under the new pay, in 1843, there are 68 captains, of whom 38 are 'waiting orders;' 97 commanders, of whom 57 are 'waiting orders and on leave.' The item of pay, in 1841, amounted to $2,335,000, and we are asked to appropriate for the next twelve months $3,333,139. To give employment to as many officers as possible, it is proposed to extend greatly our naval force; increasing the number of our vessels in commission largely, and upon every station, notwithstanding our commerce is reduced, and we are at peace with all the world, and have actually purchased our peace from the only nation from which we apprehended difficulty.

"It was stated somewhere, in some of the reports, that the appropriation necessary to defray the expenses of courts-martial in the navy would be, this year $50,000. This was a very large amount, when contrasted with the service. The disorderly conduct of the navy was notorious—no one could defend it. The country was losing confidence in it daily, and becoming more unwilling to bear the burdens of taxation to foster or sustain it. A few years since, its expenditures did not exceed four millions and a half: they are now up to near eight millions of dollars. Its expense is greater now than during the late war with England. Notwithstanding the unequivocal declarations of Congress, at the last session, against the increase of the navy, and in favor of its reduction, the Secretary passes all unheeded, and moves on in his bold career of folly and extravagance, without abiding for a moment any will but his own. Nothing more can be hoped for, so long as the navy has such a host of backers, urging its increase and extravagance—from motives of personal interest too often. The axe should be laid at once to the root of the evil: cut down the pay, and it will not then be sought

after so much as a convenient resort for idlers, who seek the offices for pay, expecting and intending that but little service shall be rendered in return, because but very little is needed. The salaries are far beyond any compensation paid to any other officer of government, either State or Federal, for corresponding services. A lieutenant receives higher pay than a very large majority of the judges of the highest judicatories known to the States; a commander far surpasses them, and equals the salaries of a majority of the Governors of the States. Remove the temptation which high pay and no labor present, and you will obviate the evil. Put down the salaries to where they were before the year 1835, and you will have no greater effort after its offices than you had before. So long as the salaries are higher than similar talents can command in civil life, so long will applicants flock to the navy for admission, and the constant tendency will be to increase its expenses. The policy of our government is to keep a very small army and navy during time of peace, and to insure light taxes, and to induce the preponderance of the civil over the military authorities. In time of peace we shall meet with no difficulty in sustaining an efficient navy, as we always have done. In time of war, patriotism will call forth our people to the service. Those who would not heed this call are not wanted; for those who fight for pay will, under all circumstances, fight for those who will pay the best. The navy cannot complain of this proposed reduction; for its pay was increased in view of the increasing value of labor and property throughout the whole country. No other pay was increased; and why should not this be reduced?—not the whole amount actually increased, but only a small portion of the increase? It is due to the country; and no one should object. We are now supporting the government on borrowed money. The revenues will not be sufficient to support it hereafter; and reduction has to take place sooner or later, and upon some one or all of the departments. Upon which ought it to fall more properly than on that which has been defended against the prejudices resulting from the high prices which have recently fallen upon every department of labor and property?

"By the adoption of the amendment proposed, there will be a permanent and annual saving of about $400,000 in the single item of pay. And from the embarrassed condition of the treasury, so large a sum of money might, with the greatest propriety, be saved; more especially since by the late British treaty concluded at this place, an annual increase is to be made to the navy expenditures of some $600,000, as it is stated, to keep a useless squadron on the coast of Africa. The estimates for pay for the present year greatly exceed those of the last year. We appropriated for the last year's service for pay, &c., $2,335,000. The sum asked for the same service this year is $2,953,139. Besides, there is the sum of $380,000 asked for clothing—a new appropriation, never asked for before. The clothing for seamen being paid for by themselves, so much of the item of pay as was necessary had hitherto been expended in clothing for them, which was received by them in lieu of money. Now a separate fund is asked, which is to be used as pay, and will increase that item so much, making a sum-total of $3,333,139; which is an excess of $998,139 over and above that appropriated for the like purpose last session.

"The Secretary of the Navy says that his plan of keeping the ships sailing over the ocean (where possibly no vessel can or will see them, and where the people with whom we trade can never learn any thing of our greatness, on account of the absence of our ships from their ports, being kept constantly sailing from station to station) will 'require larger squadrons than we have heretofore employed.' He then states that his estimates are prepared for squadrons upon this large and expensive scale. 'This,' he says, 'it is my duty to do, submitting to Congress to determine whether, under the circumstances, so large a force can properly be put in commission or not. If the condition of the treasury will warrant it (of which they are the judges), I have no hesitation in recommending the largest force estimated for.' It is well known that the condition of the treasury will not warrant this force. We must fall back upon

the force of last year, as the *ultimatum* that can be sustained. Our appropriations for pay last year were $1,000,000 less than those now asked for. This can be cut off without prejudice to the service; and with the reduction proposed in the salaries, $1,400,000 can be saved from waste, and applied to sustain a depleted treasury. Increase is now unreasonable and impracticable.

“A portion of the home squadron, authorized in September, 1841, has not yet gone to sea for the want of seamen. While our commerce is failing, and our sailors are idle, they will not enter the service. The flag-ship of that squadron is yet in port without her complement of men. Why then only increase officers and build ships, when you cannot get men to man them?

“From 1829 to 1841, the sums paid to officers ‘waiting orders,’ were, 1829, $197,684; in 1830, $156,025; in 1831, $231,378; in 1832, $204,290; in 1833, $205,233; in 1834, $202,914; in 1835, $219,036; in 1836, $212,362; in 1837, $250,930; in 1838, $297,000; in 1839, $265,043; in 1840, $265,000; in 1841, $252,856.

“The honorable member also showed from the report of the chief of the medical department, that, out of the appropriation for medicine there had been purchased in one year 31 blue cloth frock coats with navy buttons and a silver star on them, 31 pairs of blue cassimere pantaloons, and 31 blue cassimere vests with navy buttons—all for pensioners. He also shows that under the head of medicine there had been purchased out of the same fund, whiskey, coal, clothing, spirits, harness, stationery, hay, corn, oats, stoves, beef, mutton, fish, bread, charcoal, &c., to the amount of some $4,000; and, in general, that purchases of all articles were generally made from particular persons, and double prices paid. Many examples of this were given, among them the purchase of certain surgical instruments in Philadelphia from the favored sellers for the sum of $1,224 and 54 cents, which it was proved had been purchased by them from the maker, in the same city, for $669 and 81 cents: and in the same proportion in the purchases generally.”

116. Eulogy On Senator Linn: Speeches Of Mr. Benton And Mr. Crittenden

In Senate: *Tuesday, December 12, 1843.*—

The death of Senator Linn.

The journal having been read, Mr. Benton rose and said:

"Mr. President:—I rise to make to the Senate the formal communication of an event which has occurred during the recess, and has been heard by all with the deepest regret. My colleague and friend, the late Senator Linn, departed this life on Tuesday, the 3d day of October last, at the early age of forty-eight years, and without the warnings or the sufferings which usually precede our departure from this world. He had laid him down to sleep, and awoke no more. It was to him the sleep of death! and the only drop of consolation in this sudden and calamitous visitation was, that it took place in his own house, and that his unconscious remains were immediately surrounded by his family and friends, and received all the care and aid which love and skill could give.

"I discharge a mournful duty, Mr. President, in bringing this deplorable event to the formal notice of the Senate; in offering the feeble tribute of my applause to the many virtues of my deceased colleague, and in asking for his memory the last honors which the respect and affection of the Senate bestow upon the name of a deceased brother.

"Lewis Field Linn, the subject of this annunciation, was born in the State of Kentucky, in the year 1795, in the immediate vicinity of Louisville. His grandfather was Colonel William Linn, one of the favorite officers of General George Rodgers Clark, and well known for his courage and enterprise in the early settlement of the Great West. At the age of eleven he had fought in the ranks of men, in the defence of a station in western Pennsylvania, and was seen to deliver a deliberate and effective fire. He was one of the first to navigate the Ohio and Mississippi from Pittsburg to New Orleans, and back again—a daring achievement, which himself and some others accomplished for the public service, and amidst every species of danger, in the year 1776. He was killed by the Indians at an early period; leaving a family of young children, of whom the worthy Colonel William Pope (father of Governor Pope, and head of the numerous and respectable family of that name in the West) became the guardian. The father of Senator Linn was among these children; and, at an early age, skating upon the ice near Louisville, with three other boys, he was taken prisoner by the Shawanee Indians, carried off, and detained captive for three years, when all four made their escape and returned home, by killing their guard, traversing some hundred miles of wilderness, and swimming the Ohio River. The mother of Senator Linn was a Pennsylvanian by birth; her maiden name Hunter; born at Carlisle; and also had heroic blood in her veins. Tradition, if not history, preserves the recollection of her courage and conduct at Fort Jefferson, at the Iron Banks, in 1781, when the Indians attacked and were repulsed from that post. Women and boys were men in those days.

"The father of Senator Linn died young, leaving this son but eleven years of age. The cares of an elder brother[16] supplied (as far as such a loss could be supplied) the loss of a father; and under his auspices the education of the orphan was conducted. He was intended for the medical profession, and received his education, scholastic and professional, in the State of his

[16] General now Senator Henry Dodge.

nativity. At an early age he was qualified for the practice of medicine, and commenced it in the then territory, now State, of Missouri; and was immediately amongst the foremost of his profession. Intuitive sagacity supplied in him the place of long experience; and boundless benevolence conciliated universal esteem. To all his patients he was the same; flying with alacrity to every call, attending upon the poor and humble as zealously as on the rich and powerful, on the stranger as readily as on the neighbor, discharging to all the duties of nurse and friend as well as of physician, and wholly regardless of his own interest, or even of his own health, in his zeal to serve and to save others.

"The highest professional honors and rewards were before him. Though commencing on a provincial theatre, there was not a capital in Europe or America in which he would not have attained the front rank in physic or surgery. But his fellow-citizens perceived in his varied abilities, capacity and aptitude for service in a different walk. He was called into the political field by an election to the Senate of his adopted State. Thence he was called to the performance of judicial duties, by a federal appointment to investigate land titles. Thence he was called to the high station of senator in the Congress of the United States—first by an executive appointment, then by three successive almost unanimous elections. The last of those elections he received but one year ago, and had not commenced his duties under it—had not sworn in under the certificate which attested it—when a sudden and premature death put an end to his earthly career. He entered this body in the year 1833; death dissolved his connection with it in 1843. For ten years he was a beloved and distinguished member of this body; and surely a nobler or a finer character never adorned the chamber of the American Senate.

"He was my friend; but I speak not the language of friendship when I speak his praise. A debt of justice is all that I can attempt to discharge: an imperfect copy of the *true man* is all that I can attempt to paint.

"A sagacious head, and a feeling heart, were the great characteristics of Dr. Linn. He had a judgment which penetrated both men and things, and gave him near and clear views of far distant events. He saw at once the bearing—the remote bearing of great measures, either for good or for evil; and brought instantly to their support, or opposition, the logic of a prompt and natural eloquence, more beautiful in its delivery, and more effective in its application, than any that art can bestow. He had great fertility of mind, and was himself the author and mover of many great measures—some for the benefit of the whole Union—some for the benefit of the Great West—some for the benefit of his own State—many for the benefit of private individuals. The pages of our legislative history will bear the evidences of these meritorious labors to a remote and grateful posterity.

"Brilliant as were the qualities of his head, the qualities of his heart still eclipse them. It is to the heart we look for the character of the man; and what a heart had Lewis Linn! The kindest, the gentlest, the most feeling, and the most generous that ever beat in the bosom of bearded man! And yet, when the occasion required it, the bravest and the most daring also. He never beheld a case of human woe without melting before it; he never encountered an apparition of earthly danger without giving it defiance. Where is the friend, or even the stranger, in danger, or distress, to whose succor he did not fly, and whose sorrowful or perilous case he did not make his own? When—where—was he ever called upon for a service, or a sacrifice, and rendered not, upon the instant, the one or the other, as the occasion required?

"The senatorial service of this rare man fell upon trying times—high party times—when the collisions of party too often embittered the ardent feelings of generous natures; but who ever knew bitterness, or party animosities in him? He was, indeed, a party man—as true to his party as to his friend and his country; but beyond the line of duty and of principle—beyond

the debate and the vote—he knew no party, and saw no opponent. Who among us all, even after the fiercest debate, ever met him without meeting the benignant smile and the kind salutation? Who of us all ever needed a friend without finding one in him? Who of us all was ever stretched upon the bed of sickness without finding him at its side? Who of us all ever knew of a personal difficulty of which he was not, as far as possible, the kind composer?

"Such was Senator Linn, in high party times, here among us. And what he was here, among us, he was every where, and with every body. At home among his friends and neighbors; on the high road among casual acquaintances; in foreign lands among strangers; in all, and in every of these situations, he was the same thing. He had kindness and sympathy for every human being; and the whole voyage of his life was one continued and benign circumnavigation of all the virtues which adorn and exalt the character of man. Piety, charity, benevolence, generosity, courage, patriotism, fidelity, all shone conspicuously in him, and might extort from the beholder the impressive interrogatory, '*For what place was this man made?*' Was it for the Senate, or the camp? For public or for private life? For the bar or the bench? For the art which heals the diseases of the body, or that which cures the infirmities of the State? For which of all these was he born? And the answer is, 'For all!' He was born to fill the largest and most varied circle of human excellence; and to crown all these advantages, Nature had given him what the great Lord Bacon calls a perpetual letter of recommendation—a countenance, not only good, but sweet and winning—radiant with the virtues of his soul—captivating universal confidence; and such as no stranger could behold—no traveller, even in the desert, could meet, without stopping to reverence, and saying 'Here is a man in whose hands I could deposit life, liberty, fortune, honor!' Alas! that so much excellence should have perished so soon! that such a man should have been snatched away at the early age of forty-eight, and while all his faculties were still ripening and developing!

"In the life and character of such a man, so exuberant in all that is grand and beautiful in human nature, it is difficult to particularize excellences or to pick out any one quality, or circumstance, which could claim pre-eminence over all others. If I should attempt it, I should point, among his measures for the benefit of the whole Union, to the Oregon Bill; among his measures for the benefit of his own State, to the acquisition of the Platte Country; among his private virtues, to the love and affection which he bore to that brother—the half-brother only—who, only thirteen years older than himself had been to him the tenderest of fathers. For twenty-nine years I had known the depth of that affection, and never saw it burn more brightly than in our last interview, only three weeks before his death. He had just travelled a thousand miles out of his way to see that brother; and his name was still the dearest theme of his conversation—a conversation, strange to tell! which turned, not upon the empty and fleeting subjects of the day, but upon things solid and eternal—upon friendship, and upon death, and upon the duties of the living to the dead. He spoke of two friends whom it was natural to believe that he should survive, and to whose memories he intended to pay the debt of friendship. Vain calculation! Vain impulsion of generosity and friendship! One of these two friends now discharges that mournful debt to him: the other[17] has written me a letter, expressing his '*deep sorrow for the untimely death of our friend*, Dr. Linn.'"

Mr. Benton then offered the following resolutions:

"*Resolved unanimously*, That the members of the Senate, from sincere desire of showing every mark of respect due to the memory of the Hon. Lewis F. Linn, deceased, late a member thereof, will go into mourning, by wearing crape on the left arm for thirty days.

[17] General Jackson.

"*Resolved unanimously*, That, as an additional mark of respect for the memory of the Hon. Lewis F. Linn, the Senate do now adjourn."

"Mr. Crittenden said: I rise, Mr. President, to second the motion of the honorable senator from Missouri, and to express my cordial concurrence in the resolutions he has offered.

"The highest tribute of our respect is justly due to the honored name and memory of Senator Linn, and there is not a heart here that does not pay it freely and plenteously. These resolutions are but responsive to the general feeling that prevails throughout the land, and will afford to his widow and his orphans the consolatory evidence that their *country* shares their grief, and mourns for their bereavement.

"I am very sensible, Mr. President, that the very appropriate, interesting, and eloquent remarks of the senator from Missouri [Mr. Benton] have made it difficult to add any thing that will not impair the effect of what he has said; but I must beg the indulgence of the Senate for a few moments. Senator Linn was by birth a Kentuckian, and my countryman. I do not dispute the claims of Missouri, his adopted State; but I wish it to be remembered, that I claim for Kentucky the honor of his nativity; and by the great law that regulates such precious inheritances, a portion, at least, of his fame must descend to his native land. It is the just ambition and right of Kentucky to gather together the bright names of her children, no matter in what lands their bodies may be buried, and to preserve them as her jewels and her crown. The name of Linn is one of her jewels; and its pure and unsullied lustre shall long remain as one of her richest ornaments.

"The death of such a man is a national calamity. Long a distinguished member of this body, he was continually rewarded with the increasing confidence of the great State he so honorably represented; and his reputation and usefulness increased at every step of his progress.

"In the Senate his death is most sensibly felt. We have lost a colleague and friend, whose noble and amiable qualities bound us to him as with 'hooks of steel.' Who of us that knew him can forget his open, frank, and manly bearing—that smile, that seemed to be the pure, warm sunshine of the heart, and the thousand courtesies and kindnesses that gave a 'daily beauty to his life?'

"He possessed a high order of intellect; was resolute, courageous, and ardent in all his pursuits. A decided party man, he participated largely and conspicuously in the business of the Senate and the conflicts of its debates; but there was a kindliness and benignity about him, that, like polished armor, turned aside all feelings of ill-will or animosity. He had political opponents in the Senate, but not one enemy.

"The good and generous qualities of our nature were blended in his character;

'——and the elements
So mixed in him, that Nature might stand up
And say to all the world—
This was a man.'

The resolutions were then adopted, and the Senate adjourned.

117. The Coast Survey: Attempt To Diminish Its Expense, And To Expedite Its Completion, By Restoring The Work To Naval And Military Officers

Under the British government, not remarkable for its economy, the survey of the coasts is exclusively made by naval officers, and the whole service presided by an admiral, of some degree—usually among the lowest; and these officers survey not only the British coasts throughout all their maritime possessions, but the coasts of other countries where they trade, when it has not been done by the local authority. The survey of the United States began in the same way, being confined to army and navy officers; and costing but little: now it is a civil establishment, and the office which conducts it has almost grown up into a department, under a civil head, and civil assistance costing a great annual sum. From time to time efforts have been made to restore the naval superintendence of this work, as it was when it was commenced under Mr. Jefferson: and as it now is, and always has been, in Great Britain. At the session 1842-'3, this effort was renewed; but with the usual fate of all attempts to put an end to any unnecessary establishment, or expenditure. A committee of the House had been sitting on the subject for two sessions, and not being able to agree upon any plan, proposed an amendment to the civil and diplomatic appropriation bill, by which the legislation, which they could not agree upon, was to be referred to a board of officers; and their report, when accepted by the President, was to become law, and to be carried into effect by him. Their proposition was in these words:

"That the sum of one hundred thousand dollars be appropriated, out of any money in the Treasury not otherwise appropriated, for continuing the survey of the coast of the United States: *Provided*, That this, and all other appropriations hereafter to be made for this work, shall, until otherwise provided by law, be expended in accordance with a plan of re-organizing the mode of executing the survey, to be submitted to the President of the United States by a board of officers which shall be organized by him, to consist of the present superintendent, his two principal assistants, and the two naval officers now in charge of the hydrographical parties, and four from among the principal officers of the corps of topographical engineers; none of whom shall receive any additional compensation whatever for this service, and who shall sit as soon as organized. And the President of the United States shall adopt and carry into effect the plan of said board, as agreed upon by a majority of its members; and the plan of said board shall cause to be employed as many officers of the army and navy of the United States as will be compatible with the successful prosecution of the work; the officers of the navy to be employed on the hydrographical parts, and the officers of the army on the topographical parts of the work. And no officer of the army or navy shall hereafter receive any extra pay, out of this or any future appropriations, for surveys."

In support of this proposition, Mr. Mallory, the mover of it, under the direction of the committee, said:

"It would be perceived by the House, that this amendment proposed a total re-organization of the work; and if it should be carried out in the spirit of that amendment, it would correct many of the abuses which some of them believed to exist and would effect a saving of some $20,000 or $30,000, by dispensing with the services of numerous civil officers, believed not to be necessary, and substituting for them officers of the topographical corps and officers of

the navy. The committee had left the plan of the survey to be decided on by a board of officers, and submitted to the President for his approval, as they had not been able to agree among themselves on any detailed plan. He had, to be sure, his own views as to how the work should be carried on; but as they did not meet the concurrence of a majority of the committee, he could not bring them before the House in the form of a report."

This was the explanation of the proposition. Not being able to agree to any act of legislation themselves, they refer it to the President, and a board, to do what they could not, but with an expectation that abuses in the work would be corrected, expense diminished, and naval and military officers substituted, as far as compatible with the successful prosecution of the work. This was a lame way of getting a reform accomplished. To say nothing of the right to delegate legislative authority to a board and the President, that mode of proceeding was the most objectionable that could have been devised. It is a proverb that these boards are a machine in the hands of the President, in which he and they equally escape responsibility—they sheltering themselves under his approval—he, under their recommendation and, to make sure of his approval, it is usually obtained before the recommendation is made. This proposed method of effecting a reform was not satisfactory to those who wished to see this branch of the service subjected to an economical administration, and brought to a conclusion within some reasonable time. With that view, Mr. Charles Brown, of Pennsylvania, moved a reduction of the appropriation of more than one half, and a transference of the work from the Treasury department (where it then was) to the navy department where it properly belonged; and proposed the work to be done by army and naval officers. In support of his proposal, he said:

"The amendment offered under the instructions of the committee, did not look to the practical reform which the House expected when this subject was last under discussion. He believed, that there was a decided disposition manifested in the House to get clear of the present head of the survey; yet the amendment of the gentleman brought him forward as the most prominent member of it. He thought the House decided, when the subject was up before, that the survey should be carried on by the officers of the general government; and he wished it to be carried on in that way now. He did not wish to pay some hundred thousand dollars as extra pay for officers taken from private life, when there were so many in the navy and army perfectly competent to perform this service. This work had cost nearly a million of dollars ($720,000) by the employment of Mr. Hassler and his civil assistants alone, without taking into consideration the pay of the officers of the navy and army who were engaged in it."

The work had then been in hand for thirty years, and the average expense of each year would be $22,000; but it was now increased to a hundred thousand; and Mr. Brown wished it carried back more than half—a saving to be effected by transferring the work to the Navy Department, where there were so many officers without employment—receiving pay, and nothing to do. In support of his proposal, Mr. Brown went into an examination of the laws on the subject, to show that this work was begun under a law to have it done as he proposed; and he agreed that the army and navy officers (so many of whom were without commands), were competent to it; and that it was absurd to put it under the Treasury Department.

"The law of February 10, 1807, created the coast survey, put it in the hands of the President, and authorized him to use army and navy officers, navy vessels, astronomers, and other persons. In August, 1816 Mr. Hassler was appointed superintendent. His agreement was to "make the principal triangulation and consequent calculations himself; to instruct the engineer and naval officers employed under him; and he wanted two officers of engineers, topographical or others, and some cadets of said corps, in number according to circumstances. April 14, 1818, that part of the law of 1807 was repealed which authorized the

employment of other persons than those belonging to the army and navy. Up to this time over $55,000 were expended in beginning the work and buying instruments, for which purpose Mr. Hassler was in England from August 1811, to 1815.

“June 10, 1832, the law of 1807 was revived, and Mr. Hassler was again appointed superintendent. The work has been going on ever since. The coast has been triangulated from Point Judith to Cape Henlopen (say about 300 miles); but only a part of the off-shore soundings have been taken. There are about 3,000 miles of seaboard to the United States. $720,000 have been expended already. It is stated, in Captain Swift’s pamphlet, that the survey of the coast was under the Treasury Department, because Mr. Hassler was already engaged under that department, making weights and measures. These are all made now. When the coast survey was begun, the topographical corps existed but in name. In 1838, it was organized and enlarged, and is now an able and useful corps. Last year Congress established a hydrographical bureau in the Navy Department. There are numbers of naval officers capable of doing hydrographical duties under this bureau. The coast survey is the most important topographical and hydrographical work in the country. We have a topographical and a hydrographical bureau, yet neither of them has any connection with this great national work. Mr. Hassler has just published from the opinion of the Marquis de La Place (Chamber of Peers, session of 1816-’17), upon the French survey, this valuable suggestion, viz: ‘Perhaps even the great number of geographical engineers which our present state of peace allows to employ in this work, to which it is painful to see them strangers, would render an execution more prompt, and less expensive.’

“The Florida war is now over; many works of internal improvement are suspended; there must be topographical officers enough for the coast survey. The Russian government has employed an able American engineer to perform an important scientific work; but that wise government requires that all the assistants shall come from its corps of engineers, which is composed of army and navy officers. If the coast survey is to be a useful public work, let the officers conduct it under their bureaus. The officers would then take a pride in this duty, and do it well, and do it cheap. The supervision of the bureaus would occasion *system*, fidelity, and entire responsibility. More than $30,000 are now paid annually to citizens, for salary out of the coast survey appropriation. This could be saved by employing officers. Make exclusive use of them, and half the present annual appropriation would suffice. Can the treasury department manage the survey understandingly? The Secretary of the Treasury has already enough to do in the line of his duty; and, as far as the survey is concerned, a clerk in the Treasury Department is the secretary. Can a citizen superintendent, of closet and scientific habits; or can a clerk in the Treasury Department, manage, with efficiency and economy, so many land and water parties, officers, men, vessels, and boats? The Navy Department pays out of the navy appropriation the officers and men now lent to the Treasury for the survey. The Secretary of the Navy appears to have no control over the expenditures of this part of the naval appropriation. He does not even select the officers detailed for this duty, though he knows his own material best, and those who are most suitable. This navy duty has become treasury patronage, with commands, extra pay, &c.

”The Treasury Department has charge of the vessels; they are bought by the coast-survey appropriation; the off-shore soundings are only in part taken. There are not vessels enough, and of the right sort, to take these soundings, and in the right way. Steamers are wanted. The survey appropriation cannot bear the expense, but if the Navy Department had charge of the hydrography, it could put suitable vessels on the coast squadron, and employ them on the coast survey, agreeably to the law of 1807. Last year the vessels did no soundings until about the 1st of June, although the spring opened early. The Treasury had not the means to equip the vessels until the appropriation bill passed Congress. But if the navy had charge of vessels,

the few naval stores they wanted might have been furnished from the navy stores, or given from second-hand articles not on charge at the yards. Had good arrangements been made, the Delaware Bay might readily have been finished last fall, and the chart of it got out at once. Now, the topographical corps makes surveys for defences; the navy officers make charts along the coast; and the coast survey goes over the same place a third time. If the officers did this work, the army might get the military information, and the navy the hydrographical knowledge, which the interest of the country requires that each of these branches of the public defence should have; and this, at the expense of but one survey; for, at places where defences might be required, the survey could be done with the utmost minuteness. The officers of the army and navy need not clash. The topographical corps (aided by junior navy officers willing to serve under that bureau—and the recent Florida war and the present coast survey system, show that navy officers are willing to serve, for the public good, under other departments than their own) would do the topography and furnish the shore line. The hydrographical officers would receive the shore line, take the soundings, and make the chart. The same principle is now at work, and works well. The navy officers now get the shore line from the citizens in the shore parties. The President could direct the War and Navy Secretaries to make such rules, through the bureaus, as would obviate every difficulty. Employing officers would secure for the public, system, economy, and despatch. The information obtained would be got by the right persons and kept in the right hands. Government would have complete command of the persons employed; and should the work ever be suspended, might, at pleasure, set them to work again on the same duty. The survey he wished to be prosecuted without delay; and all he wanted was to have it under the most efficient management. If it was found that the officers of the navy and army were not competent, it could be remedied hereafter; but it was due to them to give them a fair trial, before they were condemned. Certainly they ought not to be disgraced and condemned in advance. It was an insult to them to suppose that Mr. Hassler was the only man in the country capable of superintending this work; and that they could not carry on the survey of our coast by triangulation. They had been for some time, and were now, surveying the lakes; and he believed their surveys would be equally correct with Mr. Hassler's. We had a bureau of hydrography of the navy, and a corps of topographical engineers, which were expressly created to perform this kind of service; while there was the military academy at West Point, which qualified the officers to perform it. The people would hardly believe that these officers (educated at the expense of the government) were not capable of performing the services for which they were educated; and if they thought so, they would be for abolishing that institution. They would say that these officers should be dismissed, and others appointed in their places, who were qualified.

"He never could acknowledge that there was no other man but Mr. Hassler in the country capable of carrying on the work. This might have been the case when he was first appointed, thirty years ago; but since that time they had a number of officers educated at the military academy, while many others in the civil walks of life had qualified themselves for scientific employments. He was sure that the officers of the army and navy were competent to perform this work. There was but little now for the topographical engineers to do; and he had no doubt that many of them, as well as officers of the navy, would be glad to be employed on the coast survey. Indeed, several officers of the navy had told him that they would like such employment, rather than be idle, as they then were. From the rate the coast survey had thus far proceeded, it would take more than a hundred years to complete it. Certainly this was too slow. He hoped, therefore, a change would be made. In the language of the report of Mr. Aycrigg: 'We should then have the survey conducted on a system of practical utility, and moving *right* end foremost.'"

These were wise suggestions, and unanswerable; but although they could not be answered they could be prevented from becoming law. Instead of reform of abuses, reduction of expense, and speedy termination of the work, all the evils intended to be reformed went on and became greater than ever, and all are still kept up upon the same arguments that sustained the former. It is worthy of note to hear the same reason now given for continuing the civilian, Mr. Bache, at the head of this work, which was given for thirty years for retaining Mr. Hassler in the same place, namely, that there is no other man in the country that can conduct the work. But that is a tribute which servility and interest will pay to any man who is at the head of a great establishment; and is always paid more punctually where the establishment ought to be abolished than where it ought to be preserved; and for the obvious reason, that the better one can stand on its own merits, while the worse needs the support of incessant adulation. Mr. Brown's proposal was rejected—the other adopted; and the coast survey now costs above five hundred thousand dollars a year in direct appropriations, besides an immense amount indirectly in the employment of government vessels and officers: and no prospect of its termination. But the friends of this great reform did not abandon their cause with the defeat of Mr. Brown's proposition. Another was offered by Mr. Aycrigg of New Jersey, who moved to discontinue the survey until a report could be made upon it at the next session; and for this motion there were 75 yeas—a respectable proportion of the House, but not a majority. The yeas were:

"Messrs. Landaff W. Andrews, Sherlock J. Andrews, Thomas D. Arnold, John B. Aycrigg, Alfred Babcock, Henry W. Beeson, Benjamin A. Bidlack, David Bronson, Aaron V. Brown, Milton Brown, Edmund Burke, William B. Campbell, Thomas J. Campbell, Robert L. Caruthers, Zadok Casey, Reuben Chapman, Thomas C. Chittenden, James Cooper, Mark A. Cooper, Benjamin S. Cowen, James H. Cravens, John R. J. Daniel, Garrett Davis, Ezra Dean, Edmund Deberry, Andrew W. Doig, John Edwards, John C. Edwards, Joseph Egbert, William P. Fessenden, Roger L. Gamble, Thomas W. Gilmer, Willis Green, William Halsted, Jacob Houck, jr., Francis James, Cave Johnson, Nathaniel S. Littlefield, Abraham McClellan, James J. McKay, Alfred Marshall, John Mattocks, John P. B. Maxwell, John Maynard, William Medill, Christopher Morgan, William M. Oliver, Bryan Y. Owsley, William W. Payne, Nathaniel G. Pendleton, Francis W. Pickens, John Pope, Joseph F. Randolph, Kenneth Rayner, Abraham Rencher, John Reynolds, Romulus M. Saunders, Tristram Shaw, Augustine H. Shepperd, Benjamin G. Shields, William Slade, Samuel Stokely, Charles C. Stratton, John T. Stuart, John B. Thompson, Philip Triplett. Hopkins L. Turney, David Wallace, Aaron Ward, Edward D. White, Joseph L. White, Joseph L. Williams, Thomas Jones Yorke, John Young."

The friends of economy in Congress, when once more strong enough to form a party, will have a sacred duty to perform to the country—that of diminishing, by nearly one-half, the present mad expenditures of the government: and the abolition of the present coast-survey establishment should be among the primary objects of retrenchment. It is a reproach to our naval and military officers, and besides untrue in point of fact, to assume them to be incapable of conducting and of performing this work: it is a reproach to Congress to vote annually an immense sum on the civil superintendence and conduct of this work, when there are more idle officers on the pay-roll than could be employed upon it.

118. Death Of Commodore Porter, And Notice Of His Life And Character

The naval career of Commodore Porter illustrates in the highest degree that which almost the whole of our naval officers, each according to his opportunity, illustrated more or less—the benefits of the cruising system in our naval warfare. It was the system followed in the war of the Revolution, in the *quasi* war with France, and in the war of 1812—imposed upon us by necessity in each case, not adopted through choice. In neither of these wars did we possess ships-of-the-line and fleets to fight battles for the dominion of the seas; fortunately, we had not the means to engage in that expensive and fatal folly; but we had smaller vessels (frigates the largest) to penetrate every sea, attack every thing not too much over size, to capture merchantmen, and take shelter when pressed where ships-of-the-line and fleets could not follow. We had the enterprising officers which a system of separate commands so favorably developes, and the ardent seamen who looked to the honors of the service for their greatest reward. Wages were low; but reward was high when the man before the mast, or the boy in the cabin, could look upon his officer, and see in his past condition what he himself was, and in his present rank what he himself might be. Merit had raised one and might raise the other.

The ardor for the service was then great; the service itself heroic. A crew for a frigate has been raised in three hours. Instant sailing followed the reception of the order. Distant and dangerous ground was sought, fierce and desperate combat engaged; and woe to the enemy that was not too much over size! Five, ten, twenty minutes would make her a wreck and a prize. Almost every officer that obtained a command showed himself an able commander. Every crew was heroic; every cruise daring: every combat a victory, where proximate equality rendered it possible. Never did any service, in any age or country, exhibit so large a proportion of skilful, daring, victorious commanders, mainly developed by the system of warfare which gave so many a chance to show what they were. Necessity imposed that system; judgment should continue it. Economy, efficiency, utility, the impossibility of building a navy to cope with the navies of the great maritime Powers, and the insanity of doing it if we could, all combine to recommend to the United States the system of naval warfare which does the most damage to the enemy with the least expense to ourselves, which avoids the expensive establishments which oppress the finances of other nations, and which renders useless, for want of an antagonist, the great fleets which they support at so much cost.

Universally illustrated as the advantages of this system were by almost all our officers in the wars of the Revolution, of ‘98, and 1812, it was the fortune of Commodore Porter, in the late war with Great Britain, to carry that illustration to its highest point, and to show, in the most brilliant manner, what an American cruiser could do. Of course we speak of his cruise in the Pacific Ocean, prefaced by a little preliminary run to the Grand Banks, which may be considered as part of it—a cruise which the boy at school would read for its romance, the mature man for its history, the statesman for the lesson which it teaches.

The Essex, a small frigate of thirty-two guns, chiefly carronades, and but little superior to a first-class sloop-of-war of the present day, with a crew of some three hundred men, had the honor to make this illustrious cruise. Leaving New York in June, soon after the declaration of war, and making some small captures, she ran up towards the Grand Banks, and in the night discovered a fleet steering north, all under easy sail and in open order, wide spaces being between the ships. From their numbers and the course they steered Captain Porter judged them to be enemies, and wished to know more about them.

Approaching the sternmost vessel and entering into conversation with her, he learnt that the fleet was under the convoy of a frigate, the Minerva, thirty-six guns, and a bomb-vessel, both then ahead; and that the vessels of the fleet transported one thousand soldiers. He could have cut off this vessel easily, but the information he had received opened a more brilliant prospect. He determined to pass along through the fleet, the Essex being a good sailer, speaking the different vessels as he quietly passed them, get alongside of the frigate, and carry her by an energetic attack. In execution of this plan he passed on without exciting the least suspicion, and came up with the next vessel; but this second one was more cautious than the first, and, on the Essex's ranging up alongside of her, she took alarm and announced her intention to give the signal of a stranger having joined the fleet. This put an end to disguise and brought on prompt action. The vessel, under penalty of being fired into, was instantly ordered to surrender and haul out of the convoy. This was so quietly done as to be unnoticed by the other ships. On taking possession of her she was found to be filled with soldiers, one hundred and fifty of them, and all made prisoners of war.

A few days afterwards the Essex fell in with the man-of-war Alert, of twenty guns and a full crew. The Alert began the action. In eight minutes it was finished, and the British ship only saved from sinking by the help of her captors. It was the first British man-of-war taken in this contest, and so easily, that not the slightest injury was done to the Essex, either to the vessel or her crew. Crowded now with prisoners (for the crew of the Alert had to be taken on board, in addition to the one hundred and fifty soldiers and the previous captures), all chafing in their bondage, and ready to embrace the opportunity of the first action to rise, Captain Porter agreed with the commander of the Alert to convert her into a cartel, and send her into port at St. John's, with the prisoners, to await their exchange. Continuing her cruise, the Essex twice fell in with the enemy's frigates having other vessels of war in company, so that a fair engagement was impossible. The Essex then returned to the Delaware to replenish her stores, and, sailing thence in October, 1812, she fairly commenced her great cruise.

Captain Porter was under orders to proceed to the coast of Brazil, and join Commodore Bainbridge at a given rendezvous, cruising as he went. It was not until after he had run the greater part of the distance, crossing the equator, that he got sight of the first British vessel, a small man-of-war brig, discovered in the afternoon, chased, and come up with in the night, having previously boldly shown her national colors. The two vessels were then within musket shot. Not willing to hurt a foe too weak to fight him, Captain Porter hailed and required the brig to surrender. Instead of complying, the arrogant little man-of-war turned upon its pursuer, attempting to cross the stern of the Essex, with the probable design to give her a raking fire and escape in the dark. Still the captain would not open his guns upon so diminutive a foe until he had tried the effect of musketry upon her. A volley was fired into her, killing one man, when she struck. It was the British government packet Nocton, ten guns, thirty-one men, and having fifty-five thousand silver dollars on board.

Pursuing his cruise south to the point of rendezvous, an English merchant vessel was captured, one of a convoy of six which had left Rio the evening before in charge of a man-of-war schooner. The rest of the convoy was out of sight, but, taking its track, a long and fruitless chase was given; and the Essex repaired to the point of rendezvous, without meeting with further incident. Commodore Bainbridge had been there, and had left; and, being now under discretionary orders, Captain Porter determined to use the discretion with which he was invested, and took the bold resolution to double Cape Horn, enter the Pacific Ocean, put twenty thousand miles between his vessel and an American port, and try his fortune among British whalers, merchantmen, and ships-of-war in that vast and remote sea.

It was a bold enterprise, such as few governments would have ordered, which many would have forbid, and which the undaunted resolution of a bold commander alone could take. He had every thing against him: no depots, no means of repairing or refitting; only one chart; the Spanish American States subservient to the British, and unreliable for the impartiality of neutrals, much less for the sympathy of neighbors. He was deficient both in provisions and naval stores, but expected to furnish himself from the enemy, whose vessels in that capacious and distant sea, were always well supplied; and the silver taken from the British government packet would be a means towards paying wages.

In the middle of January, after a most tempestuous passage, he had doubled the Cape, entered the Pacific, his characteristic motto, Free Trade and Sailors' Rights, at the mast-head, and ran for Valparaiso—the great point of maritime resort in the South Pacific. He had expected to find it a Spanish town, as it was when he left the United States: he found it Chilian, for Chili, in the mean time, had declared her independence: and this change he had a right to deem favorable, as, in addition to the advantages of conventional neutrality, it was fair to count upon the good feeling of a young and neighboring republic. In this he was not disappointed, being well received, meeting good treatment, obtaining supplies, and acquiring valuable information. He learnt that the American whalers were in great danger, most of them ignorant of the war, cruisers in pursuit of them, and one already taken. He learnt also that the Viceroy of Peru had sent out corsairs against American shipping—a piece of information of the highest moment, as it showed him an enemy where he expected a neutral, and enabled him to know how to deal with Peruvian ships when he should meet them. This criminality on the part of the viceroy was the result of a conclusion of his own, that as Spain and Great Britain were allies against France, so they would soon be allies against the United States, and that he, as a good Spanish viceroy should begin without waiting for the orders. This let Captain Porter see that he had two enemies instead of one to contend with in the Pacific; and this information, as it showed increase of danger to American interests, increased his ardor to go to their protection; which he promptly did.

Barely taking time to hurry on board the supplies, which six months already at sea rendered indispensable, he was again in pursuit of the enemy, and soon had the good fortune to fall in with an American whale-ship, which gave the important intelligence that a Peruvian corsair had just captured two American whalers off Coquimbo and was making for that place, with a British vessel in company. This was exciting information, and presented a three-fold enterprise to the chivalrous spirit of Porter—to rescue the American, punish the Peruvian, and capture the Englishman. Instantly all sail was set for Coquimbo, the American whaler which had given the information in company, and all hearts beating high with expectation, and with the prospect of performing some generous and gallant deed.

In a few hours a strange sail was descried in the distance, with a smaller vessel in company; and soon the sail was suspected to be a cruiser, disguised as a whaler. Then some pretty play took place, allowable in maritime war, although entirely a game of deception. The stranger showed Spanish colors; the Essex showed English, and then fired a gun to leeward. The whaler in company with the Essex hoisted the American flag *beneath* the English jack. All these false indications are allowable to gain advantages before fighting, but not to fight under, when true colors must be shown by the attacking ship under the penalty of piracy.

Gun signals were then resorted to. The stranger fired a shot ahead of the Essex, as much as to say *stop and talk*; the Essex fired a shot over him, signifying *come nearer*. She came, for the implication was that the next shot would be into her. When nearer, the stranger sent an armed boat to board the Essex; but the boat was directed to return with an order to the stranger to pass under the frigate's lee (*i. e.* under her guns), and to send an officer on board to apologise

for the shots he had fired at an *English* man-of-war. The order was promptly complied with. The stranger came under the lee of the Essex and sent her lieutenant on board, who, not suspecting where he was, readily told him that his ship was the Nereyda, Peruvian privateer, of fifteen guns and a full crew; that they were cruising for Americans, and had already taken two (the same mentioned by the whaler); and that the smaller vessel in company was one of these.

After giving this information he made the apology for the shot, which was that, having put one of their American prizes in charge of a small crew, the English letter-of-marque Nimrod had fallen in with it and taken it from the crew, and that they were cruising for this Nimrod with a view to obtain redress, and had mistaken this frigate for her, and hence the shot ahead of her; and hoped the explanation would constitute a sufficient apology. It did so; Capt. Porter was perfectly satisfied with it, and still more so, with the information which accompanied it. It placed the accomplishment of one of his three objects immediately in his hands, and the one perhaps dearest to his heart—that of catching the Peruvian corsair which was preying upon American commerce. So, civilly dismissing the lieutenant, he waited until he had got aboard of the Nereyda, then run up the American flag, fired a shot over the corsair, and stood ready to fire into her. The caution was sufficient: the Peruvian surrendered immediately, with her prize. Thus was the piratical capture of two American whalers promptly chastised, and one of them released, and the Peruvian informed that he and his countrymen were cruising against Americans in mistake, and would be treated as pirates if they continued the practice. This admonition put an end to Peruvian seizure of American vessels.

Believing that the other American whaler captured by the Nereyda, and taken from her prize-crew by the Nimrod would be carried to Lima, Captain Porter immediately bore away for its port (Callao), approached it, hauled off to watch, saw three vessels standing in, prepared to cut them off, and especially the foremost, which he judged to be an American. She was so, and was cut off—the very whaler he was in search of. It was the Barclay; and the master, crew and all, so rejoiced at their release that they immediately joined their deliverer. The Barclay became the consort of the Essex; her crew enlisted under Porter; the master became (what he greatly needed) a pilot for him in the vast and unknown sea he was traversing. There was now a good opportunity to look into this most frequented of Peruvian ports, which Captain Porter did, showing English colors; and, seeing nothing within that he would have a right to catch when it came out, nor gaining any special information, and finding that nothing had occurred there to make known his arrival in the Pacific, he immediately sailed again, to make the most of his time before the fact of his presence should be known and the alarm spread.

He stood across the main towards Chatham Island and Charles Island, approaching which three sail were discovered in the same moment—two in company, the other apart and in a different direction. The one apart was attended to first, pursued, summoned, captured, and proved to be the fine British whaler Montezuma, with fourteen hundred barrels of oil on board. A crew was put on board of her, and chase given to the other two. They had taken the alarm, seeing what was happening to the Montezuma, and were doing their best to escape. The Essex gained upon them; but when within eight miles it fell calm, dead still—one of those atmospheric stagnations frequent in the South Sea. Sailing ceased; boats were hoisted out; the first lieutenant, Downes, worthy second to Porter, was put in command. Approached within a quarter of a mile, the two ships showed English colors and fired several guns. Economizing powder and time, the boats only replied with their oars, pulling hard to board quick; seeing which the two ships struck, each in succession, as the boarders were closing. They proved to be the Georgiana and the Policy, both whalers, the former built for the East

India service, pierced for eighteen guns, and having six mounted when taken. Having the reputation of a fast vessel, the captain determined to equip her as a cruiser, which was done with her own guns and those of the Policy—this latter, like the Georgiana, pierced for eighteen guns, but mounting ten.

A very proper compliment was paid to Lieut. Downes in giving him the command of this British ship, thus added to the American navy with his good exertions. An armament of 16 guns, and a crew of 41 men, and her approved commander, it was believed would make her an over-match for any English letters of marque, supposed to be cruising among these islands, and justify occasional separate expeditions.

By these three captures Capt. Porter was enabled to consummate the second part of his plan—that of living upon the enemy. He got out of them ample supplies of beef, bread, pork, water, and Gallipagos tortoises. Besides food for the men, many articles were obtained for repairing his own ship: and accordingly the rigging was overhauled and tarred down, many new spars were fitted, new cordage supplied, the Essex repainted—all in the middle of the Pacific, and at the expense of a Power boasting great fleets, formidable against other fleets, but useless against a daring little cruiser.

Getting into his field of operation in the month of April, Capt. Porter had already five vessels under his command—the Montezuma, the Georgiana, the Barclay, and the Policy, in addition to the Essex. All cruising together towards the middle of that month, and near sunset in the evening, a sail was perceived in the distant horizon. A night-chase might permit her to escape; a judicious distribution of his little squadron, without alarming, might keep her in view till morning. It was distributed accordingly. At daylight the sail was still in sight, and, being chased, she was soon overtaken and captured. It was the British whaler Atlantic, 355 tons, 24 men, pierced for 20 guns, and carrying 8 18-pounder carronades. While engaged in this chase another sail was discovered, pursued, and taken. It was the Greenwich, of 338 tons, 18 guns, and 25 men; and like the other was an English letter of marque.

In the meanwhile the now little man-of-war the Georgiana, under Lieut. Downes, made a brief excursion of her own among the islands, apart from the Essex, and with brilliant success. He took, without resistance, the British whale ships Catherine, of 270 tons, 8 guns, and 29 men, and Rose, of 220 tons, 8 guns and 21 men; and, after a sharp combat, a third whaler, the Hector, 270 tons, 25 men, pierced for 20 guns and 11 mounted. In this action the lieutenant, after having manned his two prizes, had but 21 men and boys left to manage his ship, fight the Hector, and keep down fifty prisoners. After manning the Hector and taking her crew on board his own vessel, he had but ten men to perform the double duty of working the vessel and guarding seventy-three prisoners; yet he brought all safe to his captain, who then had a little fleet of nine sail under his command, all of his own creation, and created out of the enemy.

The class of some of his prizes enabled the captain to increase the efficiency of his force by some judicious changes. The Atlantic, being nearly one hundred tons larger than the Georgiana, a faster ship, and every way a better cruiser, was converted into a sloop-of-war, armed with twenty guns, manned by sixty men, named the Essex Junior; and the intrepid Downes put in command of her. The Greenwich, also armed with guns, but only a crew to work her (for so many prizes to man left their cruisers with their lowest number,) was converted into a store-ship, and received all the spare stores of the other ships. A few days afterwards the Sir Andrew Hammond was captured, believed to be about the last of the British whalers in those parts, and among the finest. She was a ship of three hundred and ten tons, twelve guns, and thirty-one men; and had a large supply of beef, pork, bread, wood, and water—adding sensibly to the supplies of the little fleet.

The fourth of July arrived, and was gaily kept, and with the triumph of victorious feelings, firing salutes with British guns, charged with British powder. It was a proud celebration, and must have looked like an illusion of the senses to the British prisoners, accustomed to extol their country as the mistress of the seas, and to consider American ships as the impressment ground of the British navy. The celebration over, the little fleet divided; Essex Junior bound to Valparaiso, with the Hector, Catherine, Policy, and Montezuma, prizes, and the Barclay, re-captured ship, under convoy. The Essex, with the Greenwich and Georgiana, steered for the Gallipagos Islands, and fell in with three sail at once, the whole of which were eventually captured: one, the English whaler Charlton, of 274 tons, ten guns, and 21 men; another, the largest of the three, the Seringapatam, of 357 tons, 14 guns, and 40 men; the smallest of the three, the New Zealander, 260 tons, 8 guns, and 23 men. Here were 900 tons of shipping, 32 guns, and 75 men all taken at once, and, as it were, at a single glance at the sea.

The Seringapatam had been built for a cruiser, and, of all the ships in the Pacific, was the most dangerous to American commerce. It had just come out, and had already made a prize. Finding that the master had no commission, and that he had commenced cruising in anticipation of one, and thereby subjected himself to be treated as a pirate, Captain Porter had him put in irons, and sent to the United States to be tried for his life. While finding himself encumbered with prisoners, and his active strength impaired by the guards they required, he released a number on parole, and gave them up one of the captured ships (the Charlton) to proceed to Rio Janeiro. The Georgiana and the New Zealander were despatched to the United States, each laden with the oil taken from the British whalers. Encumbered with prizes, as well as with prisoners, and no American port in which to place them (for the mouth of the Columbia, though claimed by the United States since 1804, and settled under Mr. John Jacob Astor since 1811, had not then been nationally occupied), Captain Porter undertook to provide a place of his own. Repairing to the wild and retired island of Nooaheevah, he selected a sequestered inlet, built a little fort upon it, warped three of his prizes under its guns, left a little garrison of twenty-one men under Lieutenant Gamble to man it, and then went upon another cruise.

The story of the remainder of his cruise is briefly told. He had learnt that the British government, thoroughly aroused by his operations in the Pacific, had sent out a superior force to capture him. Taking the Essex Junior with him, he sailed for Valparaiso, entered the harbor, and soon a superior British frigate and a sloop of war entered also. Captain Hillyar, for that was the British captain's name, saluted the American frigate courteously, inquiring for the health of Captain Porter; but the British frigate (the Phœbe) came so near that a collision seemed inevitable, and looked as if intended, her men being at quarters and ready for action. In a moment Captain Porter was equally ready, and that either for boarding or raking, for the vessels had got so close that the Phœbe, in hauling off, passed her jib-boom (that spar which runs out from the bowsprit) over the deck of the Essex, and lay with her bow to the broadside of the American. It was a fatal position, and would have subjected her to immediate capture or destruction, justifiable by the undue intimacy of an enemy. Captain Porter might have fired into her; but, reluctant to attack in a neutral port, he listened to the protestations of the British captain, accepted his declaration of innocent intentions and accidental contact, and permitted him to haul off from a situation in which he could have been destroyed in a few minutes. Could he have foreseen what was to happen to himself soon after in the same port, he could not have been so forbearing to the foe nor so respectful to the Chilian authorities.

For six weeks the hostile vessels watched each other, the British vessel sometimes lying off and on outside of the harbor, and when so at sea the Essex going out and offering to fight her single handed; for the Essex Junior was too light to be of any service in a frigate fight. Other

British ships of war being expected at Valparaiso, and no combat to be had with the Phœbe without her attendant sloop, Captain Porter determined to take his opportunity to escape from the harbor—which the superior sailing of the Essex would enable him to do when the British ships were a few miles off, as they often were—Essex Junior escaping at the same time by parting company, as it was certain that both the British ships would follow the American frigate.

March 28th, 1813, was a favorable day for the attempt—the wind right, the enemy far enough out, and the Essex in perfect order for fighting or sailing. The attempt was made, and with success, until, doubling a headland which formed part of the harbor, a squall carried away the maintopmast, crippling the ship and greatly disabling her. Capt. Porter put back for the harbor, and though getting within it, and within pistol shot of the shore, and within half a mile from a detached battery, could not reach the usual anchoring ground before the approach of the enemy compelled him to clear for action. A desperate but most unequal combat raged for near three hours—an inferior crippled frigate contending with a frigate and a sloop in perfect order. The crippled mast of the Essex allowed the enemy to choose his distance, which he always did with good regard to his own safety, using his long eighteens at long distances—keeping out of the reach of Porter's carronades, out of the reach of boarding, and only within range of six long twelves which played with such effect that at the end of half an hour both British ships hauled off to repair damages. Having repaired, both returned, and got such a position that not a gun of the crippled Essex could bear upon them. An attempt was made to close upon them and get near enough to cripple the sloop and drive her out of the fight for the remainder of the action; but the frigate edged away, choosing her distance, and using her long guns with terrible effect upon the Essex, which could not send back a single shot.

The brave and faithful Downes pulled through the fire of the enemy in an open boat to take the orders of his captain; but his light guns could be of no service, and he was directed to look to his own ship. Twice more the Essex endeavored to close upon the British frigate, but she edged away each time, keeping the distance which was safe to himself and destructive to the Essex. By this time half the whole crew were killed or wounded, and the ship on fire. Capt. Porter then attempted to run her on shore; but the wind failed when within musket shot of the land. Leave was then given to the crew to save themselves by swimming, which but few would do. At last the surrender became imperative. The Essex struck, and her heroic commander and surviving men and officers became prisoners of war. Thousands of persons—all Valparaiso—witnessed the combat. The American consul, Mr. Poinsett, witnessed it and claimed the protection of the fort, only to receive evasive answers, as the authorities were now favorable to the British. It was a clear case of violated neutrality, tried by any rule. First, the Essex was within the harbor, though not at the usual anchoring place, which she could not reach; secondly, she was under the guns of the detached fort, only half a mile distant; thirdly, she was within the territorial jurisdiction of Chili, whether measured by the league or by the range of cannon, and no dispute about either, as the shore was at hand, and the British balls which missed the Essex hit the land.

After the surrender some arrangements were made with Capt. Hillyar. Some prisoners were exchanged upon the spot, part of those made by Capt. Porter being available for an equal number of his own people. Essex Junior became a cartel to carry home himself and officers and others of his men on parole; but this man of daring deeds was not allowed to reach home without another proof of his determined spirit. When within thirty miles of New York, Essex Junior was brought to by the British razee Saturn, Capt. Nash, who denied the right of Capt. Hillyar to allow the cartel, and ordered her to lie by him during the night. Capt. Porter put off in a whale-boat, and, though long chased, saved himself by the chance of a fog coming to the aid of hard rowing.

And thus ended this unparalleled cruise—ending with a disaster. But the end could not efface the past; could not undo the captures which had been made; could not obscure the glory which had been acquired; cannot impair the lesson which its results impress on the minds of statesmen. It had lasted eighteen months, and during that time the little frigate had done every thing for itself and the country. It had lived and flourished upon the enemy. Not a dollar had been drawn from the public Treasury, either for pay or supplies; all came from the foe. Money, provisions, munitions, additional arms, spars, cordage, rigging, and vessels to constitute a little fleet, all came from the British. Far more than enough for all purposes was taken and much destroyed; for damage as well as protection was an object of the expedition—damage to the British, protection to Americans; and nobly were both objects accomplished. Surpluses, as far as possible, were sent home; and, though in part recaptured, these accidents did not diminish the merit of the original capture. The great whale trade of the British in the Pacific was broken up, the supply of oil was stopped, the London lamps were in the condition of those of the "foolish virgins," and a member of Parliament declared in his place that the city had burnt dark for a year.

The personal history of Commodore Porter, for such he became, was full of incident and adventure, all in keeping with his generous and heroic character. Twice while a lad and serving in merchant vessels in the West Indies, he was impressed by the British, and, by his courage and conduct made his escape, each time. A third attempt at impressment was repulsed by the bloody defeat of the press-gang. The same attempt, renewed with increased numbers, was again repulsed with loss to the British party—young Porter, only sixteen, among the most courageous defenders of the vessel. He was upwards of a year a prisoner at Tripoli, being first lieutenant on board the Philadelphia when she grounded before that city and was captured. He was midshipman with the then Lieutenant Rodgers, when the two young officers and eleven men performed that marvel of endurance, firmness, steadiness, and seamanship, in working for three days and nights, without sleep or rest, on the French frigate Insurgent, guarding all the time their 173 prisoners, and conducting the prize safe into port—as related in the notice of Commodore Rodgers.

After his return from the Pacific, he was employed in suppressing piracy in the West Indies, which he speedily accomplished; but for punishing an insult to the flag in the island of Porto Rico, he incurred the displeasure of his government, and the censure of a court martial. His proud spirit would not brook a censure which he deemed undeserved; and he resigned his commission in the navy, of which he was so brilliant an ornament. The writer of this View was a close observer of that trial, and believed the Commodore to have been hardly dealt by, and considered the result a confirmation of his general view of courts martial where the government interferes—an interference (when it happens) generally for a purpose, either to convict or acquit; and rarely failing of its object in either case, as the court is appointed by the government, dependent upon it for future honor and favor, acts in secret, and subject to the approval of the Executive.

Stung to the quick by such requital of his services, the brave officer resigned his commission, and left the country which he had served so faithfully, and loved so well, and took service in the Republic of Mexico, then lately become independent and desirous to create a navy. But he was not allowed to live and mourn an exile in a foreign land. President Jackson proposed to restore him to his place in the navy, but he refused the restoration upon the same ground that he had resigned upon—would not remain in a service under an unreversed sentence of unjust censure. President Jackson then gave him the place of Consul General at Algiers; and, upon the reduction of that place by the French, appointed him the United States Charge d'Affaires to the Sublime Porte—a mission afterwards raised to Minister Resident by act of Congress for his special benefit. The Sultan Mahmoud—he who suppressed the Janissaries,

introduced European reforms, and so greatly favored Christians and strangers—was then on the throne, and greatly attached to the Commodore, whose conversation and opinions he often sought. He died in this post, and was brought home to be buried in the country which gave him birth, and which no personal wrong could make him cease to love. A national ship of war, the Truxton, brought him home—a delicate compliment in the selection of the vessel bearing the name of the commander under whom he first served.

Humanity was a ruling feature in his character, and of this he gave constant proof—humane to the enemy as well as to his own people. Of his numerous captures he never made one by bloodshed when milder means could prevail; always preferring, by his superior seamanship, to place them in predicaments which coerced surrender. Patriotism was a part of his soul. He was modest and unpretentious; never seeming to know that he had done things of which the world talked, and of which posterity would hear. He was a "lion" nowhere but on the quarter-deck, and in battle with the enemies of his country. He was affectionate to his friends and family, just and kind to his men and officers, attaching all to him for life and for death. His crew remaining with him when their terms were expiring in the Pacific, and refusing to quit their commander when authorized to do so at Valparaiso, were proofs of their devotion and affection.

Detailed history is not the object of this notice, but character and instruction—the deeds which show character, and the actions which instruct posterity; and in this view his career is a lesson for statesmen to study—to study in its humble commencement as well as in its dazzling and splendid culmination. Schools do not form such commanders; and, if they did, the wisdom of government would not detect the future illustrious captain in the man before the mast, or in the boy in the cabin. Born in Boston, the young Porter came to man's estate in Baltimore, and went to sea at sixteen in the merchant ship commanded by his father—the worthy father of such a son—making many voyages to the West Indies. There he *earned* his midshipman's warrant, and there he learned the seamanship which made him the worthy second of Rodgers in that marvellous management of the Insurgent, which faithful history will love to commemorate. Self-made in the beginning, he was self-acting through life, and will continue to act upon posterity, if amenable to the lesson taught by his life: the merchant service, the naval school, cruisers, the naval force, separate commands for young men. With a little 32 gun frigate, all carronades except a half-dozen stern chasers, and they only twelve-pounders, he dominated for a year in the vast Pacific Ocean; with a 44 and her attendant sloop-of-war, brig, and schooner, he would have dominated there to the end of the war. He was the Paul Jones of the "second war of Independence," with a more capacious and better regulated mind, and had the felicity to transmit as well as to inherit the qualities of a commander. The name of Porter is yet borne with honorable promise on the roll of the American navy.

119. Refunding Of General Jackson's Fine

During his defence of New Orleans in the winter of 1814-'15, General Jackson was adjudged to have committed a contempt of court, in not producing the body of a citizen in obedience to a writ of *habeas corpus*, whom he had arrested under martial law which he had proclaimed and enforced for the defence of the city. He was fined for the contempt, and paid it himself, refusing to permit his friends, and even the ladies of New Orleans who presented the money ($1,000), to pay it for him. He submitted to the judgment of the court, paying the amount before he left the court room, but protesting against it as an illegal exaction, and as involving the imputation of illegality on his conduct. This conveyed a reproach under which he was always sensitive, but to relieve himself from which he would countenance no proceeding while he was still on the theatre of public action, and especially while he was President. His retirement to private life removed the obstacle to the action of his friends and soon thereafter Mr. Linn, a senator from the State of Missouri, brought in a bill for refunding the fine. This was a quarter of a century after it had been imposed. On getting notice of this proceeding General Jackson wrote a letter to Senator Linn, of which the leading paragraphs are here given.

"Having observed in the newspapers that you had given notice of your intention to introduce a bill to refund to me the fine (principal and interest) imposed by Judge Hall, for the declaration of martial law at New Orleans, it was my determination to address you on the subject; but the feeble state of my health has heretofore prevented it. I felt that it was my duty to thank you for this disinterested and voluntary act of justice to my character, and to assure you that it places me under obligations which I shall always acknowledge with gratitude.

"It is not the amount of the fine that is important to me: but it is the fact that it was imposed for reasons which were not well founded; and for the exercise of an authority which was necessary to the successful defence of New Orleans; and without which, it must be now obvious to all the world, the British would have been in possession, at the close of the war, of that great emporium of the West. In this point of view it seems to me that the country is interested in the passage of the bill; for exigencies like those which existed at New Orleans may again arise; and a commanding-general ought not to be deterred from taking the necessary responsibility by the reflection that it is in the power of a vindictive judge to impair his private fortune, and place a stain upon his character which cannot be removed. I would be the last man on earth to do any act which would invalidate the principle that the military should always be subjected to the civil power; but I contend, that at New Orleans no measure was taken by me which was at war with this principle, or which, if properly understood, was not necessary to preserve it.

"When I declared martial law, Judge Hall was in the city; and he visited me often, when the propriety of its declaration was discussed, and was recommended by the leading and patriotic citizens. Judging from his actions, he appeared to approve it. The morning the order was issued he was in my office; and when it was read, he was heard to exclaim: '*Now the country may be saved: without it, it was lost.*' How he came afterwards to unite with the treacherous and disaffected, and, by the exercise of his power, endeavored to paralyze my exertions, it is not necessary here to explain. It was enough for me to know, that if I was excusable in the declaration of martial law in order to defend the city when the enemy were besieging it, it was right to continue it until all danger was over. For full information on this part of the subject, I refer you to my defence under Judge Hall's rule for me to appear and show cause

why an attachment should not issue for a contempt of court. This defence is in the appendix to ‘Eaton’s Life of Jackson.’

“There is no truth in the rumor which you notice, that the fine he imposed was paid by others. Every cent of it was paid by myself. When the sentence was pronounced, Mr. Abner L. Duncan (who had been one of my aides-de-camp, and was one of my counsel), hearing me request Major Reed to repair to my quarters and bring the sum—not intending to leave the room until the fine was paid—asked the clerk if he would take his check. The clerk replied in the affirmative, and Mr. Duncan gave the check. I then directed my aide to proceed forthwith, get the money, and meet Mr. Duncan’s check at the bank and take it up; which was done. These are the facts; and Major Davezac, now in the Assembly of New York, can verify them.

“It is true, as I was informed, that the ladies did raise the amount to pay the fine and costs; but when I heard of it, I advised them to apply it to the relief of the widows and orphans that had been made so by those who had fallen in the defence of the country. It was so applied, as I had every reason to believe; but Major Davezac can tell you more particularly what was done with it.”

The refunding of the fine in the sense of a pecuniary retribution, was altogether refused and repulsed both by General Jackson and his friends. He would only have it upon the ground of an illegal exaction—as a wrongful exercise of authority—and as operating a declaration that, in declaring martial law, and imprisoning the citizen under it, and in refusing to produce his body upon a writ of *habeas corpus*, and sending the judge himself out of the city, he was justified by the laws of the land in all that he did. Congress was quite ready, by a general vote, to refund the fine in a way that would not commit members on the point of legality. It was a thing constantly done in the case of officers sued for official acts, and without strict inquiry into the legality of the act where the officer was acting in good faith for the public service. In all such cases Congress readily assumed the pecuniary consequences of the act, either paying the fine, or damages awarded, or restoring it after it had been paid. General Jackson might have had his fine refunded in the same way without opposition; but it was not the money, but release from the imputation of illegal conduct that he desired; and with a view to imply that release the bill was drawn: and that made it the subject of an earnestly contested debate in both Houses. In the Senate, where the bill originated, Mr. Tappan of Ohio, vindicated the recourse to martial law, and as being necessary for the safety of the city.

“I ask you to consider the position in which he was placed; the city of New Orleans was, from the necessity of the case, his camp; the British, in superior force, had landed, and were eight or nine miles below the city; within three hours’ march; in his camp were many over whom he had no control, whom he could not prevent (or punish by any process of civil law) from conveying intelligence to the enemy of his numbers, means of defence or offence, as well as of his intended or probable movements; was not the entire command of his own camp necessary to any efficient action? It seems to me that this cannot be doubted. In time of war, when the enemy’s force is near, and a battle is impending, if your general is obliged, by the necessities of his position, and the propriety of his operations, to occupy a city as his camp, he must have the entire command of such city, for the plain reason that it is impossible, without such command, to conduct his operations with that secrecy which is necessary to his success. The neglect, therefore, to take such command, would be to neglect the duty which his country had imposed upon him. I perceive but two ways in which General Jackson could have obtained the command of his own camp; one was by driving all the inhabitants out of the city, the other by declaring martial law. He wisely and humanely chose the latter, and by so doing, saved the city from being sacked and plundered, and its inhabitants from being outraged or destroyed by the enemy.”

But this arrest of a citizen, and refusal to obey a writ of habeas corpus, was after the British had been repulsed, and after a rumor of peace had arrived at the city, but a rumor coming through a British commander, and therefore not to be trusted by the American general. He thought the peace a probable, but by no means a certain event: and he could not upon a probability relax the measures which a sense of danger had dictated. The reasons for this were given by the General himself in his answer to show cause why the rule which had been granted should not be made absolute.

"The enemy had retired from their position, it is true; but they were still on the coast, and within a few hours' sail of the city. They had been defeated, and with loss; but that loss was to be repaired by expected reinforcements. Their numbers much more than quadrupled all the regular forces which the respondent could command; and the term of service of his most efficient militia force was about to expire. Defeat, to a powerful and active enemy, was more likely to operate as an incentive to renewed and increased exertion, than to inspire them with despondency, or to paralyze their efforts. A treaty, it is true, had been probably signed, but yet it might not be ratified. Its contents even had not transpired; so that no reasonable conjecture could be formed whether it would be acceptable; and the influence which the account of the signature had on the army was deleterious in the extreme, and showed a necessity for increased energy, instead of relaxation of discipline. Men who had shown themselves zealous in the preceding part of the campaign, became lukewarm in the service. Wicked and weak men, who, from their situation in life, ought to have furnished a better example, secretly encouraged the spirit of insubordination. They affected to pity the hardships of those who were kept in the field; they fomented discontent, by insinuating that the merits of those to whom they addressed themselves, had not been sufficiently noticed or applauded; and disorder rose to such an alarming height, that at one period only fifteen men and one officer were found out of a whole regiment, stationed to guard the very avenue through which the enemy had penetrated into the country. At another point, equally important, a whole corps, on which the greatest reliance had been placed, operated upon by the acts of a foreign agent, suddenly deserted their post. If, trusting to an uncertain peace, the respondent had revoked his proclamation, or ceased to act under it, the fatal security by which they were lulled, would have destroyed all discipline, dissolved all his force, and left him without any means of defending the country against an enemy instructed by the traitors within our bosom, of the time and place at which he might safely make his attack. In such an event, his life, which would certainly have been offered up, would have been but a feeble expiation for the disgrace and misery into which his criminal negligence would have plunged the country."

A newspaper in the city published an inflammatory article, assuming the peace to be certain, though not communicated by our government, inveighed against the conduct of the General in keeping up martial law as illegal and tyrannical, incited people to disregard it, and plead the right of volunteers to disband who had engaged to serve during the war. Louallier, a member of the General Assembly, was given up as the author of the article: the General had him arrested and confined. Judge Hall issued a writ of habeas corpus to release his body: General Jackson ordered the Judge out of the city, and sent a guard to conduct him out. All this took place on the 10th and 11th of March: on the 13th authentic news of the peace arrived, and the martial law ceased to exist. Judge Hall returned to the city, and Mr. Tappan thus relates what took place:

"Instead of uniting with the whole population, headed by their venerable bishop, in joy and thankfulness for a deliverance almost miraculous, achieved by the wisdom and energy of the General and the gallantry of his army, he was brooding over his own imaginary wrongs, and planning some method to repair his wounded dignity. On this day, twenty-seven years ago, he

caused a rule of the district court to be served on General Jackson, to appear before him and show cause why an attachment should not issue against him for:—1st. Refusing to obey a writ issued by Judge Hall. 2d. Detaining an original paper belonging to the court. And 3d, for imprisoning the Judge. The first cause was for the General refusing to obey a writ of *habeas corpus* in the case of Louallier; the second for detaining the writ. The whole of these three causes assigned are founded on the hypothesis, that instead of General Jackson having command of his camp, he exercised a limited authority under the control of the civil magistracy. I trust I have satisfied you that martial law did in fact exist, and of necessary consequence, that Judge Hall's authority was suspended. If he was injured by it, surely he was not the proper person to try General Jackson for that injury. The principal complaint against General Jackson was for imprisoning the Judge. The imprisonment consisted in sending an officer to escort him out of camp; and for this, instead of taking the regular legal remedy, by an action for assault and false imprisonment, in the State court, which was open to him as well as every other citizen, he called the General to answer before himself. He went before the Judge and proffered to show cause; the Judge would not permit him to do this, nor would he allow him to assign his reasons in writing for his conduct, but, without trial, without a hearing of his defence, he fined him one thousand dollars. You all know the conduct of the General on that occasion; he saved the Judge from the rising indignation of the people and paid his fine to the United States marshal. These proceedings of Judge Hall were not only exceedingly outrageous, but they were wholly illegal and void; for, as says an eminent English jurist, 'even an act of parliament cannot make a man a judge in his own cause.' This was truly and wholly the cause of the Judge himself. If a law of Congress had existed which authorized him to sit in judgment upon any man for an injury inflicted upon himself, such a law would have been a mere dead letter, and the Judge would have been bound to disregard it. It was the violation of this principle of jurisprudence which aroused the indignation of the people and endangered the life of his contemptible judge. I am aware of the law of contempt; it is the power of self-preservation given to the courts; it results from necessity alone, and extends no further than necessity strictly requires; it has no power to avenge the wrongs and injuries done to the judge, unless those wrongs obstruct the regular course of justice. I am aware also of the manner in which the law of contempt has been administered in our courts where no statute law regulated it, and it was left to the discretion of the judges to determine what was or was not a contempt. In one case a man was fined for contempt for reviewing the opinion of a judge in a newspaper. This judge was impeached before this body and acquitted, because not quite two-thirds of the Senate voted him guilty. Some senators, thinking probably that as Congress had neglected to pass a law on the subject of contempt, the judge had nothing to govern his discretion in the matter, and therefore ought not to be convicted. Congress immediately passed such a law, and no contempts have occurred since in the United States courts."

The speech of Judge Tappan covered the facts of the case, upon which, and other speeches delivered, the Senate made up its mind, and the bill was passed, though upon a good division, and a visible development of party lines. The yeas were:

"Messrs. Allen, Bagby, Benton, Buchanan, Calhoun, Cuthbert, Fulton, Graham, Henderson, King, Linn, McDuffie, McRoberts, Mangum, Rives, Sevier, Smith of Connecticut, Smith of Indiana, Sprague, Sturgeon, Tallmadge, Tappan, Walker, Wilcox, Williams, Woodbury, Wright, Young—28."

The nays were:

“Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Conrad, Crafts, Crittenden, Dayton, Evans, Huntington, Kerr, Merrick, Miller, Morehead, Phelps, White, Woodbridge—20.”

In the House it was well supported by Mr. Charles Jared Ingersoll, and others, and passed at the ensuing session by a large majority—158 to 28. This gratifying result took place before the death of General Jackson, so that he had the consolation of seeing the only two acts which impugned the legality of any part of his conduct—the senatorial condemnation for the removal of the deposits, and the proceedings in New Orleans under martial law—both condemned by the national representation, and the judicial record as well as the Senate journal, left free from imputation upon him.

120. Repeal Of The Bankrupt Act: Attack Of Mr. Cushing On Mr. Clay: Its Rebuke

This measure was immediately commenced in the House of Representatives, and pressed with vigor to its conclusion. Mr. Everett, of Vermont, brought in the repeal bill on leave, and after a strenuous contest from a tenacious minority, it was passed by the unexpected vote of two to one—to be precise—140 to 72. In the Senate it had the same success, and greater, being passed by nearly three to one—34 to 13: and the repealing act being carried to Mr. Tyler, he signed it as promptly as he had signed the bankrupt act itself. This was a splendid victory for the minority who had resisted the passage of the bill, and for the people who had condemned it. The same members, sitting in the same chairs, who a year and a half before, passed the act, now repealed it. The same President who had recommended it in a message, and signed the act as soon as it passed, now signed the act which put an end to its existence. A vicious and criminal law, corruptly passed, and made the means of passing two other odious measures, was itself now brought to judgment, condemned, and struck from the statute-book; and this great result was the work of the people. All the authorities—legislative, executive, and judicial—had sustained the act. Only one judge in the whole United States (R. W. Wells, Esq., United States district judge for Missouri), condemned it as unconstitutional. All the rest sustained it, and he was overruled. But the intuitive sense of honor and justice in the people revolted at it. They rose against it in masses, and condemned it in every form—in public meetings, in legislative resolves, in the press, in memorials to Congress, and in elections. The tables of the two Houses were loaded with petitions and remonstrances, demanding the repeal, and the members were simply the organs of the people in pronouncing it. Never had the popular voice been more effective—never more meritoriously raised. The odious act was not only repealed, but its authors rebuked, and compelled to pronounce the rebuke upon themselves. It was a proud and triumphant instance of the innate, upright sentiment of the people, rising above all the learning and wisdom of the constituted authorities. Nor was it the only instance. The bankrupt act of forty years before, though strictly a bankrupt act as known to the legislation of all commercial countries, was repealed within two years after its passage—and that by the democratic administration of Mr. Jefferson: this of 1841, a bankrupt act only in name—an act for the abolition of debts at the will of the debtor in reality—had a still shorter course, and a still more ignominious death. Two such condemnations of acts for getting rid of debts, are honorable to the people, and bespeak a high degree of reverence for the sacred obligations between debtor and creditor; and while credit is due to many of the party discriminated as federal in 1800, and as whig in 1840 (but always the same), for their assistance in condemning these acts, yet as party measures, the honor of resisting their passage and conducting their repeal, in both instances, belongs to the democracy.

The repeal of this act, though carried by such large majorities, and so fully in accordance with the will of the people, was a bitter mortification to the administration. It was their measure, and one of their measures of “relief” to the country. Mr. Webster had drawn the bill, and made the main speech for it in the Senate, before he went into the cabinet. Mr. Tyler had recommended it in a special message, and promptly gave it his approving signature. To have to sign a repeal bill, so soon, condemning what he had recommended and approved, was most unpalatable: to see a measure intended for the “relief” of the people repulsed by those it was intended to relieve, was a most unwelcome vision. From the beginning the repeal was resisted, and by a species of argument, not addressed to the merits of the measure, but to the

state of parties, the conduct of men, and the means of getting the government carried on. Mr. Caleb Cushing was the organ of the President, and of the Secretary of State in the House; and, identifying himself with these two in his attacks and defences, he presented a sort of triumvirate in which he became the spokesman of the others. In this character he spoke often, and with a zeal which outran discretion, and brought him into much collision with the House, and kept him much occupied in defending himself, and the two eminent personages who were not in a position to speak for themselves. A few passages from these speeches, from both sides, will be given to show the state of men and parties at that time, and how much personal considerations had to do with transacting the business of Congress. Thus:

"Mr. Cushing, who was entitled to the floor, addressed the House at length, in reply to the remarks made by various gentlemen, during the last three weeks, in relation to the present administration. He commenced by remarking that the President of the United States was accused of obstructing the passage of whig measures of relief, and was charged with uncertainty and vacillation of purpose. As these charges had been made against the President, he felt it to be his duty to ask the country who was chargeable with vacillation and uncertainty of purpose, and the destruction of measures of relief? Who were they who, with sacrilegious hands, were seeking to expunge the last measure of the 'ill-starred' extra session from the statute-books? Forty-seven whigs, he answered, associated with the democratic party in the House, and formed a coalition to blot out that measure. He repeated it: forty-seven whigs formed a coalition with the democrats to expunge all the remains of the extra session which existed. For three weeks past, there had been constantly poured forth the most eloquent denunciations of the President, of the Secretary of State, and of himself. He might imagine, as was said by Warren Hastings when such torrents of denunciation were poured out upon him, that there was some foundation for the imputation of the orators. He should inquire into the merits of the political questions, and into the accusations made against him. He was told that he had thrown a firebrand into the House—that he had brought a tomahawk here. He denied it. He had done no such thing. It was not true that he commenced the debate which was carried on; and when gentlemen said that he had volunteered remarks out of the regular order, in reply to the gentleman from Tennessee [Mr. Arnold], he told them that they were not judges. His mode of defence was counter-attack, and it was for him to judge of the argument. If he carried the war into the enemy's camp, the responsibility was with those who commenced the attack."

Mr. Clay, though retiring from Congress, and not a member of the House of Representatives, was brought into the debate, and accused of setting up a dictatorship, and baffling or controlling the constitutional administration:

"The position of the two great parties, and those few who stood here to defend the acts of the administration, was peculiar. Our government was now undergoing a test in a new particular. This was the first time that the administration of the government had ever devolved upon the Vice-President. Now, he had called upon the people and the House to adapt themselves to that contingency, and support the constitution; for with the 'constitutional fact' was associated the party fact; and whilst the President was not a party chief, there was a party chief of the party in power. The question was, whether there could be two administrations—one, a constitutional administration, by the President; and the other a party administration, exercised by a party chief in the capitol? With this issue before him—whether the President, or the party leader—the chief in the White House, or the chief in the capitol—should carry on the administration—he felt it to be a duty which he owed to the government of his country to give his aid to the constitutional chief. That was the real question which had pervaded all our contests thus far."

Such an unparliamentary reference to Mr. Clay, a member of a different House, could not pass without reply in a place where he could not speak for himself, but where his friends were abundant. Mr. Garret Davis, of Kentucky, performed that office, and found in the fifteen years' support of Mr. Clay by Mr. Cushing (previous to his sudden adhesion to Mr. Tyler at the extra session), matter of personal recrimination:

"Mr. Garret Davis replied to the portion of the speech of the gentleman from Massachusetts [Mr. Cushing] relating to the alleged dictation of the ex-senator from Kentucky [Mr. Clay]. The gentleman from Massachusetts declared that there were but two alternatives—one, a constitutional administration, under the lead of the President; and the other, a faction, under the lead of the senator from Kentucky. Such remarks were no more nor less than calumnies on that distinguished man; and he would ask the gentleman what principle Mr. Clay had changed, by which he had obtained the ill-will of the gentleman, after having had his support for fifteen years previous to the extra session? He asked, Did the senator from Kentucky bring forward any new measure at the extra session? Did he enter upon any untrodden path, in order to embarrass the path of John Tyler? No, was the answer."

Reverting to the attacks on the administration, Mr. Cushing considered them as the impotent blows of a faction, beating its brains out against the immovable rock of the Tyler government:

"It was now nearly two years since, in accordance with a vote of the people, a change took place in the administration of the government. Since that time, an internecine war had arisen in the dominant party. The war had now been pursued for about one year and a half; but, in the midst of it, the federal government, with its fixed constitution, had stood, like the god Terminus, defying the progress of those who were rushing against it. The country had seen one party throw itself against the immovable rock of the constitution. What had been the consequence? The party thus hurling itself against the constitutional rock was dashed to atoms."

Mr. Cushing did not confine his attempts to gain adherents to Mr. Tyler, to the terrors of denunciations and anathemas: he superadded the seductive arguments of persuasion and enticement, and carried his overtures so far as to be charged with putting up the administration favor to auction, and soliciting bidders. He had said:

"Now he would suppose a man called to be President of the United States. It mattered not whether he was elected, or whether the office devolved upon him by contingencies contemplated in the constitution. He was President. What, then, was his first duty? To consider how to discharge his functions. He (Mr. C.) thought the President was bound to look around at the facts, and see by what circumstances he was supported. Gentlemen might talk of treason; much had been said on that subject; but the question for the individual who might happen to be President to consider was, How is the government to be carried out? By whose aid? He (Mr. Cushing) would say to that party now having the majority (and whom, on account of that circumstance, it was more important he should address), that if they gave him no aid, it was his duty to seek aid from their adversaries. If the whigs continue to blockade the wheels of the government, he trusted that the democrats would be patriotic enough to carry it on."

Up to this point Mr. Cushing had addressed himself to the whigs to come to the support of Mr. Tyler: despairing of success there he now turned to the democracy. This open attempt to turn from one party to the other, and to take whichever he could get, turned upon him a storm of ridicule and reproach. Mr. Thompson, of Indiana, said:

“The gentleman seemed to have assumed the character of auctioneer for this bankrupt administration, and he took it that the gentleman would be entitled to a good part of its effects. This was the first time in the history of any civilized country that a government had, through the person of its acknowledged leader—a man doing most of its speaking, and much of its thinking—stalked into a representative assembly, and openly put up the administration in the common market to the highest bidder.”

But Mr. Cushing did not limit himself to seductive appliances in turning to the democracy for support to Mr. Tyler: he dealt out denunciation to them also, and menaced them with the fate of the shattered whig party if they did not come to the rescue. On this Mr. Thompson remarked:

“The gentleman also told the minority that they would be dashed to pieces, like their predecessors, unless they came into the measures of the President; but it yet remained to be seen whether he would get a bid. Judging from the expression of opinion by the leading organ of the democratic party, he (Mr. T.) was inclined to think that no bid would be offered by a portion of that party. He thought, from givings-out, in various quarters, that the President would ultimately have to resort to this ‘constitutional fact,’ to defend himself against a large portion even of that party. Indeed, it was doubtful whether there would be bidders from either side.”

Mr. Cushing had said that there were persons connected with the administration who would yet be heard of for the Presidency, and seemed to present that contingency also as a reason why support should be given it. To this intimation Mr. Thompson made an indignant reply:

“He recollected well—though he was very young at the time, and not prepared to take part in the political discussions of the day—that, during the administration of the distinguished and venerable gentleman from Massachusetts [Mr. Adams] there arose in this country a party, who, upon the bare supposition (which was dispelled on an examination of the facts)—upon the bare suspicion that there was what was called a bargain, intrigue, and management between the then head of the administration, and another distinguished citizen who was a member of his cabinet, made it a subject of the most bitter and vindictive denunciation. Yet, notwithstanding that this part of our history was still fresh in the recollection of the gentleman from Massachusetts—when we see, in this age of republican liberty, a gentleman descended from a line of illustrious Revolutionary ancestry—coming, too, almost from the very Cradle of Liberty, and acting as the organ of the administration on this floor—boldly, shamelessly, and unblushingly offering the spoils of office as a consideration for party support, we may well have cause for alarm. How many clerkships were there in Philadelphia to be disposed of in this manner? From the collector down to the lowest tide-waiter, the power of appointment was to be directed for the purpose of operating on the coming presidential contest. Who, now, would charge the whig party with shaping their measures with a view to the elevation of a particular individual, after hearing the bold and open avowal from the gentleman that the present administration would shape their measures for the purpose of operating on the coming contest? But (said Mr. T.) there was something exceedingly ridiculous in the idea of the administration party—and such a party, too!—coming into the Representative hall, and telling its members that it had the power to dispose of the various candidates for the Presidency at its pleasure, and controlling the votes of nearly three millions of freemen by means of its veto power, and the power of appointment and removal.”

Mr. Cushing had belonged to the federal party, since called whig, up to the time that he joined Mr. Tyler, and had been all that time a fierce assailant of the democratic party: the energy with which he now attacked that party, and the warmth with which he wooed the

other, brought on him many reproaches, some rough and cutting—some tender and deprecatory; as this from Mr. Thompson:

"The gentleman exulted in the fate of the whig party, and told them with much satisfaction that their party was destroyed. Now, let him ask the gentleman, in the utmost sincerity of his heart, whether he did not feel some little mortification and regret when he saw the banner under which he had so often rallied trailing in the dust, and trampled under the feet of those against whom he had fought for so many years?"

Foremost of the whigs in zeal and activity, Mr. Cushing, as one of the most prominent men of the party, was appointed when the presidential vote of 1840 was counted in the House, as one of the committee of two to wait upon General Harrison and formally make known to him his election. In two months afterwards General Harrison died—Mr. Tyler became President and quit the whigs: Mr. Cushing quit at the same time; and not content with quitting, threw all the obloquy upon them which, for fifteen years, he had lavished upon the democracy; and in quitting the whigs he reversed his conduct in all the measures of his life, and without giving a reason for the change in a single instance. Mr. Garret Davis summed up these changes in a scathing peroration, from which some extracts are here given:

"The gentleman occupies a strange position and puts forth extraordinary notions, considering the measures and principles which he always, until the commencement of this administration, advocated with so much zeal and ability I had read many of his speeches before I knew him. I admired his talents and attainments; I approved of the soundness of his views, and was instructed and fortified in my own. But he is wonderfully metamorphosed; and I think if he will examine the matter deliberately, he will find it to be quite as true, that he has broken his neck politically in jumping his somersets, as that 'the whig party has knocked out its brains against the fixed fact.' He tells us that party is nothing but an association of men struggling for power; and that he contemns measures—that measures are not principles. The gentleman must have been reading the celebrated treatise, 'The Prince,' for such dicta are of the school of Machiavelli; and his sudden and total abandonment of all the principles as well as measures, to which he was as strongly pledged as any whig, good and true, proves that he had studied his lesson to some purpose. At the extra session of 1837, he opposed the sub-treasury in a very elaborate speech, in which we find these passages: 'We are to have a government paper currency, recognizable by the government of the United States, and employed in its dealings; but it is to be irredeemable government paper? 'If the scheme were not too laughingly absurd to spend time in arguing about it seriously; if the mischiefs of a government paper currency had not had an out-and-out trial both in Europe and America, I might discuss it as a question of political economy. But I will not occupy the committee in this way. I am astounded at the fatuity of any set of men who can think of any such project.' This is what he said of the sub-treasury. Now, he is the unscrupulous advocate of the exchequer, a measure embodying both the sub-treasury and a great organized government bank, and fraught with more frightful dangers than his own excited imagination had pictured in the whole three years.

"He was one of the stanchest supporters of a United States bank. He characterized 'the refusal of the late President (Jackson) to sign the bill re-chartering the bank, like the removal of the deposits, to be in defiance and violation of the popular will,' and characterized as felicitous the periods of time when we possessed a national bank, and as calamitous the periods that we were without them, saying—'Twice for long periods of time, have we tried a national bank, and in each period it has fulfilled its appointed purpose of supplying a safe and equal currency, and of regulating and controlling the issues of the State banks. Twice have we tried for a few years to drag on without a national bank, and each of these experiments has been a

season of disaster and confusion.' And yet, sir, he has denied that he was ever the supporter of a bank of the United States, and is now one of the most rabid revilers of such an institution.

"He was for Mr. Clay's land bill; and he has abandoned, and now contemns it. No man has been more frequent and unsparing in his denunciations of General Jackson; and now he is the sycophantic eulogist of the old hero. He was the unflinching defender of the constitutional rights and powers of Congress. This administration has not only resorted to the most flagitious abuse of the veto power, but has renewed every other assault, open or insidious, of Presidents Jackson and Van Buren upon Congress, which he, at the time, so indignantly rebuked; and he now justifies them all. He has gone far ahead of the extremest parasites of executive power. John Tyler vetoed four acts of Congress which the gentleman had voted for, and strange, by his subtle sophistry, he defended each of the vetoes; and most strange, when the House, in conformity to the provisions of the constitution, voted again upon the measures, his vote was recorded in their favor, and to overrule the very vetoes of which he had just been the venal advocate."

This versatility of Mr. Cushing, in the support of vetoes, was one of the striking qualities developed in his present change of parties. He had condemned the exercise of that power in General Jackson in the case of the Bank of the United States, and dealt out upon him unmeasured denunciation for that act: now he became the supporter of all the vetoes of Mr. Tyler, even when those vetoes condemned his own votes, and when they condemned the fiscal bank charter which Mr. Tyler himself had devised and arranged for Congress. He became the champion, unrivalled, of Mr. Webster and Mr. Clay, defending them in all things; but now in attacking Mr. Clay whom he had so long, and until so recently, so closely, followed and loudly applauded, he became obnoxious to the severe denunciations of that gentleman's friends.

121. Naval Expenditures, And Administration Attempts At Reform: Abortive

The annual appropriation for this branch of the service being under consideration, Mr. Parmenter, the chairman of the naval committee, proposed to limit the whole number of petty officers, seamen, ordinary seamen, landsmen and boys in the service to 7,500; and Mr. Slidell moved an amendment to get rid of some 50 or 60 masters' mates who had been illegally appointed by Mr. Secretary Henshaw, during his brief administration of the naval department in the interval between his nomination by Mr. Tyler and his rejection by the Senate. These motions brought on a debate of much interest on the condition of the navy itself, the necessity of a peace establishment, and the reformation of abuses. Mr. Cave Johnson, of Tennessee—

"Expressed himself gratified to see the limitation proposed by the chairman of the Committee on Naval Affairs; that he had long believed that we should have a peace establishment for the navy, as well as the army; and that the number of officers and men in each should be limited to the necessities of the public service. Heretofore the navy had been left to the discretion of the Secretary, only limited by the appropriation bills. He urged upon the chairman of the Naval Committee the propriety of reducing still further. If he did not misunderstand the amendment, it proposed to man the number of vessels required for the next year in the same way that we would do in time of war, as we have heretofore done. He thought there should be a difference in the complement of men required for each ship in war and in peace. He read a table, showing that in the British service, first class men-of-war of 120 guns, in time of peace had on board (officers, men, and marines) 886 men, whilst the same class in our service had on board 1,200, officers, men, and marines—near one-third more officers and men in the American service than were employed in the British. The table showed about the same difference in vessels of inferior size. He thought the number of men and officers should be regulated for a peace, and not a war establishment. He expressed the hope that the chairman of the Naval Committee would so shape his amendment as to fix the number of officers and men for a peace establishment. He was desirous of having a peace establishment, and the expenditures properly regulated. This branch of the service, together with the army, were the great sources of expenditure. He read a table, showing the expenditures of these branches of the public service from 1821 to 1842, as follows: ($235,000,000.) He said the country would be astonished to see the immense sums expended on the army and navy; and, as he thought, without any adequate return to the country. He could see no advantage to the country from this immense expenditure—no adequate return. He was aware of the excuse made for it—the protection of our commerce. This was a mere pretext—an excuse for throwing upon the public treasury an immense number of men, who might be much more profitably to the country employed in other occupations. He alluded to the Mediterranean squadron and the expenditures for the protection of our commerce on that sea; and expressed the opinion that our expenditures at that station equalled the whole of the commerce east of the Straits of Gibraltar—that it would be better for the country to pay for the commerce than protect it; that there was no more need to protect our commerce in the Mediterranean than there was in the Chesapeake Bay. Such a thing as pirates in that sea had been scarcely heard of in the last twenty years. He expressed his determination to vote for the amendment, but hoped the chairman would so shape it as to make a regular peace establishment."

The member from Tennessee was entirely right in his desire for a naval peace establishment, but the principle on which such an establishment should be formed, was nowhere developed. It was generally treated as a naval question, dependent upon the number of naval marine—

others a commercial question, dependent upon our amount of commerce; while, in fact, it is a political question, dependent upon the state of the world. Protection of commerce is the reason always alleged: that reason, pursued into its constituent parts, would always involve two inquiries, and both of them to be answered in reference to the amount of commerce, and its dangers in any sea. To measure the amount of a naval peace establishment, and its distribution in different seas, the amount of danger must be considered: and that is constantly varying with the changing state of the world. The great seat of danger was formerly in the Mediterranean Sea; and squadrons proportioned to the amount of that danger were sent there: since the extirpation of the piratical powers on the coast of the sea, there is no danger to commerce there, and no need for any protection; yet larger squadrons are sent there than ever. Formerly there was piracy in the West Indies, and protection was needed there: now there is no piracy, and no protection needed, and yet a home squadron must watch those islands. So of other places. There is no danger in many places now in which there was much formerly; and where we have most commerce there is no danger at all. This protection, the object of a naval peace establishment, is only required against lawless or barbarian powers: such powers require the presence of some ships of war to restrain their piratical disposition. The great powers which recognize the laws of nations, need no such negotiators as men-of-war. They do not commit depredations to be redressed by a broadside into a town: if they do injury to commerce it is either accidental, or in pursuance to some supposed right: and in either case friendly ministers are to negotiate, and the political power to resolve, before cannon are fired. Here then is the measure of a peace establishment: it is in the number and power of the barbarian or half-barbarian powers which are not amenable to the laws of nations, and whose lawless propensities can only be restrained by the fear of immediate punishment. There are but few of these powers at present—much fewer than there were fifty years ago, and can only be found by going to the extremities of the globe—and are of no force when found, and can be kept in perfect order by cruisers. As for the squadrons kept up in the Mediterranean, the Pacific coast, Brazil, and East Indies, they are there without a reason, and against all reason—have nothing to do but stay abroad three years, and then come home—to be replaced by another for another three years: and so on, until there shall be reform. Better far, if all these squadrons are to be kept up, that they should remain at home, spending their money at home instead of abroad, and just as serviceable to commerce. As for the home squadron, that was established by law, without reason, and should be suppressed without delay: and as for the African squadron, that was established by treaty to please Great Britain, and ought, in the first place, not to have been established at all; and in the second place, should have been suppressed as soon as the five years' obligation to keep it up had expired.

Mr. Hamlin, of Maine, spoke to the body of the case, and with knowledge of the subject, and a friendly feeling to the navy—but not such feeling as could wink at its abuses. He said:

"He trusted he was the very last person who would detract from the well-merited fame of the navy; but he had another rule of action: he would endeavor so to vote in relation to this subject, as to check, if possible, what he believed the gross and extravagant expenditure of public money: and he referred gentlemen, in corroboration of this assertion that there was extravagance in the expenditures, to the report of the Committee on Naval Affairs. The facts which stared them in the face from every quarter justified him in the assertion that there was gross extravagance. Mr. H. referred to various items of expenditure, in proof of the existence of extravagance."

'Mr. Hamlin pointed to the enormous increase in the number of officers in the navy, constantly augmenting in a time of peace, instead of being diminished as the public good required:

"He produced tables, taken from official returns, to show that the greater number of these officers were necessarily unemployed, and were spending their time at home in idleness. He had nothing to urge against any officer of the navy; they could not be blamed for receiving the allowance which the law gave them, whether employed or not;—but he asked gentlemen to examine the great disparity between the number of naval officers, as regulated by statute, and the number now in existence."

This was said before the naval school was created: since the establishment of that school, enough are legally appointed to officer a great navy. Two hundred and fifty midshipmen constantly there, coming off by annual deliveries, and demanding more ships and commissions than the public service and the public Treasury can bear. Illegal appointments have ceased, but the evil of excessive appointments is greater than ever.

Mr. Hamlin produced some items of extravagance, one of which he summed up, showing as the result that $2,142 97 was expended at one hospital in liquors for the "sick," and $10,288 53 for provisions: and then went on to say:

"The amount expended within a period of one year on the coast of Florida by the commander of this little squadron, was five hundred and four thousand five hundred and eighty dollars; and yet the gentleman from South Carolina found in this nothing to induce the House to restrict the appropriations. Mr. H. said he would go for the amendment. He would go for any thing to stop the drafts these leeches were making on the Treasury. His principal object, however, in rising, was to call on the members to redeem the pledges of economy that they made at the beginning of the session, and he trusted that now that they had the opportunity they would redeem them. He was from a commercial State, and would be the last man to do any act that would be injurious to commerce; but he did not understand how commerce could be benefited or protected by suffering this enormous and profligate waste of public money to be continued. By introducing a proper system of economy and accountability, the navy would be more efficient, and the government would be able to employ more ships and more guns to protect commerce than they now did."

Mr. Hale replied to several members, and went on to speak of abuses in the navy expenditures, and the irresponsibility of officers:

"There was an old maxim in the navy, that there was no law for a post-captain, and really the adage seemed now to be verified. The navy (said Mr. H.) is utterly without law, and the document just read by the gentleman from Maine [Mr. Hamlin] showing the expenditures of the Florida squadron, proved it. Such conduct as was described in that document ought to make every American blush; but what was the result of it? Why, the officer came forward and demanded of the Secretary of the Navy (Mr. Henshaw) extra compensation as commander of a foreign squadron, and the Secretary paid him from five to seven thousand dollars more. It was to correct a thousand such abuses as this, that had crept into the navy, that he would offer the amendment which had been read for the information of the committee. Mr. H. went on to comment on the large amount of money unnecessarily expended for the navy. We have, said he, twice as many officers as there is any use for, and they receive higher pay than the officers of any navy in the world."

Mr. Hale believed we had too many navy-yards, and mentioned the condition of the one nearest his own home, as an exemplification of his opinion, Portsmouth, New Hampshire—

"Where were stationed twenty-six officers, at an expense of $30,000 a year, and all to command six seamen and twelve ordinary seamen. This yard was commanded by a post-captain; and what duties had he to perform? Why, just nothing. What had the commander to

do? Why, to help the captain; and as for the lieutenants, they had nothing to do but to give orders to the midshipmen."

The movement ended without results, and so of all desultory efforts at reform at any time. Abuses in the expenditure of public money are not of a nature to surrender at the first summons, nor to yield to any thing but persevering and powerful efforts. A solitary member, or a few members, can rarely accomplish any thing. The ready and efficient remedy lies with the administration, but for that purpose a Jefferson is wanted at the head of the government—a man not merely of the right principles, but of administrative talent, to know how to apply his economical doctrines. Such a President would now find a great field for economy and retrenchment in reducing our present expenditures about the one-half—from seventy odd millions to thirty odd. Next after an administration should come some high-spirited and persevering young men, who would lay hold, each of some great abuse, and pursue it without truce or mercy—year in, and year out—until it was extirpated. Some such may arise—one to take hold of the navy, one of the army, one of the civil and diplomatic—and gain honor for themselves and good for their country at the same time.

122. Chinese Mission: Mr. Cushing's Appointment And Negotiation

Ten days before the end of the session 1842-'3, there was taken up in the House of Representatives a bill reported from the Committee of Foreign Relations, to provide the means of opening future intercourse between the United States and China. The bill was unusually worded, and gave rise to criticism and objection. It ran thus:

"That the sum of forty thousand dollars be, and the same is hereby, appropriated and placed at the disposal of the President of the United States, to enable him to establish the future commercial relations between the United States and the Chinese Empire on terms of national equal reciprocity; the said sum to be accounted for by the President, under the restrictions and in the manner prescribed by the act of first of July, one thousand seven hundred and ninety, entitled 'An act providing the means of intercourse between the United States and foreign nations.'"

This bill was unusual, and objectionable in all its features. It appropriated a gross sum to be disposed of for its object as the President pleased, being the first instance in a public act of a departure from the rule of specific appropriations which Mr. Jefferson introduced as one of the great reforms of the republican or democratic party. It withdrew the settlement of the expenditure of this money from the Treasury officers, governed by law, to the President himself, governed by his discretion. It was copied from the act of July 1st, 1790, but under circumstances wholly dissimilar, and in violation of the rule which condemned gross, and required specific, appropriations. That act was made in the infancy of our government, and when preliminary, informal, and private steps were necessary to be taken before public negotiations could be ventured. It was under that act that Mr. Gouverneur Morris was privately authorized by President Washington to have the unofficial interviews with the British ministry which opened the way for the public mission which ended in the commercial treaty of 1794. Private advances were necessary with several powers, in order to avoid rebuff in a public refusal to treat with us. Great latitude of discretion was, therefore, entrusted to the President; and that President was Washington. A gross sum was put into his hands, to be disposed of as he should deem proper for its object, that of intercourse between the United States and foreign nations, and to account for such part of the expenditure of the sum as, in his judgment, might be made public, and he was limited in the sums he might allow to $9,000 outfit, and $9,000 salary to a full minister—to $4,500 per annum to a chargé de affaires—and to $1,350 to a secretary of legation. This bill for the Chinese mission was framed upon that early act of 1790, and even adopted its mode of accounting for the money by leaving it to the President to suppress the items of the expenditure, when he should judge it proper. The bill was loose and latitudinous enough to shock the democratic side of the House; but not enough so to satisfy its friends; and accordingly the first movement was to enlarge the President's discretion, by striking from the bill the word "restrictions" which applied to his application of the money. Mr. Adams made the motion, and as he informed the House in the course of the discussion, at the instance and according to the wish of the Secretary of State (Mr. Webster). This motion gave rise to much objection. Mr. Meriwether, a member of the committee which had reported the bill, spoke first; and said:

"He opposed the amendment. If he understood its effect, it would be to leave the mission without any restriction. The bill, as it came from the Committee on Foreign Affairs, placed this mission on the same footing as other missions. The Secretary of State, however, wished

the whole sum placed at his own disposal and control—wished it left to him to pay as much as he pleased. He (Mr. M.) did not consider this mission to China as a matter of so much importance as had been claimed for it. He thought it would be difficult to persuade the people of that country to change their polity, give up their aversion to foreigners, and enter into commercial intercourse with other nations. He wished, at any rate, to have this mission placed on the same footing as other missions. He knew not how the whole of this sum of $40,000 was to be expended, although he was a member of the Committee on Foreign Affairs. Our ministers generally receive $9,000 a year salary, and $9,000 outfit. Now, if the amendment of the gentleman from Massachusetts [Mr. Adams] should be adopted, it would be in the power of the President to pay the minister who might be sent to China $20,000 outfit, and $20,000 more salary. The minister would be subject to no expense, would go out in a national vessel, and would not be compelled to land until it suited his pleasure. Why make a difference in the case of China? Was that mission of greater importance than the French? Look at Turkey—a semi-barbarous country—where our minister received $6,000 a year. He thought if $6,000 was enough for the services of Commodore Porter at Constantinople, that sum would be sufficient for any minister that might be sent out to China. When the amendment now before the committee should have been disposed of, he should move to place the mission to China upon the same footing with that to Turkey."

In these remarks Mr. Meriwether shows it was the sense of the committee to make the appropriation in the usual specific form, leaving the accountability to the usual Treasury settlement; but that the bill was changed to its present shape at the instance of the Secretary of State. Some members placed their objections on the ground of no confidence in the administration that was to expend the money: thus, Mr. J. C. Clark, of New York:

"In the British Parliament, it is a legitimate ground of objection to a supply bill, that the objector has no confidence in the ministry. This bill proposes to vest in the President and Secretary of State a large discretion in the expenditure of forty thousand dollars; and I agree with my friend from Georgia [Mr. Meriwether], that there is good reason to doubt the propriety of giving to these men the disbursement of any money not imperiously called for by the exigencies of the public service. I place my opposition to this bill solely on the ground of an utter want of confidence in the political integrity of the President and some of his official advisers."

Mr. Adams replied to these objections:

"He did not think it necessary to waste the time of the House in arguing the propriety of a mission to China. The message of the President was sufficient on that point.

"He then replied to the objections urged against the bill, on the ground that it placed too much confidence in the President, and that the appropriation was to be made without restriction. The motion which he had submitted, to strike out the restrictions of law, which were applicable to other diplomatic appropriations, was made after a consultation with the Secretary of State, who thought that to impose restrictions might embarrass the progress of the negotiations."

Mr. McKeon, of New York, opposed the whole scheme of the mission to China, believing it to be unnecessary, and to be conducted with too much pomp and expense, and to lay the foundation for a permanent mission. He said:

"There was nothing so very peculiar in the case of China, that Congress should depart from the usual restrictions of law, which applied to diplomatic appropriations generally. He thought it would be better to take the matter quietly, and go about it in a quiet business manner. Should the bill pass as reported by the committee, it would authorize a minister at a

salary of $9,000 and $9,000 outfit. Pass it according to the amendment of the gentleman from Massachusetts [Mr. Adams], and $40,000 would thereby be placed at the disposal of the Executive—more than he (Mr. McK.) was willing to see placed in the hands of any President. He should be as liberal as any man in fixing the salaries of the minister and secretary. But the appropriation was only a beginning. The largest ship in this country (the Pennsylvania) would no doubt be selected to carry out whomsoever should be selected as minister, in order to give as much *eclat* as possible to our country. Then other vessels would have to be sent to accompany this ship, and to sail where her size would not allow her to go. These, and other paraphernalia, would have to be provided for the minister; and this $40,000 would be but a beginning of the expense. He concluded by expressing the hope that the motion to strike out the restrictions contained in the bill, and thereby place the whole appropriation at the disposal of the President, would not prevail."

Mr. Bronson, of Maine, expressed it as his conviction, that we should possess more information before such a measure as that of sending a minister plenipotentiary to China should be adopted. He should prefer having a commercial agent for the present. The question was then taken on Mr. Adams's proposed amendment, and resulted in its adoption—80 votes for it; 55 against it. The previous question being called, the bill was then passed without further debate or amendment—yeas 96: nays 59. The nays were:

"Messrs.—Thomas D. Arnold, Archibald H. Arrington, Charles G. Atherton, Benjamin A. Bidlack, John M. Botts, David Bronson, Milton Brown, Charles Brown, Edmund Burke, William O. Butler, Patrick C. Caldwell, William B. Campbell, Zadock Casey, John C. Clark, Nathan Clifford, Walter Coles, Benjamin S. Cowen, James H. Cravens, George W. Crawford, Garrett Davis, Andrew W. Doig, William P. Fessenden, Charles A. Floyd, A. Lawrence Foster, Roger L. Gamble, James Gerry, William L. Goggin, William O. Goode, Willis Green, William A. Harris, John Hastings, Samuel L. Hays, Jacob Houck, jr., Robert M. T. Hunter, John W. Jones, George M. Keim, Nathaniel S. Littlefield, Abraham McClellan, James J. McKay, John McKeon, Albert G. Marchand, Alfred Marshall, John Maynard, James A. Meriwether, John Moore, Bryan Y. Owsley, Kenneth Rayner, John R. Reding, John Reynolds, R. Barnwell Rhett, James Rogers, William Smith, John Snyder, James C. Sprigg, Edward Stanley, Lewis Steenrod, Charles C. Stratton, John T. Stuart, Samuel W. Trotti."

It was observed that Mr. Cushing, though a member of the committee which reported the bill, and a close friend to the administration, took no part in the proceedings upon this bill—neither speaking nor voting for or against it: a circumstance which strengthened the belief that he was to be the beneficiary of it.

It was midnight on the last day of the session when the bill was called up in the Senate. Mr. Wright of New York, desired to know the reason for so large an appropriation in this case. He was answered by Mr. Archer, the senatorial reporter of the bill, who said it was not intended that the salary of the minister, or agent, together with his outfit, should exceed $18,000 per annum—the amount usually appropriated for such missions. Supposing the mission to occupy two years, and the sum is not too much, and the remoteness of the country to be negotiated with, justifies the full appropriation in advance. Mr. Wright replied that the explanation was not at all satisfactory to him: the compensation to an agent in China could be voted annually, and applied annually, as conveniently as any other. Mr. Benton objected to any mission at all, and especially to such a one as the bill provided for. He argued that—

"There was no necessity for a treaty with China, was proved by the fact that our trade with that country had been going on well without one for a century or two, and was now growing and increasing constantly. It was a trade conducted on the simple and elementary principle of '*here is one*,' and '*there is the other*'—all ready-money, and hard money, or good products—

no credit system, no paper money. For a long time this trade took nothing but silver dollars. At present it is taking some other articles, and especially a goodly quantity of Missouri lead. This has taken place without a treaty, and without an agent at $40,000 expense. All things are going on well between us and the Chinese. Our relations are purely commercial, conducted on the simplest principles of trade, and unconnected with political views. China has no political connection with us. She is not within the system, or circle, of American policy. She can have no designs upon us, or views in relation to us; and we have no need of a minister to watch and observe her conduct. Politically and commercially the mission is useless. By the Constitution, all the ministers are to be appointed by the Senate; but this minister to China is to be called an agent, and sent out by the President without the consent of the Senate; and thus, by imposing a false name upon the minister, defraud the Senate of their control over the appointment. The enormity of the sum shows that the mission is to be more expensive than any one ever sent from the United States; and that it is to be one of the first grade, or of a higher grade than any known in our country. Nine thousand dollars per annum, and the same for an outfit, is the highest compensation known to our service; yet this $40,000 mission may double that amount, and still the minister be only called an agent, for the purpose of cheating the Senate out of its control over the appointment. The bill is fraudulent in relation to the compensation to be given to this ambassadorial agent. No sum is fixed, but he is to take what he pleases for himself and his suite. He and they are to help themselves; and, from the amount allowed, they may help themselves liberally. In all other cases, salaries and compensations are fixed by law, and graduated by time; here there is no limit of either money or time. This mission goes by the job—$40,000 for the job—without regard to time or cost. A summer's work, or a year's work, it is all the same thing: it is a job, and is evidently intended to enable a gentleman, who loves to travel in Europe and Asia, to extend his travels to the Celestial Empire at the expense of the United States, and to write a book. The settlement of the accounts is a fraud upon the Treasury. In all cases of foreign missions, except where secret services are to be performed, and spies and informers to be dealt with, the accounts are settled at the Treasury Department, by the proper accounting officers; when secret services are to be covered, the fund out of which they are paid is then called the contingent foreign intercourse fund; and are settled at the State Department, upon a simple certificate from the President, that the money has been applied according to its intention. It was in this way that the notorious John Henry obtained his $50,000 during the late war; and that various other sums have been paid out to secret agents at different times. To this I do not object. Every government, in its foreign intercourse, must have recourse to agents, and have the benefit of some services, which would be defeated if made public; and which must, therefore, be veiled in secrecy, and paid for privately. This must happen in all governments; but not so in this case of the Chinese mission. Here, secrecy is intended for what our own minister, his secretary, and his whole suite, are to receive. Not only what they may give in bribes to Chinese, but what they may take in pay to themselves, is to be a secret. All is secret and irresponsible! And it will not do to assimilate this mission to the oldest government in the world, to the anomalous and anonymous missions to revolutionary countries. Such an analogy has been attempted in defence of this mission, and South American examples cited; but the cases are not analogous. Informal agencies, with secret objects, are proper to revolutionary governments; but here is to be a public mission, and an imposing one—the grandest ever sent out from the United States.—To attempt to assimilate such a mission to a John Henry case, or to a South American agency, is absurd and impudent; and is a fraud upon the system of accountability to which all our missions are subjected.

"The sum proposed is the same that is in the act of 1790, upon which the bill is framed. That act appropriated $40,000: but for what? For one mission? one man? one agent? one by himself, one? No. Not at all. That appropriation of 1790 was for all the missions of the year—

all of every kind—public as well as secret: the forty thousand dollars in this bill is for one man. The whole diplomatic appropriation in the time of Washington is now to be given to one man: and it is known pretty well who it is to be. Forty thousand dollars to enable one of our citizens to get to Peking, and to bump his head nineteen times on the ground, to get the privilege of standing up in the presence of his majesty of the celestial empire. And this is our work in the last night of this Congress. It is now midnight: and, like the midnight which preceded the departure of the elder Adams from the government, the whole time is spent in making and filling offices. Providing for favorites, and feeding out of the public crib, is the only work of those whose brief reign is drawing to a close, and who have been already compelled by public sentiment to undo a part of their work. The bankrupt act is repealed by the Congress that made it; the distribution act has shared the same fate; and if they had another session to sit, the mandamus act against the States, the habeas corpus against the States, this Chinese mission, and all the other acts, would be undone. It would be the true realization of the story of the queen who unravelled at night the web that she wove during the day. As it is, enough has been done, and undone, to characterize this Congress—to entitle it to the name of Ulysses' wife—not because (like the virtuous Penelope) it resisted seduction—but because, like her, its own hands unravelled its own work."

Mr. Archer replied that the ignominious prostrations heretofore required of foreign ministers in the Imperial Chinese presence, were all abolished by the treaty with Great Britain, and that the Chinese government had expressed a desire to extend to the United States all the benefits of that treaty, and this mission was to conclude the treaty which she wished to make. Mr. Benton replied, so much the less reason for sending this expensive mission. We now have the benefits of the British treaty, and we have traded for generations with China without a treaty, and without a quarrel, and can continue to do so. She extends to us and to all nations the benefits of the British treaty: the consul at Canton, Dr. Parker, or any respectable merchant there, can have that treaty copied, and sign it for the United States; and deem himself well paid to receive the fortieth part of this appropriation. Mr. Woodbury wished to see a limitation placed upon the amount of the annual compensation, and moved an amendment, that not more than nine thousand dollars, exclusive of outfit, be allowed to any one person for his annual compensation. Mr. Archer concurred in the limitation, and it was adopted. Mr. Benton then returned to one of his original objections—the design of the bill to cheat the Senate out of its constitutional control over the appointment. He said the language of the bill was studiously ambiguous. Whether the person was to be a minister, a chargé, or an agent, was not expressed. He now desired to know whether it was to be understood that the person intended for this mission was to be appointed by the President alone, without asking the advice and consent of the Senate? Mr. Archer replied that he had no information on the subject. Mr. Conrad of Louisiana, said that he would move an amendment that might obviate the difficulty; he would move that no agent be appointed without the consent of the Senate. This amendment was proposed, and adopted—31 yeas; 9 nays. These amendments were agreed to by the House; and, thus limited and qualified, the bill became a law.

The expected name did not come. The Senate adjourned, and no appointment could be made until the next session. It was not a vacancy happening in the recess which the President could fill by a temporary appointment, to continue to the end of the next session. It was an original office created during the session, and must be filled at the session, or wait until the next one. The President did neither. There were two constitutional ways open to him—and he took neither. There was one unconstitutional way—and he took it. In brief, he made the appointment in the recess; and not only so made it, but sent off the appointee (Mr. Caleb Cushing) also in the recess. Scarcely had the Senate adjourned when it was known that Mr. Cushing was to go upon this mission as soon as the ships could be got ready to convey him:

and in the month of May he departed. This was palpably to avoid the action of the Senate, where the nomination of Mr. Cushing would have been certain of rejection. He had already been three times rejected in one day upon a nomination for Secretary of the Treasury—receiving but two votes on the last trial. All the objections which applied to him for the Treasury appointment, were equally in force for the Chinese mission; and others besides. It was an original vacancy, and could not be filled during the recess by a temporary appointment. It was not a vacancy "happening" in the recess of the Senate, and therefore to be temporarily filled without the Senate's previous consent, lest the public interest in the meanwhile should suffer. It was an office created, and the emolument fixed, during the time that Mr. Cushing was a member of Congress: consequently he was constitutionally interdicted from receiving it during the continuance of that term. His term expired on the third of March: he was constitutionally ineligible up to the end of that day: and this upon the words of the constitution. Upon the reasons and motives of the constitution, he was ineligible for ever. The reason was, to prevent corrupt and subservient legislation—to prevent members of Congress from conniving or assisting at the enactment of laws for their own benefit, and to prevent Presidents from rewarding legislative subservience. Tested upon these reasons Mr. Cushing was ineligible after, as well as before, the expiration of his congressional term: and such had been the practice of all the previous Presidents. Even in the most innocent cases, and where no connivance could possibly be supposed of the member, would any previous President appoint a member to a place after his term expired, which he could not receive before it: as shown in Chapter XXX of the first volume of this View. In the case of Mr. Cushing all the reasons, founded in the motives of the constitutional prohibition, existed to forbid his appointment. He had deserted his party to join Mr. Tyler. He worked for him in and out of the House, and even deserted himself to support him—as in the two tariff bills of the current session; for both of which he voted, and then voted against them when vetoed: for which he was taunted by Mr. Granger, of New York.[18] There was besides a special provision in the law under which he was appointed to prevent the appointment from being made without the concurrence of the Senate. (The notice of the proceedings in the Senate when the bill which ripened into that law, have shown the terms of that provision, and the reasons of its adoption.) It is no answer to that pregnant amendment to say that the nomination would be sent in at the next session. That session would not come until six months after Mr. Cushing had sailed! not until he had arrived at his post! not until he had placed the entire diameter of the terraqueous globe between himself and the Senate! and a still greater distance between the Treasury and the $40,000 which he had drawn out of it!

Two squadrons of ships-of-war were put in requisition to attend this minister. The Pacific squadron, then on the coast of South America, was directed to proceed to China, to meet him: a squadron was collected at Norfolk to convey him. This squadron consisted of the new steam frigate, Missouri—the frigate Brandywine, the sloop-of-war Saint Louis, and the brig Perry—carrying altogether near two hundred guns; a formidable accompaniment for a peace mission, seeking a commercial treaty. Mr. Cushing had a craving to embark at Washington, under a national salute, and the administration gratified him: the magnificent steam frigate, Missouri,

[18] "Mr. Granger observed that he had a few words to say to the gentleman from Massachusetts [Mr. Cushing]. When he reflected that that gentleman had voted for every bill that the President had vetoed, and had then defended every veto which the President had sent them, he had been not a little puzzled to know how to defend his position. The gentleman was like a man he saw a short time since in the circus, who came forward ready dressed and equipped to ride any horse that might be brought out for him. First the gentleman from Massachusetts rode the bank pony; and that having run to death, he mounted the veto charger. The second bank roadster, then the tariff palfrey, and lastly, the stout-limbed tariff hunter, were mounted in their turn; and the veto animals were as complacently mounted, and were seated with as much self-satisfaction. The gentleman had voted for every bill, and then had justified every veto, and every act of executive encroachment on this House."

was ordered up to receive him. Threading the narrow and crooked channel of the Potomac River, the noble ship ran on an oyster bank, and fifteen of her crew, with a promising young officer, were drowned in getting her off. The minister had a desire to sail down the Mediterranean, seeing its coasts, and landing in the ancient kingdom of the Pharaohs: the administration deferred to his wishes. The Missouri was ordered to proceed to the Mediterranean, which the ill-fated vessel was destined never to enter; for, arriving at Gibraltar, she took fire and burned up—baptizing the anomalous mission in fire and blood, as well as in enormous expense. The minister proceeded in a British steamer to Egypt, and then by British conveyance to Bombay, where the Norfolk squadron had been ordered to meet him. The Brandywine alone was there, but the minister entered her, and proceeded to the nearest port to Canton, where, reporting his arrival and object, a series of diplomatic contentions immediately commenced between himself and "Ching, of the celestial dynasty, Governor-general of that part of the Central Flowery Kingdom." Mr. Cushing informed this governor that he was on his way to Peking, to deliver a letter from the President of the United States to the Emperor, and to negotiate a treaty of commerce; and, in the mean time, to take the earliest opportunity to inquire after the health of the august Emperor. To this inquiry Ching answered readily that, "At the present moment the great Emperor is in the enjoyment of happy old age and quiet health, and is at peace with all, both far and near:" but with respect to the intended progress to Peking, he demurs, and informs the minister that the imperial permission must first be obtained. "I have examined," he says, "and find that every nation's envoy which has come to the Central Flowery Kingdom with a view of proceeding to Peking, there to be presented to the august Emperor, has ever been required to wait outside of the nearest port on the frontier till the chief magistrate of the province clearly memorialize the Emperor, and request the imperial will, pointing out whether the interview may be permitted." With respect to the treaty of friendship and commerce, the governor declares there is no necessity for it—that China and America have traded together two hundred years in peace and friendship without a treaty—that all nations now had the benefit of the treaty made with Great Britain, which treaty was necessary to establish relations after a war; and that the United States, having had no war with China, had no need for a treaty. He supposes that, having heard of the British treaty, the United States began to want one also, and admits the idea is excellent, but unnecessary, and urges against it:

"As to what is stated, of publicly deliberating upon the particulars of perpetual peace, inasmuch as it relates to discoursing of good faith, peace, and harmony, the idea is excellent; and it may seem right, because he has heard that England has settled all the particulars of a treaty with China, he may desire to do and manage in the same manner. But the circumstances of the two nations are not the same, for England had taken up arms against China for several years, and, in beginning to deliberate upon a treaty, these two nations could not avoid suspicion; therefore, they settled the details of a treaty, in order to confirm their good faith; but since your honorable nation, from the commencement of commercial intercourse with China, during a period of two hundred years, all the merchants who have come to Canton, on the one hand, have observed the laws of China without any disagreement, and on the other, there has been no failure of treating them with courtesy, so that there has not been the slightest room for discord; and, since the two nations are at peace, what is the necessity of negotiating a treaty? In the commencement, England was not at peace with China; and when afterwards these two nations began to revert to a state of peace, it was indispensable to establish and settle details of a treaty, in order to oppose a barrier to future difficulties. I have now discussed this subject, and desire the honorable plenipotentiary maturely to consider it. Your honorable nation, with France and England, are the three great foreign nations that come to the south of China to trade. But the trade of America and England with China is very great. Now, the law regulating the tariff has changed the old

established duties, many of which have been essentially diminished, and the customary expenditures (exactions?) have been abolished. Your honorable nation is treated in the same manner as England; and, from the time of this change in the tariff, all kinds of merchandise have flowed through the channels of free trade, among the people, and already has your nation been bedewed with its advantages. The honorable plenipotentiary ought certainly to look at and consider that the Great Emperor, in his leniency to men from afar, has issued edicts commanding the merchants and people peaceably to trade, which cannot but be beneficial to the nations. It is useless, with lofty, polished, and empty words, to alter these unlimited advantages."

In all this alleged extension of the benefits of the British treaty to all nations, Ching was right in what he said. The Emperor had already done it, and the British government had so determined it from the beginning. It was a treaty for the commercial world as well as for themselves, and had been so declared by the young Queen Victoria in her speech communicating the treaty to Parliament. "Throughout the whole course of my negotiations with the government of China, I have uniformly disclaimed the wish for any exclusive advantages. It has been my desire that equal favor should be shown to the industry and commercial enterprise of all nations." There was really no necessity for a treaty, which as often begets dissensions as prevents them; and if one was desirable, it might have been had through Dr. Parker, long a resident of China, and now commissioner there, and who was Secretary of Legation and interpreter in Mr. Cushing's mission, and the medium of his communications with the Chinese; and actually the man of business who did the business in conducting the negotiations. But Mr. Cushing perseveres in his design to go to Peking, alleging that, "He deems himself bound by the instructions of his government to do so." Ching replies that he has received the imperial order "to stop and soothe him." Ching also informs him that the treaty with Great Britain was negotiated, not at Peking but at Canton, and also its duplicate with Portugal, and that a copy of it was in the hands of the American consul at Canton, for the information and benefit of American merchants. In his anxiety to prevent a foreign ship-of-war from approaching Peking, the Chinese governor intimated that, if a treaty was indispensable, a commissioner might come to Canton for that purpose; and on inquiry from Mr. Cushing how long it would take to send to Peking and get a return, Ching answered, three months—the distance being so great. Mr. Cushing objects to that delay—declares he cannot wait so long, as the season for favorable navigation to approach Peking may elapse; and announces his determination to proceed at once in the Brandywine, without waiting for any permission; and declares that a refusal to receive him would be a national insult, and a just cause of war. Here is the extract from his letter:

"Under these circumstances, inasmuch as your Excellency does not propose to open to me the inland road to Peking, in the event of my waiting here until the favorable monsoon for proceeding to the north by sea shall have passed away, and as I cannot, without disregard of the commands of my government, permit the season to elapse without pursuing the objects of my mission, I shall immediately leave Macao in the Brandywine. I feel the less hesitation in pursuing this course, in consideration of the tenor of the several communications which I have received from your Excellency. It is obvious, that if the court had entertained any very particular desire that I should remain here, it would have caused an imperial commissioner to be on the spot, ready to receive me on my arrival, or, at any rate, instructions would have been forwarded to your Excellency for the reception of the legation; since, in order that no proper act of courtesy towards the Chinese government should be left unobserved, notice was duly given last autumn, by the consul of the United States, that my government had appointed a minister to China. The omission of the court to take either of these steps seems to indicate expectation, on its part, that I should probably land at some port in the north."

That is to say, at some port in the Yellow Sea, or its river nearest to Peking. This must have been a mode of reasoning new to Governor Ching, that an omission to provide for Mr. Cushing at the port where foreigners were received, should imply a license for him to land where they were not, except on express, imperial permission. Much as Ching must have been astonished at this American logic, he must have been still more so at the penalty announced for disregarding it! nothing less than "national insult," and "just cause of war." For the letter continues:

"Besides which, your Excellency is well aware, that it is neither the custom in China, nor consistent with the high character of its Sovereign, to decline to receive the embassies of friendly states. To do so, indeed, would among Western States be considered an act of national insult, and a just cause of war."

This sentence, as all that relates to Mr. Cushing's Chinese mission, is copied from his own official despatches; so that, what would be incredible on the relation of others, becomes undeniable on his own. National insult and just cause of war, for not allowing him to go to Peking!

Mr. Cushing justifies his refusal to negotiate at Canton as the British envoy had done, and not being governed by the ceremony observed in his case, on the ground that the circumstances were not analogous—that Great Britain had chastised the Chinese, and taken possession of one of their islands—and that it would be necessary for the United States to do the same to bring him within the rules which were observed with Sir Henry Pottinger, the British minister. This intimation, as impertinent as unfeeling, and as offensive as unfounded, was thus expressed:

"In regard to the mode and place of deliberating upon all things relative to the perpetual peace and friendship of China and the United States, your Excellency refers to the precedent of the late negotiations with the plenipotentiary of Great Britain. The rules of politeness and ceremony observed by Sir Henry Pottinger, were doubtless just and proper in the particular circumstances of the case. But, to render them fully applicable to the United States, it would be necessary for my government, in the first instance, to subject the people of China to all the calamities of war, and especially to take possession of some island on the coast of China as a place of residence for its minister. I cannot suppose that the imperial government wishes the United States to do this. Certainly no such wish is entertained at present by the United States, which, animated with the most amicable sentiments towards China, feels assured of being met with corresponding deportment on the part of China."

The Brandywine during this time was still at Macao, the port outside of the harbor, where foreign men-of-war are only allowed to come; but Mr. Cushing, following up the course he had marked out for himself, directed that vessel to enter the inner port, and sail up to Whampoa; and also to require a salute of twenty-one guns to be fired. Against this entrance the Chinese government remonstrated, as being against the laws and customs of the empire, contrary to what the British had done when they negotiated their treaty, and contrary to an article in that treaty which only permitted that entrance to a small vessel with few men and one petty officer: and if the Brandywine had not entered, he forbids her to come; and if she had, requires her to depart: and as for the salute, he declares he has no means of firing it; and, besides, it was against their laws. The governor expressed himself with animation and feeling on this subject, at the indignity of violating their laws, and under the pretext of paying him a compliment—for that was the only alleged cause of the intrusive entrance of the Brandywine. He wrote:

“But it is highly necessary that I should also remark, concerning the man-of-war Brandywine coming up to Whampoa. The Bogue makes an outer portal of Kwang Tung, where an admiral is stationed to control and guard. Heretofore, the men-of-war of foreign nations have only been allowed to cast anchor in the seas without the mouth of the river, and have not been permitted to enter within. This is a settled law of the land, made a long time past. Whampoa is the place where merchant ships collect together, not one where men-of-war can anchor. Now, since the whole design of merchantmen is to trade, and men-of-war are prepared to fight, if they enter the river, fright and suspicion will easily arise among the populace, thus causing an obstacle in the way of trade. Furthermore, the two countries are just about deliberating upon peace and good will, and suddenly to have a man-of-war enter the river, while we are speaking of good faith and cultivating good feeling, has not a little the aspect of distrust. Among the articles of the commercial regulations it is provided, that an English government vessel shall be allowed to remain at anchor at Whampoa, and that a deputy shall be appointed to control the seamen. The design of this, it was evident, was to put an end to strife, and quell disputes. But this vessel is a small one, containing but few troops, and moreover brings a petty officer, so that it is a matter of but little consequence, one way or another. If your country’s man-of-war Brandywine contains five hundred and more troops, she has also a proportionately large number of guns in her, and brings a commodore in her; she is in truth far different from the government vessel of the British, and it is inexpedient for her to enter the river; and there are, in the aspect of the affair, many things not agreeable.”

Nevertheless Mr. Cushing required the ship to enter the inner port, to demand a return-salute of twenty-one guns, and permission to the American commodore to make his compliments in person to the Chinese governor. This governor then addressed a remonstrance to the American commodore, which runs thus:

“When your Excellency first arrived in the Central Flowery Land, you were unacquainted with her laws and prohibitions—that it was against the laws for men-of-war to enter the river. Having previously received the public officer’s (Cushing’s) communication, I, the acting governor, have fully and clearly stated to him that the ship should be detained outside. Your Excellency’s present coming up to Blenheim reach is therefore, no doubt, because the despatch sent previously to his Excellency Cushing had not been made known to you—whence the mistake. Respecting the salute of twenty-one guns, as it is a salute among western nations, it does [not] tally with the customs of China. Your Excellency being now in China, and, moreover, entered the river, it is not the same as if you were in your own country; and, consequently, it will be inexpedient to have the salute performed here; also, China has no such salute as firing twenty-one guns; and how can we imitate your country’s custom in the number, and make a corresponding ceremony in return? It will, indeed, not be easy to act according to it. When the English admirals Parker and Saltoun came up to Canton, they were both in a passage vessel, not in a man-of-war, when they entered the river; nor was there any salute. This is evidence plain on this matter.

“Concerning what is said regarding a personal visit to this officer to pay respects, it is certainly indicative of good intention; but the laws of the land direct that whenever officers from other countries arrive upon the frontier, the governor and other high officers, not having received his Majesty’s commands, cannot hold any private intercourse with them; nor can a deputy, not having received a special commission from the superior officers, have any private intercourse with foreign functionaries. It will consequently be inexpedient that your Excellency (whose sentiments are so polite and cordial) and I, the acting governor, should have an interview; for it is against the settled laws of the land.”

Having thus violated the laws and customs of China in sending the Brandywine, Mr. Cushing follows it up with threats and menaces—assumes the attitude of an injured and insulted minister of peace—and, for the sake of China, regrets what may happen. In this vein he writes:

"It is customary, among all the nations of the West, for the ships of war of one country to visit the ports of another in time of peace, and, in doing so, for the commodore to exchange salutes with the local authorities, and to pay his compliments in person to the principal public functionary. To omit these testimonies of good will is considered as evidence of a hostile, or at least of an unfriendly feeling. But your Excellency says the provincial government has no authority to exchange salutes with Commodore Parker, or to receive a visit of ceremony from him. And I deeply regret, for the sake of China, that such is the fact. China will find it very difficult to remain in peace with any of the great States of the West, so long as her provincial governors are prohibited either to give or to receive manifestations of that peace, in the exchange of the ordinary courtesies of national intercourse. And I cannot forbear to express my surprise, that, in the great and powerful province of Kwang Tung, the presence of a single ship of war should be cause of apprehension to the local government. Least of all, should such apprehension be entertained in reference to any ships of war belonging to the United States, which now feels, and (unless ill-treatment of our public agents should produce a change of sentiments) will continue to feel, the most hearty and sincere good will towards China. Coming here, in behalf of my government, to tender to China the friendship of the greatest of the Powers of America, it is my duty, in the outset, not to omit any of the tokens of respect customary among western nations. If these demonstrations are not met in a correspondent manner, it will be the misfortune of China, but it will not be the fault of the United States."

In these sentences China is threatened with a war with the United States on account of her ill-treatment of the United States' public agents, meaning himself—the ill-treatment consisting in not permitting him to trample, without restraint, upon the laws and customs of the country. In this sense, Ching the governor, understood it, and answered:

"Regarding what is said of the settled usages of western nations—that not to receive a high commissioner from another state is an insult to that state—this certainly, with men, has a warlike bearing. But during the two hundred years of commercial intercourse between China and your country, there has not been the least animosity nor the slightest insult. It is for harmony and good will your Excellency has come; and your request to proceed to the capital, and to have an audience with the Emperor, is wholly of the same good mind. If, then, in the outset, such pressing language is used, it will destroy the admirable relations."

To this Mr. Cushing rejoins, following up the menace of war for the "*ill-treatment*" he was receiving—justifying it if it comes—reminds China of the five years' hostilities of Great Britain upon her—points to her antiquated customs as having already brought disasters upon her; and suggests a dismemberment of her empire as a consequence of war with the United States, provoked by ill-treatment of her public agents. Thus:

"I can only assure your Excellency, that this is not the way for China to cultivate good will and maintain peace. The late war with England was caused by the conduct of the authorities at Canton, in disregarding the rights of public officers who represented the English government. If, in the face of the experience of the last five years, the Chinese government now reverts to antiquated customs, which have already brought such disasters upon her, it can be regarded in no other light than as evidence that she invites and desires [war with] the other great western Powers. The United States would sincerely regret such a result. We have no desire whatever to dismember the territory of the empire. Our citizens have at all times

deported themselves here in a just and respectful manner. The position and policy of the United States enable us to be the most disinterested and the most valuable of the friends of China. I have flattered myself, therefore, and cannot yet abandon the hope, that the imperial government will see the wisdom of promptly welcoming and of cordially responding to the amicable assurances of the government of the United States."

Quickly following this despatch was another, in which Mr. Cushing rises still higher in his complaints of molestation and ill-treatment—refers to the dissatisfaction which the American people will experience—thought they would have done better, having just been whipped by the British—confesses that his exalted opinion of China is undergoing a decline—hopes they will do better—postpones for a while his measures of redress—suspends his resentment—and by this forbearance will feel himself the better justified for what he may do if forced to act. But let his own words speak:

"I must not conceal from your Excellency the extreme dissatisfaction and disappointment which the people of America will experience when they learn that their Envoy, instead of being promptly and cordially welcomed by the Chinese government, is thus molested and delayed, on the very threshold of the province of Yuh. The people of America have been accustomed to consider China the most refined and the most enlightened of the nations of the East; and they will demand, how it is possible, if China be thus refined, she should allow herself to be wanting in courtesy to their Envoy; and, if China be thus enlightened, how it is possible that, having just emerged from a war with England, and being in the daily expectation of the arrival of the Envoy of the French, she should suffer herself to slight and repel the good will of the United States. And the people of America will be disposed indignantly to draw back the proffered hand of friendship, when they learn how imperfectly the favor is appreciated by the Chinese government. In consenting, therefore, to postpone, for a short time longer, my departure for the North (Peking), and in omitting, for however brief a period, to consider the action of the Chinese government as one of open disrespect to the United States, and to take due measures of redress, I incur the hazard of the disapprobation and censure of my government; for the American government is peculiarly sensitive to any act of foreign governments injurious to the honor of the United States. It is the custom of American citizens to demean themselves respectfully towards the people and authorities of any foreign nation in which they may, for the time being, happen to reside. Your Excellency has frankly and truly borne witness to the just and respectful deportment which both scholars and merchants of the United States have at all times manifested in China. But I left America as a messenger of peace. I came into China full of sentiments of respect and friendship towards its sovereign and its people. And notwithstanding what has occurred, since my arrival here, to chill the warmth of my previous good will towards China, and to bring down the high conceptions I had previously been led to form in regard to the courtesy of its government, I am loth to give these up entirely, and in so doing put an end perhaps to the existing harmonious relations between the United States and China. I have therefore to say to your Excellency, that I accept, for the present, your assurances of the sincerity and friendship of the Chinese government. I suspend all the resentment which I have just cause to feel on account of the obstructions thrown in the way of the progress of the legation, and other particulars of the action of the Imperial and Provincial governments, in the hope that suitable reparation will be made for these acts in due time. I commit myself, in all this, to the integrity and honor of the Chinese government; and if, in the sequel, I shall prove to have done this in vain, I shall then consider myself the more amply justified, in the sight of all men, for any determination which, out of regard for the honor of the United States, it may be my duty to adopt under such circumstances."

It was now the middle of May, 1844: the correspondence with Ching had commenced the last of February: the three months had nearly elapsed, within which a return answer was to be had from Peking: and by extraordinary speed the answer arrived. It contained the Emperor's positive refusal to suffer Mr. Cushing to come to Peking—enjoined him to remain where he was—cautioned him not to "agitate disorder"—and informing him that an Imperial commissioner would proceed immediately to Canton, travelling with the greatest celerity, and under orders to make one hundred and thirty-three miles a day, there to draw up the treaty with him. This information took away the excuse for the intrusive journey, or voyage, to Peking, and also showed that a commercial treaty might be had with China, without inflicting upon her the calamities of war, or breeding national dissensions out of diplomatic contentions. It made a further suspension of his resentment, and postponement of the measures which the honor of the United States required him to take for the molestations and ill treatment which the federal government had received in his person. These formidable measures, well known to be belligerent, were postponed, not abandoned; and the visit to Peking, forestalled by the arrival of an imperial commissioner to sign a treaty, was also postponed, not given up—its pretext now diminished, and reduced to the errand of delivering Mr. Tyler's letter to the Emperor. He consents to treat at Canton, but makes an excuse for it in the want of a steamer, and the non-arrival of the other ships of the squadron, which would have enabled him to approach Canton, intimidate the government, and obtain from their fears the concessions which their manners and customs forbid. All this he wrote himself to his government, and he is entitled to the benefit of his own words:

"So far as regards the objects of adjusting in a proper manner the commercial relations of the United States and China, nothing could be more advantageous than to negotiate with Tsiyeng at Canton, instead of running the risk of compromising this great object by having it mixed up at Tien Tsin, or elsewhere at the north, with questions of reception at Court. Add to which the fact that, with the Brandywine alone, without any steamer, and without even the St. Louis and the Perry, it would be idle to repair to the neighborhood of the Pih-ho, in any expectation of acting upon the Chinese by intimidation, and obtaining from their fears concessions contrary to the feeling and settled wishes of the Imperial government. To remain here, therefore, and meet Tsiyeng, if not the most desirable thing, is at present the only possible thing. It is understood that Tsiyeng will reach Canton from the 5th to the 10th of June."

This commissioner, Tsiyeng, arrived at the time appointed, and fortunately for the peace and honor of the country, as the St. Louis sloop-of-war, and the man-of-war brig Perry, arrived two days after, and put Mr. Cushing in possession of the force necessary to carry out his designs upon China. In the joy of receiving this accession to his force, he thus writes home to his government:

"It is with great pleasure I inform you that the St. Louis arrived here on the 6th instant, under the command of Lieutenant Keith, Captain Cocke (for what cause I know not, and cannot conceive), after detaining the ship at the Cape of Good Hope three months, having at length relinquished the command to Mr. Keith. And on the same day arrived also the Perry, commanded by Lieutenant Tilton. The arrival of these vessels relieves me from a load of solicitude in regard to the public business; for if matters do not go smoothly with Tsiyeng, the legation has now the means of proceeding to and acting at the North."

"If matters do not go smoothly with Tsiyeng!" and the very first step of Mr. Cushing was an attempt to ruffle that smoothness. The Chinese commissioner announced his arrival at Canton, and made known his readiness to draw up the treaty instantly. In this communication, the name of the United States, as according to Chinese custom with all foreign nations, was written in a lower column than that of the Chinese government—in the language of Mr.

Cushing, “the name of the Chinese government stood higher in column by one character than that of the United States.” At this collocation of the name of his country, Mr. Cushing took fire, and instantly returned the communication to the Imperial commissioner, “even at the hazard (as he informed his government) of at once cutting off all negotiation.” Fortunately Tsiyeng was a man of sense, and of elevation of character, and immediately directed his clerk to elevate the name of the United States to the level of the column which contained that of China. By this condescension on the part of the Chinese commissioner, the negotiation was saved for the time, and the cannon and ammunition of our three ships of war prevented from being substituted for goose-quills and ink. The commissioner showed the greatest readiness, amounting to impatience, to draw up and execute the treaty; which was done in as little time as the forms could be gone through: and the next day the commissioner, taking his formal leave of the American legation, departed for Peking—a hint that, the business being finished, Mr. Cushing might depart also for his home. But he was not in such a hurry to return. “His pride and his feelings (to use his own words) had been mortified” at not being permitted to go to Peking—at being in fact stopped at a little island off the coast, where he had to transact all his business; and his mind still reverted to the cherished idea of going to Peking, though his business would be now limited to the errand of carrying Mr. Tyler’s letter to the Emperor. In his despatch, immediately after the conclusion of this treaty, he justifies himself for not having gone before the Chinese commissioner arrived, placing the blame on the slow arrival of the St. Louis and the Perry, the non-arrival at all of the Pacific squadron, and the want of a steamer.

“With these reflections present to my mind, it only needed to consider further whether I should endeavor to force my way to Peking, or at least, by demonstration of force at the mouth of the Pih-ho, attempt to intimidate the Imperial government into conceding to me free access to the Court. In regard to this it is to be observed, that owing to the extraordinary delays of the St. Louis on her way here, I had no means of making any serious demonstration of force at the north, prior to the time when Tsiyeng arrived at Canton, on his way to Macao, there to meet me and negotiate a treaty. And with an Imperial commissioner near at hand, ready and willing to treat, would it have been expedient, or even justifiable, to enter upon acts of hostility with China, in order, if possible, to make Peking the place of negotiation?”

The correspondence does not show what was the opinion of the then administration upon this problem of commencing hostilities upon China after the commissioner had arrived to make the treaty; and especially to commit these hostilities to force a negotiation at Peking, where no treaty with any power had ever been negotiated, and where he expected serious difficulties in his presentation at court, as Mr. Cushing was determined not to make the prostrations (i. e. bumping his head nineteen times against the floor), which the Chinese ceremonial required.

“I have never disguised from myself the serious difficulties which I might have to encounter in forcing my way to Peking; and, if voluntarily admitted there, the difficulties almost equally serious connected with the question of presentation at court; for I had firmly resolved not to perform the acts of prostration to the Emperor. I struggled with the objections until intelligence was officially communicated to me of the appointment of Tsiyeng as imperial commissioner, and of his being actually on his way to Canton. To have left Macao after receiving this intelligence would have subjected me to the imputation of fleeing from, and, as it were, evading a meeting with Tsiyeng; and such an imputation would have constituted a serious difficulty (if not an insuperable one) in the way of successful negotiation at the North.”

The despatch continues:

“On the other hand, I did not well see how the United States could make war on China to change the ceremonial of the court. And for this reason, it had always been with me an object of great solicitude to dispose of all the commercial questions by treaty, before venturing on Peking.”

“Did not well see how the United States could make war on China to change the ceremonial of the court.” This is very cool language, and implies that Mr. Cushing was ready to make the war—(assuming himself to be the United States, and invested with the war power)—but could not well discover any pretext on which to found it. He then excuses himself for not having done better, and gone on to Peking without stopping at the outer port of Canton, and so giving the Chinese time to send down a negotiator there, and so cutting off the best pretext for forcing the way to China: and this excuse resolves itself into the one so often given—the want of a sufficient squadron to force the way. Thus:

“If it should be suggested that it would have been better for me to have proceeded at once to the North (Peking), without stopping at Macao, I reply, that this was impracticable at the time of my arrival, with the Brandywine alone, before the southerly monsoon had set in, and without any steamer; that if at any time I had gone to the North in the view of negotiating there, I should have been wholly dependent on the Chinese for the means of lodging and subsisting on shore, and even for the means of landing at the mouth of the Pih-ho; that only at Macao could I treat independently, and that here, of necessity, must all the pecuniary and other arrangements of the mission be made, and the supplies obtained for the squadron. Such are the considerations and the circumstances which induced me to consent to forego proceeding to Peking.”

So that, after all, it was only the fear of being whipt and starved that prevented Mr. Cushing from fighting his way to the foot-stool of power in the Tartar half of the Chinese Empire. The delay of the two smaller vessels, the non-arrival of the Pacific squadron, and the want of a steamer, were fortunate accidents for the peace and honor of the United States; and even the conflagration of the magnificent steam frigate, Missouri, with all her equipments, was a blessing, compared to the use to which she would have been put if Mr. Cushing’s desire to see the coasts of the Mediterranean and the banks of the Nile had not induced him to take her to Gibraltar, instead of doubling the Cape of Good Hope in company with the Brandywine. Finally, he gives the reason for all this craving desire to get to Peking, which was nothing more nor less (and less it could not be) than the gratification of his own feelings of pride and curiosity. Hear him:

“And in regard to Peking itself, I have obtained the means of direct correspondence between the two governments immediately, and an express engagement, that if hereafter a minister of the French, or any other power, should be admitted to the court, the same privilege shall be accorded to the United States. If the conclusion of the whole matter be one less agreeable to my own feelings of pride or curiosity, it is, at any rate, the most important and useful to my country, and will therefore, I trust, prove satisfactory to the President.”

It does not appear from any published instructions of the administration (then consisting of Mr. Tyler and his new cabinet after the resignation of all the whig members except Mr. Webster), how far Mr. Cushing was warranted in his belligerent designs upon China; but the great naval force which was assigned to him, the frankness with which he communicated all his bellicose intentions, the excuses which he made for not having proceeded to hostilities and the dismemberment of the Empire, and the encomiums with which his treaty was communicated to the Senate—all bespeak a consciousness of approbation on the part of the administration, and the existence of an expectation which might experience disappointment in his failing to make war upon the Chinese. In justice to Mr. Webster, it must be told that,

although still in the cabinet when Mr. Cushing went to China, yet his day of influence was over: he was then in the process of being forced to resign: and Mr. Upshur, then Secretary of the Navy, was then virtually, as he was afterwards actually, Secretary of State, when the negotiations were carried on.

The publication of Mr. Cushing's correspondence, which was ordered by the Senate, excited astonishment, and attracted the general reprobation of the country. Their contents were revolting, and would have been incredible except for his own revelations. Narrated by himself they coerced belief, and bespoke an organization void of the moral sense, and without the knowledge that any body else possessed it. The conduct of the negotiator was condemned, his treaty was ratified, and the proceedings on his nomination remain a senatorial secret—the injunction of secrecy having never been removed from them.

123. The Alleged Mutiny, And The Executions (As They Were Called) On Board The United States Man-Of-War, Somers

In the beginning of this year the public mind was suddenly astounded and horrified, at the news of a mutiny on board a national ship-of-war, with a view to convert it into a pirate, and at the same time excited to admiration and gratitude at the terrible energy with which the commander of the ship had suppressed it—hanging three of the ringleaders on the spot without trial, bringing home twelve others in irons—and restraining the rest by the undaunted front which the officers assumed, and the complete readiness in which they held themselves to face a revolt. It was a season of profound peace, and the astounding news was like claps of thunder in a clear sky. It was an unprecedented event in our navy, where it had been the pride and glory of the seamen to stand by their captain and their ship to the last man, and to die exultingly to save either. Unlike almost all mutinies, it was not a revolt against oppression, real or imagined, and limited to the seizure of the ship and the death or expulsion of the officers, but a vast scheme of maritime depredation, in which the man-of-war, converted into a piratical cruiser, was to roam the seas in quest of blood and plunder, preying upon the commerce of all nations—robbing property, slaughtering men, and violating women. A son of a cabinet minister, and himself an officer, was at the head of the appalling design; and his name and rank lent it a new aspect of danger. Every aggravation seemed to attend it, and the horrifying intelligence came out in a way to magnify its terrors, and to startle the imagination as well as to overpower the judgment. The vessel was the bearer of her own news, and arriving on the coast, took a reserve and mystery which lent a terrific force to what leaked out. She stopped off the harbor of New York, and remained outside two days, severely interdicting all communication with the shore. A simple notice of her return was all that was made public. An officer from the vessel, related to the commander, proceeded to Washington city—giving out fearful intimations as he went along—and bearing a sealed report to the Secretary of the Navy. The contents of that report went direct into the government official paper, and thence flew resounding through the land. It was the official and authentic report of the fearful mutiny. The news being spread from the official source, and the public mind prepared for his reception, the commander brought his vessel into port—landed: and landed in such a way as to increase the awe and terror inspired by his narrative. He went direct, in solemn procession, at the head of his crew to the nearest church, and returned thanks to God for a great deliverance. Taken by surprise, the public mind delivered itself up to joy and gratitude for a marvellous escape, applauding the energy which had saved a national ship from mutiny, and the commerce of nations from piratical depredation. The current was all on one side. Nothing appeared to weaken its force, or stop its course. The dead who had been hanged, and sent to the bottom of the sea, could send up no voice: the twelve ironed prisoners on the deck of the vessel, were silent as the dead: the officers and men at large actors in what had taken place, could only confirm the commander’s official report. That report, not one word of which would be heard in a court of justice, was received as full evidence at the great tribunal of public opinion. The reported confessions which it contained (though the weakest of all testimony in the eye of the law, and utterly repulsed when obtained by force, terror or seduction), were received by the masses as incontestable evidence of guilt.

The vessel on which all this took place was the United States man-of-war, Somers—her commander Alexander Slidell Mackenzie, Esq., with a crew of 120 all told, 96 of which were apprentice boys under age. She had gone out on one of those holiday excursions which are now the resource of schools to make seamen. She had crossed the Atlantic and was returning to the United States by way of the West Indies, when this fearful mutiny was discovered. It was communicated by the purser's steward to the purser—by him to the first lieutenant—by him to the commander: and the incredulous manner in which he received it is established by two competent witnesses—the lieutenant who gave it to him, and the commander himself: and it is due to each to give the account of this reception in his own words: and first the lieutenant shall speak:

"I reported the thing (the intended mutiny) to the commander immediately. He took it very coolly, said the vessel was in a good state of discipline, and expressed his doubts as to the truth of the report."

This is the testimony of the lieutenant before the court-martial which afterwards sat upon the case, and two points are to be noted in it—*first*, that the commander did not believe it; and, *secondly*, that he declared the vessel to be in a good state of discipline: which was equivalent to saying, there was no danger, even if the information was true. Now for the commander's account of the same scene, taken from his official report:

"Such was the purport of the information laid before me by Lieut. Gansevoort, and although he was evidently impressed with the reality of the project, yet it seemed to me so monstrous, so improbable, that I could not forbear treating it with ridicule. I was under the impression that Mr. Spencer had been reading piratical stories, and had amused himself with Mr. Wales"—(the informer).

Ridicule was the only answer which the commander deemed due to the information, and in that he was justified by the nature of the information itself. A purser's steward (his name Wales) had told the lieutenant that midshipman Spencer had called him into a safe place the night before, and asked him right off—"Do you fear death? do you fear a dead man? are you afraid to kill a man?"—and getting satisfactory answers to these questions, he immediately unfolded to him his plan of capturing the ship, with a list of four certain and ten doubtful associates, and eighteen *nolens volens* assistants to be forced into the business; and then roaming the sea with her as a pirate, first calling at the Isle of Pines (Cuba) for confederates. It was a ridiculous scheme, both as to the force which was to take the ship, and her employment as a buccaneer—the state of the ocean and of navigation being such at that time as to leave a sea-rover, pursued as he would be by the fleets of all nations, without a sea to sail in, without a coast to land on, without a rock or corner to hide in. The whole conception was an impossibility, and the abruptness of its communication to Wales was evidence of the design to joke him. As such it appeared to the commander at the time. It was at 10 o'clock in the morning of the 26th of November, 1842, approaching the West Indies from the coast of Africa, that this information was given by the lieutenant to the commander. Both agree in their account of the ridicule with which it was received; but the commander, after the deaths of the implicated, and when making out his official report to the Secretary of the Navy, forgot to add what he said to the lieutenant—that the vessel was in a good state of discipline—equivalent to saying it could not be taken. Further, he not only forgot to add what he said, but remembered to say the contrary: and on his trial undertook to prove that the state of the ship was bad, and had been so for weeks; and even since they left the coast of Africa. In this omission to report to the Secretary a fact so material, as he had remarked it to his lieutenant, and afterwards proving the contrary on his trial, there is room for a pregnant reflection which will suggest itself to every thinking mind—still more when the silence of the log-book upon

this “bad” state of the crew, corresponds with the commander’s account that it was good. But, take the two accounts in what they agree, and it is seen that at 10 o’clock in the morning Lieutenant Gansevoort’s whole report of the conspiracy and mutiny, as derived from the purser’s steward (Wales) was received with ridicule—as the romance of a boy who had been reading piratical stories, and was amusing himself with the steward—a landsman, of whom the commander gives a bad account as having bought a double quantity of brandy—twice as much as his orders justified, before leaving New York;—and afterwards stealing it on the voyage. By five o’clock in the evening of the same day, and without hearing any thing additional, the commander became fully impressed with the truth of the whole story, awfully impressed with the danger of the vessel, and fully resolved upon a course of terrible energy to prevent the success of the impending mutiny. Of this great and sudden change in his convictions it becomes the right of the commander to give his own account of its inducing causes: and here they are, taken from his official report:

“In the course of the day, Lieut. Gansevoort informed me that Mr. Spencer had been in the wardroom examining a chart of the West Indies, and had asked the assistant surgeon some questions about the Isle of Pines, and the latter had informed him that it was a place much frequented by pirates, and drily asked if he had any acquaintances there.—He passed the day rather sullenly in one corner of the steerage, as was his usual custom, engaged in examining a small piece of paper, and writing upon it with his pencil, and occasionally finding relaxation in working with a penknife at the tail of a devilfish, one of which he had formed into a sliding ring for his cravat. Lieut. Gansevoort also made an excuse of duty to follow him to the foretop, where he found him engaged in having some love device tattooed on his arm by Benjamin F. Green, ordinary seaman, and apprentice. Lieut. Gansevoort also learned that he had been endeavoring for some days to ascertain the rate of the chronometer, by applying to Mid. Rodgers, to whom it was unknown, and who referred him to the master. He had been seen in secret and nightly conferences with the boatswain’s mate, S. Cromwell, and seaman Elisha Small. I also heard that he had given money to several of the crew; to Elisha Small on the twelfth of September, the day before our departure from New York; the same day on which, in reply to Commodore Perry’s injunctions to reformation, he had made the most solemn promises of amendment; to Samuel Cromwell on the passage to Madeira; that he had been in the habit of distributing tobacco extensively among the apprentices, in defiance of the orders of the navy department, and of my own often reiterated; that he had corrupted the ward-room steward, caused him to steal brandy from the ward-room mess, which he, Mr. Spencer, had drunk himself, occasionally getting drunk when removed from observation, and had also administered to several of the crew; that, finally, he was in the habit of amusing the crew by making music with his jaw. He had the faculty of throwing his jaw out of joint, and by contact of the bones, playing with accuracy and elegance a variety of airs. Servile in his intercourse with me, when among the crew he loaded me with blasphemous vituperation, and proclaimed that it would be a pleasing task to roll me overboard off the round-house. He had some time before drawn a brig with a black flag, and asked one of the midshipmen what he thought of it; he had repeatedly asserted in the early part of the cruise, that the brig might easily be taken; he had quite recently examined the hand of midshipman Rodgers, told his fortune, and predicted for him a speedy and violent death.”

Surely the historian, as well as the poet may say: To the jealous mind, trifles light as air are confirmations strong as proofs from holy writ. Here are fourteen causes of suspected mutiny enumerated, part of which causes are eminently meritorious in a young naval officer, as those of studying the chart of the West Indies (whither the vessel was going), and that of learning the rate of the chronometer; another part of which is insignificant, as giving tobacco to the apprentice boys, and giving money to two of the seamen; others again would show a different

passion from that of piracy, as having love devices tattooed on his arm; others again would bespeak the lassitude of idleness, as whittling at the tail of a devilfish, and making a ring for his cravat, and drawing a brig with a black flag; others again would indicate playfulness and humor, as examining the palm of young Rodgers' hand, and telling his fortune, which fortune, of course, was to be startling, as a sudden and violent death, albeit this young Rodgers was his favorite, and the only one he asked to see when he was about to be hung up—(a favor which was denied him); others again are contradicted by previous statements, as, that Spencer corrupted the purser's steward and made him steal brandy, the commander having before reported that steward for the offence of purchasing a double quantity of brandy before he left New York—a circumstance which implied a sufficient inclination to use the extra supply he had laid in (of which he had the custody), without being corrupted by Spencer to steal it; others of these causes again were natural, and incidental to Spencer's social condition in the vessel, as that of talking with the seamen, he being objected to by his four roommates (who were the commander's relations and connections), and considered one too many in their room, and as such attempted to be removed to another ship by the commander himself; another, that occasionally he got drunk when removed from observation, a fault rather too common (even when in the presence of observation) to stand for evidence of a design to commit mutiny on board a man-of-war; another, that blasphemous vituperation of the commander which, although it might be abusive, could neither be blasphemous (which only applies to the abuse of God), nor a sign of a design upon the vessel, but only of contempt for the commander; finally, as in that marvellous fine music with the jaw out of joint, playing with skill and accuracy a variety of elegant airs by the contaction of the luxated ends of the bones. Taken as true, and this musical habit might indicate an innocency of disposition. But it is ridiculously false, and impossible, and as such ridiculous impossibility it was spared the mention even of contempt during the whole court-martial proceedings. Still it was one of the facts gravely communicated to the Secretary of the Navy as one of the means used by Spencer to seduce the crew. While ridicule, contempt and scorn are the only proper replies to such absurd presumptions of guilt, there were two of them presented in such a way as to admit of an inquiry into their truth, namely, the fortune-telling and the chronometer: Midshipman Rodgers testified before the court that this fortune-telling was a steerage amusement, and that he was to die, not only suddenly and violently, but also a gambler; and that as for the examination of the chronometer, it was with a view to a bet between himself and Rodgers as to the time that the vessel would get to St. Thomas—the bet on Spencer's side, being on eight days. Yet, the diseased mind of the commander could see nothing in those little incidents, but proof of a design to kill Rodgers (with the rest) before the ship got to St. Thomas, and afterwards to run to the Isle of Pines. Preposterous as these fourteen reasons were, they were conclusive with the commander, who forthwith acted upon them, and made the arrest of Spencer.

"At evening quarters I ordered through my clerk, O. H. Perry, doing the duty also of midshipman and aid, all the officers to lay aft on the quarter deck, excepting the midshipman stationed on the forecastle. The master was ordered to take the wheel, and those of the crew stationed abaft sent to the mainmast. I approached Mr. Spencer, and said to him, 'I learn, Mr. Spencer, that you aspire to the command of the Somers.' With a deferential, but unmoved and gently smiling expression, he replied, 'Oh no, sir.' 'Did you not tell Mr. Wales, sir, that you had a project to kill the commander, the officers, and a considerable portion of the crew of this vessel, and to convert her into a pirate?' 'I may have told him so, sir, but it was in a joke.' 'You admit then that you told him so?' 'Yes, sir, but in joke!' 'This, sir, is joking on a forbidden subject—this joke may cost you your life!'"

This was the answer of innocence: guilt would have denied every thing. Here all the words are admitted, with a promptitude and frankness that shows they were felt to be what they purported—the mere admission of a joke. The captain's reply shows that the life of the young man was already determined upon. It was certainly a punishable joke—a joke upon a forbidden subject: but how punishable? certainly among the minor offences in the navy, offences prejudicial to discipline; and to be expiated by arrest, trial, condemnation for breach of discipline, and sentence to reprimand, suspension; or some such punishment for inconsiderate offences. But, no. The commander replies upon the spot, '*this joke may cost you your life*:' and in that he was prophetic, being the fulfiller of his own prophecy. The informer Wales had reported a criminal paper to be in the neckcloth of the young man: the next movement of the commander was to get possession of that paper: and of that attempt he gives this account:

"'Be pleased to remove your neckhandkerchief.' It was removed and opened, but nothing was found in it. I asked him what he had done with a paper containing an account of his project which he had told Mr. Wales was in the back of his neckhandkerchief. 'It is a paper containing my day's work; and I have destroyed it.' 'It is a singular place to keep day's work in.' 'It is a convenient one,' he replied, with an air of deference and blandness."

Balked in finding this confirmation of guilt, the commander yet proceeded with his design, and thus describes the arrest:

"I said to him, 'You must have been aware that you could only have compassed your designs by passing over my dead body, and after that the bodies of all the officers. You had given yourself a great deal to do. It will be necessary for me to confine you.' I turned to Lieutenant Gansevoort and said, 'Arrest Mr. Spencer, and put him in double irons.' Mr. Gansevoort stepped forward, and took his sword; he was ordered to sit down in the stern port, double ironed, and as an additional security handcuffed. I directed Lieut. Gansevoort to watch over his security, to order him to be put to instant death if he was detected speaking to, or holding intelligence in any way, with any of the crew. He was himself made aware of the nature of these orders. I also directed Lieut. Gansevoort to see that he had every comfort which his safe keeping would admit of. In confiding this task to Lieut. Gansevoort, his kindness and humanity gave me the assurance that it would be zealously attended to; and throughout the period of Mr. Spencer's confinement, Lieut. Gansevoort, whilst watching his person with an eagle eye, and ready at any moment to take his life should he forfeit that condition of silence on which his safety depended, attended to all his wants, covered him with his own grego when squalls of rain were passing over, and ministered in every way to his comfort with the tenderness of a woman."

Double-ironed—handcuffed—bagged (for he was also tied up in a bag), lying under the sun in a tropical clime, and drenched with squalls of rain—silent—instant death for a word or a sign—Lieutenant Gansevoort, armed to the teeth, standing over him, and watching, with "eagle eye," for the sound or motion which was to be the forfeit of life: for six days and nights, his irons examined every half hour to see that all were tight and safe, was this boy (of less than nineteen) thus confined; only to be roused from it in a way that will be told. But the lieutenant could not stand to his arduous watch during the whole of that time. His eagle eye could not resist winking and shutting during all that time. He needed relief—and had it—and in the person of one who showed that he had a stomach for the business—Wales, the informer: who, finding himself elevated from the care of pea-jackets, molasses, and tobacco, to the rank of sentinel over a United States officer, improved upon the lessons which his superiors had taught him, and stood ready, a cocked revolver in hand, to shoot, not only the prisoners (for by this time there were three), for a thoughtless word or motion, but also to

shoot any of the crew that should make a suspicious sign:—such as putting the hand to the chin, or touching a handspike within forty feet of the said Mr. Wales. Hear him, as he swears before the court-martial:

"I was officer in charge of the prisoners: we were holy-stoning the decks. I noticed those men who missed their muster kept congregating round the stern of the launch, and kept talking in a secret manner. I noticed them making signs to the prisoners by putting their hands up to their chins: Cromwell was lying on the starboard arm-chest: he rose up in his bed. I told him if I saw any more *signs* passing between them *I should put him to death: my orders were to that effect*. He laid down in his bed. I then went to the stern of the launch, found Wilson, and a number of small holy-stones collected there, and was endeavoring to pull a gun handspike from the stern of the launch: *what his intentions were I don't know*. I cocked a pistol, and ordered him to the lee-gangway to draw water. I told him if I saw him pulling at the handspike I should blow his brains out."

This comes from Mr. Wales himself, not from the commander's report, where this handspike-incident is made to play a great part; thus:

"Several times during the night there were symptoms of an intention to strike some blow. Mr. Wales detected Charles A. Wilson attempting to draw out a handspike from under the launch, with an evident purpose of felling him; and when Mr. Wales cocked his pistol and approached, he could only offer some lame excuse for his presence there. I felt more anxious than I had yet done, and remained continually on deck."

Here is a discrepancy. Wales swears before the court that he did not know what Wilson's intentions were in pulling at the handspike: the captain, who did not see the pulling, reports to the Secretary of the Navy that it was done with the evident intent of felling Wales! while Wales himself, before the court-martial, not only testified to his ignorance of any motive for that act, but admitted upon cross-examination, that the handspike was not drawn at all—only attempted! and that he himself was forty feet from Wilson at the time! (but, more of this handspike hereafter.) Still the impression upon the commander's mind was awful. He felt more anxious than ever: he could not rest: he kept continually on deck. Armed to the teeth he watched, listened, interrogated, and patrolled incessantly. Surely the man's crazy terrors would excite compassion were it not for the deeds he committed under their influence.—But the paper that was to have been found in Spencer's cravat, and was not found there: it was found elsewhere, and the commander in his report gives this account of it:

"On searching the locker of Mr. Spencer, a small razor-case was found, which he had recently drawn, with a razor in it, from the purser. Instead of the razor, the case was found to contain a small paper, rolled in another; on the inner one were strange characters, which proved to be Greek, with which Mr. Spencer was familiar. It fortunately happened that there was another midshipman on board the Somers who knew Greek—one whose Greek, and every thing else that he possessed, was wholly devoted to his country. The Greek characters, converted by midshipman Henry Rodgers into our own, exhibited well known names among the crew. The certain—the doubtful—those who were to be kept whether they would or not—arranged in separate rows; those who were to do the work of murder in the various apartments, to take the wheel, to open the arm-chests."

The paper had about thirty names upon it: four under the head of "certain:" ten under that of doubtful, and the remainder under the head of *nolens volens*—which was construed by the Latinists on board to signify men who were to be made to join in the mutiny whether they would or not: and these *nolens volens* who were to be forced were more numerous than those who were to force them. Eighteen unwilling men to be forced into mutiny and piracy by four

willing and ten uncertain; and of the four willing, one of them the informer himself! and another not in the ship! and a third Spencer! leaving but one under Spencer to do the work. The names of all were spelt with the Greek alphabet. Of course these *nolens volens* men could not have been counted in any way among the mutineers; yet they were always counted to make up the thirty, as, of less than that number it would not have been seemly for a man-of-war to have been afraid; yet some of these were brought home in irons. The ten marked doubtful should not have been held to be guilty upon any principle of human justice—the humanity of the law always giving the benefit of the doubt to the suspected criminal. This brings the inquiry to the four "certain:" and of these four, it turned out that one of them (Andrews) was a personage not in the vessel! Another was the veritable Mr. Wales himself! who was the informer, and the most determined opposer of the mutiny—leaving but two (Spencer and McKinley) to do the work of murder in the various departments: and of this McKinley it will eventually be seen with what justice his name was there. The names of Small and Cromwell, both of whom were hung with Spencer, were neither of them in this certain list—nor that of Cromwell in any: in fact, there was nothing against him, and Small was only included in Wales's information. So that the "certain" mutineers were reduced to two, both of whom were in irons, and bagged, and five others out of the doubtful and *nolens volens* classes. There was no evidence to show that this was Spencer's razor-case: it was new, and like the rest obtained from the purser. There was no evidence how it got into Spencer's locker: Wales and Gansevoort were the finders. There was no evidence that a single man whose name was in the list, knew it to be there. Justice would have required these points to have been proven; but with respect to the writing upon this paper it was readily avowed by Spencer to be his—an avowal accompanied by a declaration of its joking character, which the law would require to go with it always, but which was disregarded.

Small and Cromwell were not arrested with Spencer, but afterwards, and not upon accusations, but upon their looks and attitudes, and accident to the sky-sail-mast, which will be noted at the proper time. The first point is to show the arrestation upon looks and motions; and of that the commander gave this account in the official report:

"The following day being Sunday, the crew were inspected at quarters, ten o'clock. I took my station abaft with the intention of particularly observing Cromwell and Small. The third, or master's division, to which they both belonged, always mustered at morning quarters upon the after part of the quarter deck, in continuation of the line formed by the crews of the guns. The persons of both were faultlessly clean. They were determined that their appearance in this respect should provoke no reproof. Cromwell stood up to his full stature, his muscles braced, his battle-axe grasped resolutely, his cheek pale, but his eye fixed as if indifferently at the other side. He had a determined and dangerous air. Small made a very different figure. His appearance was ghastly; he shifted his weight from side to side, and his battle-axe passed from one hand to the other; his eye wandered irresolutely, but never towards mine. I attributed his conduct to fear; I have since been led to believe that the business upon which he had entered was repugnant to his nature, though the love of money and of rum had been too strong for his fidelity."

Here were two men adjudged guilty of mutiny and piracy upon their looks, and attitude, and these diametrically opposed in each case. One had a dangerous air—the other a ghastly air. One looked resolute—the other irresolute. One held his battle-axe firmly griped—the other shifted his from hand to hand. One stood up steadily on both legs—the other shifted his weight uneasily from leg to leg. In one point only did they agree—in that of faultless cleanliness: a coincidence which the commander's judgment converted into evidence of guilt, as being proof of a determination that, so far as clean clothes went, there should be no cause for judging them pirates: a conclusion to the benefit of which the whole crew would be

entitled, as they were proved on the court-martial to be all "faultlessly clean" at this Sunday inspection—as they always were at such inspection—as the regulations required them to be—and for a fault in which any one of them would have been punished. Yet upon these looks, and attitudes, suspicions were excited, which, added to the incident of a mast broken by the blundering order of the commander's nephew, caused the arrest and death of two citizens.

After the crew had been inspected, divine service was performed, the crew attending before the time, and behaving well; and the commander again availed himself of the occasion to examine the countenances of the men; and, happily, without finding any thing to give him distrust. He thus describes the scene:

"After quarters the church was rigged. The crew mustered up with their prayer-books, and took their seats without waiting for all hands to be called, and considerably before five bells, or half-past ten—the usual time of divine service. The first lieutenant reported all ready, and asked me if he should call all hands to muster. I told him to wait for the accustomed hour. Five bells were at length struck, and all hands called to muster. The crew were unusually attentive, and the responses more than commonly audible. The muster succeeded, and I examined very carefully the countenances of the crew, without discovering any thing that gave me distrust."

This Sunday then (Nov. 27th) being the first Sunday, and the first day after the arrest of Spencer, had passed half by without any thing discoverable to excite distrust, except the cleanliness, the looks, and the attitudes of Small and Cromwell at the morning inspection. At the second ordeal, that of the church service, the whole crew came out well, and all seemed to be safe and right up to this time—being twenty-four hours after the arrest of Spencer—the event which was expected to rouse his accomplices to some outbreak for his rescue. But that critical day was not destined to pass away without an event which confirmed all the suspicions of the commander, and even indicated the particular criminals. Before the sun had gone down, this event occurred; and as it became the turning point in the case, and the point of departure in the subsequent tragic work, the commander shall have the benefit of telling it himself:

"In the afternoon, the wind having moderated, skysails and royal studding-sails were set. In going large I had always been very particular to have no strain upon the light braces leading forward, as the tendency of such a strain was to carry away the light yards and masts. Whilst Ward M. Gagely, one of the best and most skilful of our apprentices, was yet on the main royal yard, after setting the main skysail, a sudden jerk of the weather main royal brace given by Small and another, whose name I have not discovered, carried the topgallant-mast away in the sheeve hole, sending forward the royal mast with royal skysail, royal studding sail, main-topgallant staysail, and the head of the gaff topsail. Gagely was on the royal yard. I scarcely dared to look on the booms or in the larboard gangways where he should have fallen. For a minute I was in intense agony: in the next I saw the shadow of the boy through the topgallant sail, rising rapidly towards the topgallant yard, which still remained at the mast head. Presently he rose to view, descended on the after side to the topgallant-mast cap, and began to examine with coolness to see what was first to be done to clear the wreck. I did not dream at the time that the carrying away of this mast was the work of treachery—but I knew that it was an occasion of this sort, the loss of a boy overboard, or an accident to a spar, creating confusion and interrupting the regularity of duty, which was likely to be taken advantage of by the conspirators were they still bent on the prosecution of their enterprise."

The commander did not dream at the time of treachery: did not dream of it when he saw the mast fall: and well he might not, for he had given the order himself to set the skysails, the ship running "large" at the time, *i. e.* with a favorable wind, and when a slight press of sail

might carry away the elevated, light, and unsupported mast which carried the skysail. He did not dream of treachery when he saw it fall under an order which himself had given: but quickly he had that dream, and he must tell himself how it came to him; thus:

"To my astonishment, all those who were most conspicuously named in the programme of Mr. Spencer, no matter in what part of the vessel they might be stationed, mustered at the main-top masthead—whether animated by some new-born zeal in the service of their country, or collected there for the purpose of conspiring, it was not easy to decide. The coincidence confirmed the existence of a dangerous conspiracy, suspended, yet perhaps not abandoned."

This is the way the dream began, in astonishment at seeing all those most conspicuously nominated in the razor-case paper, rush to the scene of the disaster. Now, for the misfortune of this paragraph, it came to be proved before the court-martial, and after the men were dead, that the majority of those who ran forward were not named in the paper at all! and especially that one of the two was not upon it who were presently seized as guilty, and whose haste to perform a duty was the passport to death. The crew ran to the place. This would seem to be the most natural conduct imaginable. They ran to the place where the mast and boy were expected to fall. They flew to the place at which the commander, in his intense agony, did not dare to look. This haste to such a place was proof of guilt, take it either way, either as animated by some new-born zeal to hide past defection, or to collect for a conspiracy. The commander finds it hard to decide between these two purposes; but take which he might, it was confirmation of a dangerous conspiracy, and of its suspension, not abandonment. The sudden running to the place was the proof of the conspiracy: the jerk which Small, and another whose name has never yet been discovered, gave to the weather main royal brace, pointed out the two eminently guilty. What put the seal upon the confirmation of all this guilt was the strange and stealthy glances which Spencer, in his irons, and his head then out of the bag (for the heads were left out in the day time) cast at it. Hear him:

"The eye of Mr. Spencer travelled perpetually to the masthead, and cast thither many of those strange and stealthy glances which I had before noticed."

The commander nowhere tells when and how he had previously seen these sinister glances—certainly not before the revelations of Wales, as, up to that time, he was anxious before the court-martial to show that Spencer was kindly regarded by him. But the glances. What more natural than for Spencer to look at such a startling scene! a boy falling in the wreck of a broken mast, and tumbling shrouds, from fifty feet high: and look he did—a fair and honest look, his eyes steadfastly fixed upon it, as proved by the commander's own witnesses on the court-martial—especially midshipman Hays—who testified to the fixed and steady look; and this in answer to a question from the commander tending to get a confirmation of his own report. Nor did any one whatever see those strange and furtive glances which the commander beheld. Now to the breaking of the mast. This incident was reviewed at the time by two competent judges—Mr. Fenimore Cooper, the naval historian, and himself an ex-naval officer, and Captain William Sturgis of Boston, one of the best navigators that Boston ever bred (and she has bred as good as the world ever saw). They deemed the breaking of that slender, elevated, unbraced mast the natural result of the order which the commander gave to set the skysail, going as the vessel then was. She was in the trade-winds, running into West Indies from the coast of Africa, and running "large," as the mariners express it; that is to say, with the wind so crossing her course as to come strong upon her beam or quarter, and send her well before it. With such a wind, these experienced seamen say that the order which the commander gave might well break that mast. It would increase the press of sail on that delicate and exposed mast, able to bear but little at the best, and often breaking without a

perceptible increase of pressure upon it. But the order which he gave was not the one given to the men. He gave his order to his relation, Mr. O. H. Perry, to have a small pull on one brace; instead of that the order given to the men was, to haul, that is, pull hard, on another; which was directly contrary to the order he had received—one slacking, the other increasing the press of sail. Under that order the men with alacrity threw their whole weight on the wrong brace; and the mast cracked, reeled, and fell immediately. The commander himself saw all this—saw the fault his nephew had committed—sent for him—reproved him in the face of the crew—told him it was his fault—the effect of his inattention. All this was fully proved before the court-martial. Perry's own testimony admitted it. Thus—questioned by the judge advocate: "After the mast was carried away were you sent for by the commander?" Answer: "Yes, sir." "Who came for you?" A. "I don't recollect the person." "Was it not McKee?" A. "I don't recollect." "What then occurred between you and the commander?" A. "He asked me why I did not attend to my duties better? and said I must do it better in future." "What was the commander alluding to?" A. "To my not attending to the brace at the time they were hauling on it." "Did he say to you, '*this is all your fault, sir?*' or words to that effect?" A. "I don't recollect." "What reply did you make the commander?" A. "I did not make any. I said, I think, that I understood the order to haul on the brace." There was also something else proved there, which, like the other, was not reported in the commander's account of that portentous event, which was the immediate cause of a new and terrible line of conduct. First, there is no mention on the log-book of this rush of the men aft: secondly, there is no mention in it of any suspected design to carry away this topgallant mast. The commander was seeing when he wrote his report what the keeper of the log-book did not see at the time it should have happened. And this point is here dismissed with the remark that, in this case (the men coming fast to the work) was the sign of guilt: in other cases, coming slow was the same sign: so that, fast or slow, from the time Wales made his revelation, to the time of hanging, all motions, however opposite to each other, were equally signs of the same guilt. The account of this incident being given, the report proceeds:

"The wreck being cleared, supper was piped down before sending up the new mast. After supper the same persons mustered again at the mast head, and the topgallant mast was fidded, the light yards crossed, and the sails set. By this time it was dark, and quarters had been unavoidably dispensed with: still I thought, under all the circumstances, that it was scarcely safe to leave Cromwell at large during the night. The night was the season of danger. After consulting Lieutenant Gansevoort, I determined to arrest Cromwell. The moment he reached the deck, an officer was sent to leeward to guard the lee-rigging; and the main stays were also thought of, though not watched. As his voice was heard in the top, descending the rigging, I met him at the foot of Jacob's ladder, surrounded by the officers, guided him aft to the quarter-deck, and caused him to sit down. On questioning him as to the secret conversation he had held the night before with Mr. Spencer, he denied its being he. He said; 'It was not me, sir, it was Small!' Cromwell was the tallest man on board, and Small the shortest. Cromwell was immediately ironed; and Small, then pointed out by an associate to increased suspicion, was also sent for, interrogated, and ironed. Increased vigilance was now enjoined upon all the officers; henceforward, all were perpetually armed. Either myself, or the first lieutenant was always on deck; and, generally, both of us were."

Two more were now arrested, and in giving an account of these arrests, as of all others (fifteen in the whole), the commander forgets to tell that the arrested persons were bagged, as well as double-ironed and handcuffed, and their irons ordered to be examined every half hour day and night—a ceremony which much interfered with sleep and rest. And now for the circumstances which occasioned these arrests: and first of Cromwell. There are but two points mentioned; first, "under all the circumstances." These have been mentioned, and

comprise his looks and attitudes at the morning inspection, and his haste in getting to the scene of the wreck when the mast fell. The next was his answer to the question upon his secret conversation with Spencer the night before. This “night before,” seems to be a sad blunder in point of time. Spencer was in irons on the larboard arm-chest at that time, a guard over him, and holding his life from minute to minute by the tenure of silence, the absence of signs, and the absence of understanding looks with any person. It does not seem possible that he could have held a conversation, secret or public, with any person during that night, or after his arrest until his death; nor is any such any where else averred: and it is a stupid contradiction in itself. If it was secret, it could not be known: if it was open, both the parties would have been shot instantly. Upon its stupid contradiction, as well as upon time, the story is falsified. Besides this blunder and extreme improbability, there is other evidence from the commander himself, to make it quite sure that nobody could have talked with Spencer that night. The men were in the hammocks, and the ship doubly guarded, and the officers patrolling the deck with pistols and cutlasses. Of this, the report says: “That night the officers of the watch were armed with cutlasses and pistols, and the rounds of both decks made frequently, to see that the crew were in their hammocks, and that there were no suspicious collections of individuals about the deck.” Under these circumstances, it would seem impossible that the previous night’s conversation could have been held by any person with Mr. Spencer. Next, supposing there was a secret conversation. It might have been innocent or idle; for its subject is not intimated; and its secret nature precludes all knowledge of it. So much for Cromwell: now for Small. His case stands thus: “Pointed out by an associate to increased suspicion.” Here association in guilt is assumed; a mode of getting at the facts he wanted, almost invariable with the commander, Mackenzie. Well, the answer of Cromwell, “It was not me, it was Small!” would prove no guilt if it was true; but it is impossible to have been true. But this was only cause of “increased” suspicion: so that there was suspicion before; and all the causes of this had been detailed in the official report. First, there were the causes arising at inspection that morning—faultless cleanliness, shifting his battle-axe from one hand to the other, resting alternately on the legs, and a ghastly look—to wit: a ghostly look. He was interrogated: the report does not say about what: nor does it intimate the character of the answers. But there were persons present who heard the questions and the answers, and who told both to the court-martial. The questions were as to the conversation with Spencer, which Wales reported; and the answers were, yes—that he had foolish conversations with Spencer, but no mutiny. Still there was a stumbling block in the way of arresting Small. His name was nowhere made out as certain by Spencer. This was a balk: but there was the name of a man in the list who was not in the vessel: and this circumstance of a man too few, suggested an idea that there should be a transaction between these names; and the man on the list who had no place in the ship, should give place to him who had a place in the ship, and no place on the list: so Small was assumed to be Andrews; and by that he was arrested, though proved to be Small by all testimony—that of his mother inclusive.

The three prisoners were bagged, and how that process was performed upon them, they did not live to tell: but others who had undergone the same investment, did: and from them the operation will be learnt. With the arrest of these two, the business of Sunday closed; and Monday opened with much flogging of boys, and a speech from the commander, of which he gives an abstract, and also displays its capital effects:

“The effect of this (speech of the 28th) upon the crew was various: it filled many with horror at the idea of what they had escaped from: it inspired others with terror at dangers awaiting them from their connection with the conspiracy. The thoughts of returning to that home, and those friends from whom it had been intended to cut them off for ever, caused many of them to weep. I now considered the crew tranquillized and the vessel safe.”

Now, whether this description of the emotions excited by the captain's oratory, be reality or fancy, it is still good for one thing: it is good for evidence against himself! good evidence, at the bar of all courts, and at the high tribunal of public opinion. It shows that the captain, only two days before the hanging, was perfect master of his ship—that the crew was tranquillized, and the vessel safe! and all by the effect of his oratory: and consequently, that he had a power within himself by which he could control the men, and mould them into the emotions which he pleased. The 28th day came. The commander had much flogging done, and again made a speech, but not of such potency as the other. He stopped Spencer's tobacco, and reports that, "the day after it was stopped, his spirits gave way entirely. He remained the whole day with his face buried in the gregoe and when it was raised, it was bathed in tears." So passed the 28th. "On the 29th (continues the report) all hands were again called to witness punishment," and the commander made another speech. But the whole crew was far from being tranquillized. During the night seditious cries were heard. Signs of disaffection multiplied. The commander felt more uneasy than he had ever done before. The most seriously implicated collected in knots. They conferred together in low tones, hushing up, or changing the subject when an officer approached. Some of the petty officers had been sounded by the first lieutenant, and found to be true to their colors: they were under the impression that the vessel was yet far from being safe—that there were many still at liberty that ought to be confined—that an outbreak, having for its object the rescue of the prisoners, was seriously contemplated. Several times during the night there were symptoms of an intention to strike some blow. Such are a specimen of the circumstances grouped together under vague and intangible generalities with which the day of the 29th is ushered in, all tending to one point, the danger of a rescue, and the necessity for more arrests. Of these generalities, only one was of a character to be got hold of before the court-martial, and it will take a face, under the process of judicial examination of witnesses, very different from that which it wore in the report. After these generalities, applying to the mass of the crew, come special accusations against four seamen—Wilson, Green, McKee, McKinley: and of these special accusations, a few were got hold of by the judge advocate on the court-martial. Thus:

1. *The handspike sign.*—"Mr. Wales detected Charles A. Wilson attempting to draw out a handspike from under the launch, with an evident purpose of felling him; and when Wales cocked his pistol, and approached, he could only offer some lame excuse for his presence there."

This is the amount of the handspike portent, as reported to the Secretary of the Navy among the signs which indicated the immediate danger of the rising and the rescue. This Wales, of course, was a witness for the commander, and on being put on the stand, delivered his testimony in a continued narrative, covering the whole case. In that narrative, he thus introduces the handspike incident:

"I then went to the stern of the launch, found Wilson had a number of small holystones collected there, and was endeavoring to pull a gun handspike from the stern of the launch: what his intentions were I don't know. I cocked a pistol, and ordered him in the gangway to draw water. I told him if I saw him pulling on the handspike, I should blow his brains out."

"I then went to the stern," &c. This period of time of going to the stern of the launch, was immediately after this Wales had detected persons making signs to the prisoners by putting their hands to their chins, and when he told Cromwell if he saw any more signs between them he should put him to death. It was instantly after this detection and threat, and of course at a time when this purser's steward was in a good mood to see signs and kill, that he had this vision of the handspike: but he happens to swear that he does not know with what intent the attempt to pull it out was made. Far from seeing, as the commander did when he wrote the

report, that the design to fell him was evident, he does not know what the design was at all; but he gives us a glimpse at the inside of his own heart, when he swears that he would blow out the brains of Wilson if he saw him again attempting to pull out the handspike, when he did not know what it was for. Here is a murderous design attributed to Wilson on an incident with Wales, in which Wales himself saw no design of any kind; and thus, upon his direct examination, and in the narrative of his testimony, he convicts the commander of a cruel and groundless misstatement. But proceed to the cross-examination: the judge advocate required him to tell the distance between himself and Wilson when the handspike was being pulled by Wilson? He answered forty feet, more or less! and so this witness who had gone to the stern of the launch, was forty feet from that stern when he got there.

2. *Missing their muster.*—"McKinley, Green, and others, missed their musters. Others of the implicated also missed their musters. I could not contemplate this growth of disaffection without serious uneasiness. Where was this thing to end? Each new arrest of prisoners seemed to bring a fresh set of conspirators forward to occupy the first place."

The point of this is the missing the musters; and of these the men themselves give this account, in reply to questions from the judge advocate:

"It was after the arrest (of Spencer), me and McKee (it is McKinley speaks) turned in and out with one another when the watch was called: we made a bargain in the first of the cruise to wake one another up when the watches were called. I came up on deck, awaked by the noise of relieving guards, 15 minutes too late, and asked McKee why he did not call me? He told me that the officer would not let him stir: that they were ordered to lie down on the deck, and when he lay down he fell asleep, and did not wake up: that was why I missed my muster, being used to be waked up by one another."

Such is the natural account, veracious upon its face, which McKinley gives for missing, by 15 minutes, his midnight muster, and which the commander characterized as a lame excuse, followed by immediate punishment, and a confirmed suspicion of mutiny and piracy. All the others who missed musters had their excuses, true on their face, good in their nature, and only varying as arising from the different conditions of the men at the time.

3. *The African knife sign.*—"In his sail-bag (Wilson's) was found an African knife of an extraordinary shape—short, and gradually expanding in breadth, sharp on both sides. It was of no use for any honest purpose. It was only fit to kill. It had been secretly sharpened, by his own confession, the day before with a file to a perfect edge."

The history of this knife, as brought out before the court-martial was this (McKinley, the witness):

"I was ashore on the coast of Africa—I believe it was at Monrovia that I went ashore, I having no knife at the time. I went ashore there, and saw one of the natives with a knife. I spoke to Mr. Heiskill (the purser) about buying it for me. He sent me aboard the brig (Somers) with some things in the second cutter. When I came back Warner had bought the knife I looked at, and Mr. Heiskill bought an African dirk instead of that, and gave it to me. I came on board with the knife, and wore it for two or three days. Wilson saw it, and said he wanted to buy it as a curiosity to take to New York. I would not let him have it then. I went up on the topgallant yard, and it nearly threw me off. It caught in some of the rigging. When I came down, I told Wilson he might have it for one dollar. He promised to give a dollar out of the first grog money, or the first dollar he could get."

So much for this secret and formidable weapon in the history of its introduction to the ship—coming through the purser Heiskill, one of the supporters of Commander Mackenzie in all the affairs of these hangings—given as a present to McKinley, a cot-boy, *i. e.* who made up the

cots for the officers, who had been a waiter at Howard's Hotel (N. Y.), and who was a favorite in the ship's crew. As for the uses to which it could only be put—no honest use, and only fit to kill—it was proved to be in current use as a knife, cutting holes in hammocks, shifting their numbers, &c.

4. *The battle-axe alarm.*—"He had begun also to sharpen his battle-axe with the same assistant (the file): one part of it he had brought to an edge."

The proof was the knife and the battle-axe were publicly sharpened as often as needed, and that battle-axes, like all other arms, were required to be kept in perfect order; and that, sharp and shining was their desired condition. Every specified sign of guilt was cleared up before the court-martial—one only excepted; and the mention of that was equally eschewed by each party. It was the sign of music from the luxated jaw! Both parties refrained from alluding to that sign on the trial—one side from shame, the other from pity. Yet it was gravely reported to the Secretary of the Navy as fact, and as a means of seducing the crew. Returning to generalities, the informer Wales, presents himself prominently on this day—this 29th of November, memorable for its resolves; and groups a picture which was to justify all that was to be done in two days more, and of which the initiation and preliminary steps were then taken.

"The crew still continued very much dissatisfied, grumbling the whole time. The master-at-arms was sick at the time, and I attended to his duties, and had charge of the berth deck. Their manner was so insulting that I had to bring three or four up for punishment (with the cat-and-nine-tails.) The dissatisfaction continued to increase (this was the 30th I think), and continued till the execution took place, when I noticed a marked change in their manner: those who were the most unruly and insolent were the first to run and obey an order: they seemed to anticipate an order."—"Before that, an order had to be given two or three times before it was executed, and when they did execute it, they would go growling along, as though they did not care whether it was done or not. They went slow."

This swearing of Wales tallies with the report of the commander in bringing the mutiny up to the bursting point on the 29th of November. That was a point necessary to be reached, as it will be seen hereafter, and to be reached on that day. There was one other point necessary to be made out, and that was, the mutiny was to break forth before they arrived at the island of St. Thomas, as at that place the mutineers could be landed, or transhipped, and so the whole thing evaporate. They were now within less than four days of that island. Spencer had bet just before they would be there in eight days—a bet which seemed to say that he had no thought of preventing her from arriving there. But it was now necessary to have the mutiny to take place before they got to that island: and this essential point was established by Wales, by an addition to his previous testimony fixing that point. This addition to his testimony caused an inquiry to be put to him by the judge advocate before the court: "When did you first swear that Mr. Spencer told you that the mutiny would break out shortly before your arrival at St. Thomas?" Answer: "At the examination of officers, and of men by the officers. I forget what day, but I think it was on the 30th of November." This was corroborated in the view of the commander by the fortune-telling of the young Rodgers' fate—to die suddenly, i.e. in the mutiny before they got to St. Thomas, without adding the remainder of the prediction, that he was to die a gambler; and without adding the essential fact, that Spencer had a bet that she would arrive there by a given day.

On the 30th day of November, at nine o'clock in the morning, a letter was delivered by the commander to Lieutenant Gansevoort, Surgeon Leecock and Purser Heiskill, and four midshipmen, stating the dangers of the ship, and calling upon them to enlighten the commander with their opinion as to what should be done with Spencer, Small and Cromwell.

The letter was not addressed to any of the acting midshipmen, the reason why being thus stated: “Though they had done men’s duty in the late transaction, they were still boys: their opinion could add but little force to that of the other officers: it would have been hard, at their early age, to call upon them to say whether three of their fellow-creatures should live or die.” So reasoned the commander with respect to the acting midshipmen. It would seem that the same reasoning should have excused the four midshipmen on whom this hard task was imposed. The letter was delivered at 9 o’clock in the morning: the nominated officers met in (what was called) a council: and proceeded immediately to take, what they called testimony, to be able to give the required opinion. Thirteen seamen were examined, under oath—an extra-judicial oath of no validity in law, and themselves punishable at common law for administering it: and this testimony written down in pencil on loose and separate slips of paper—the three persons whose lives were to be passed upon, having no knowledge of what was going on. Purser Heiskill being asked on the court-martial, why, on so important occasion pen and ink was not used, answered, he did not know—”that there were no lawyers there:” as if lawyers were necessary to have pen and ink used. The whole thirteen, headed by Wales, swore to a pattern: and such swearing was certainly never heard before, not even in the smallest magistrate’s court, and where the value of a cow and calf was at stake: hearsays, beliefs, opinions; preposterous conclusions from innocent or frivolous actions: gratuitous assumptions of any fact wanted: and total disregard of every maxim which would govern the admissibility of evidence. Thus:

Henry King: “Believed the vessel was in danger of being taken by them: thinks Cromwell the head man: thinks they have been engaged in it ever since they left New York: thinks if they could get adrift, there would be danger of the vessel being taken: thinks Spencer, Small, Cromwell and Wilson were the leaders: thinks if Golderman and Sullivan could get a party among the crew now that they would release the prisoners and take the vessel, and that they are not to be trusted.”—Charles Stewart: “Have seen Cromwell and Spencer talking together often—talking low: don’t think the vessel safe with these prisoners on board: this is my deliberate opinion from what I’ve heard King, the gunner’s mate, say (that is) that he had heard the boys say that there were spies about: I think the prisoners have friends on board who would release them if they got a chance. I can’t give my opinion as to Cromwell’s character: I have seen him at the galley getting a cup of coffee now and then.”—Charles Rogers: “I believe Spencer gave Cromwell 15 dollars on the passage to Madeira—Cromwell showed it to me and said Spencer had given it to him. If we get into hard weather I think it will be hard to look out for all the prisoners: I believe if there are any concerned in the plot, it would not be safe to go on our coast in cold or bad weather with the prisoners: I think they would rise and take the vessel: I think if Cromwell, Small, and Spencer were disposed of, our lives would be much safer. Cromwell and Small understand navigation: these two are the only ones among the prisoners capable of taking charge of the vessel.”—Andrew Anderson: “Have seen Spencer and Cromwell often speaking together on the forecastle, in a private way: never took much notice: I think it’s plain proof they were plotting to take this vessel out of the hands of her officers: from the first night Spencer was confined, and from what I heard from my shipmates, I suspected that they were plotting to take the vessel: I think they are safe from here to Saint Thomas (West Indies), but from thence home I think there is great danger on account of the kind of weather on the coast, and squalls.”—Oliver B. Browning: “I would not like to be on board the brig if he (Cromwell) was at large: I do not bear him any ill will: I do not know that he bears me any ill will: I do not think it safe to have Cromwell, Spencer and Small on board: I believe that if the men were at their stations taking care of the vessel in bad weather, or any other time when they could get a chance, they would try and capture the vessel if they could get a chance: to tell you God Almighty’s truth, I believe some of the cooks about the galley, I think they are the main backers.”—H. M. Garty: “Believes Spencer,

Small and Cromwell were determined on taking the brig: he supposes to turn pirates or retake slavers: on or about the 11th of October heard Spencer say the brig could be taken with six men: I think there are some persons at large who would voluntarily assist the prisoners if they had an opportunity: thinks if the prisoners were at large the brig would certainly be in great danger: thinks there are persons adrift yet who would, if any opportunity offered, rescue the prisoners: thinks the vessel would be safer if Cromwell, Spencer, and Small were put to death."—George W. Warner: "Have seen Cromwell and Spencer sitting together frequently: have heard Spencer ask Cromwell what sort of a slaver this vessel would make? he replied, he thought she would make a nice slaver: have no doubt he had joined Spencer in the project of taking this vessel: thinks Cromwell would have taken the vessel to the north west coast: Cromwell was in a slaver and taken a year since at Cuba: has seen Spencer give Cromwell cigars: thinks Cromwell deserves to be hung: thinks he is the most dangerous man in the ship: if I had my way I would hang him."—Van Velson: "A good while since Spencer said he would like to have a ship to go to the north-west coast: Cromwell and him was thick: should think Cromwell meant to join Spencer to take this vessel: Spencer thought he could raise money to get a ship. My reason for thinking that Cromwell meant to join Spencer in taking this vessel, is because I have frequently seen them in close conversation."

The drift of all this swearing was to show that the men ought not only to be put to death, but immediately, to prevent a rescue, and before they got to St. Thomas, and to make an excuse for not bringing them to the United States, pleading the difficulty to guard them in bad weather on the coast of the United States. (Among the persons examined, and one of those who "thinks the vessel would be safer if Cromwell, Spencer, and Small were put to death," was one Garty—Sergeant Michael H. Garty—who will be especially noticed hereafter.) The examination of these persons, though commenced immediately on receiving the commander's letter, was not finished until nine o'clock of the next morning, December the first; and then upon the pressing application of Gansevoort (who was absent much of the time), and telling the council that the commander was waiting for it. The answer was soon prepared, and delivered, declaring Spencer, Cromwell, and Small to be guilty of mutiny according to the evidence which had come to their knowledge, and that they were leagued with others still at large; and then goes on to say—"We are convinced that it would be impossible to carry them to the United States, and that the safety of the public property, the lives of ourselves, and of those committed to our charge, require that (giving them sufficient time to prepare) they should be put to death in a manner best calculated to make a beneficial impression upon the disaffected." And this recommendation was signed by the whole seven to whom the commander's letter had been addressed—among them two names illustrious in the annals of our navy. The heart grieves over that view, but draws a veil over the names, and absolves the boys from the guilt of the transaction. We know the power of the quarter deck. The midshipman must be born a Cato, or a Macon (and such men are only born once in ages) to be able to stand up against the irresistible will of that deck. History refuses to see these boys as agents in the transaction. Mackenzie, Gansevoort, Leecock and Heiskill, are the persons with whom she deals.

The narrative, thus far following the commander's report, is here suspended for the purpose of bringing in some circumstances not related in that report, and which came out before the court-martial; and the relation of which is due to the truth of history. 1. That the three persons whose lives were thus passed upon were, during this whole time, lying on the deck in their multiplied irons, and tied up in strong tarpaulin bags, wholly unconscious of any proceeding against them, and free from fear of death, as they had been made to understand by the commander that they were to be brought home to the United States for trial; and who reported that to have been his first intention. 2. While this examination was going on, and during the

first day of it, Gansevoort (the head of the council) went to Spencer (telling him nothing of his object), for the purpose of getting proofs of his guilt, to be used against him whereof he got none; and thus tells his errand in answer to a question before the court-martial: “I am under the impression it was the 30th (of November), for the purpose of his proving more clearly his guilt. I took him the paper (razor-case paper), that he might translate it so I could understand it. My object was to obtain from him an acknowledgment of his guilt.” 3. That it had been agreed among the upper officers two days before that, if any more prisoners were made, the three first taken should suffer immediate death on account of the impossibility of guarding more than they had. This dire conclusion came out upon question and answer, from one of the midshipmen who was in the council. “Had you any discussion on the 28th of November, as to putting the three prisoners to death?” Answer: “I don’t recollect what day Gansevoort asked me my opinion, if it became necessary to make more prisoners, if we should be able to guard them? I told him no.” “Did you *then* give it as your opinion that Cromwell, Small, and Spencer should be put to death?” Answer: “Yes, sir.” Four more officers of the council were ascertained to have been similarly consulted at the same time, and to have answered in the same way: so that the deaths of the three men were resolved upon two days before the council was established to examine witnesses, and enlighten the commander with their opinions. 4. That it had been resolved that, if more prisoners were taken, the three already in the bags must be put to death; and, accordingly, while the council was sitting, and in the evening of their session, and before they had reported an opinion, four more arrests were made: so that the condition became absolute upon which the three were to die before the council had finished their examination.

This is, perhaps, the first instance in the annals of military or naval courts, in which the commander fixed a condition on which prisoners were to be put to death—which condition was to be an act of his own, unknown to the prisoners, but known to the court, and agreed to be acted upon before it was done: and which was done and acted upon!

These are four essential circumstances, overlooked by the commander in his report, but brought out upon interrogatories before the court. The new arrests are duly reported by the commander. They were: Wilson, Green, McKinley, McKee. The commander tells how the arrests were made. “These individuals were made to sit down as they were taken, and when they were ironed, I walked deliberately round the battery, followed by the first lieutenant; and we made together a very careful inspection of the crew. Those who (though known to be very guilty) were considered to be the least dangerous, were called out and interrogated: care was taken not to awaken the suspicions of such as from courage and energy were really formidable, unless it were intended to arrest them. Our prisoners now amounted to seven, filling up the quarter deck, and rendering it very difficult to keep them from communicating with each other, interfering essentially with the management of the vessel.” This is the commander’s account of the new arrests, but he omits to add that he bagged them as fast as taken and ironed; and as that bagging was an investment which all the prisoners underwent, and an unusual and picturesque (though ugly) feature in the transaction, an account will be given of it in the person of one of the four, which will stand for all. It is McKinley who gives it, and who was bagged quite home to New York, and became qualified, to give his experience of these tarpaulin sacks, both in the hot region of the tropics and the cold blasts of the New York latitude in the dead of winter. Question by the judge advocate: “When were you put in the bags?” Answer: “After the examination and before we got to St. Thomas.” “How were the bags put on you?” Answer: “They were laid on deck, and we got into them as well as we could, feet foremost.” “Was your bag ever put over your head?” Answer: “Yes, sir. The first night it was tied over my head.” “Who was the person who superintended, and did it?” Answer; “*Sergeant Garty was always there when we were put into the bags.* I could

not see. I could not say who tied it over my head. He (Garty) was there then." "Did you complain of it?" Answer: "After a while the bag got very hot. Whoever was the officer I don't know. I told him I was smothering. I could not breathe. He came back with the order that I could not have it untied. I turned myself round as well as I could, and got my mouth to the opening of the bag, and staid so till morning." Question by a member of the court: "Did you find the bag comfortable when not tied over your head?" Answer: "No, sir. It was warm weather: it was uncomfortable. On the coast (of the United States in December) they would get full of rain water, nearly up to my knees." Catching at this idea of comfort in irons and a bag, Commander Mackenzie undertook to prove them so; and put a leading question, to get an affirmative answer to his own assertion that this bagging was done for the "comfort" of the prisoners—a new conception, for which he seemed to be entirely indebted to this hint from one of the court. The mode of McKinley's arrest, also gives an insight into the manner in which that act was performed on board a United States man-of-war; and is thus described by McKinley himself. To the question, when he was arrested, and how, he answers: "On the 30th of November, at morning quarters I was arrested. The commander put Wilson into irons. When he was put in irons the commander cried, 'Send McKinley aft.' I went aft. The commander and Gansevoort held pistols at my head, and told me to sit down. Mr. Gansevoort told King, the gunner, to stand by to knock out their brains if they should make a false motion. I was put in irons then. He ordered Green and McKee aft: he put them in irons also. Mr. Gansevoort ordered me to get on all fours, and creep round to the larboard side, as I could not walk." And that is the way it was done!

The three men were thus doomed to death, without trial, without hearing, without knowledge of what was going on against them; and without a hint of what had been done. One of the officiating officers who had sat in the council, being asked before the court if any suggestion, or motion, was made to apprise the prisoners of what was going on, and give them a hearing, answered that there was not. When Governor Wall was on trial at the Old Bailey for causing the death of a soldier twenty years before at Goree, in Africa, for imputed mutiny, he plead the sentence of a drum-head court-martial for his justification. The evidence proved that the men so tried (and there were just three of them) were not before that court, and had no knowledge of its proceedings, though on the ground some forty feet distant—about as far off as were the three prisoners on board the Somers, with the difference that the British soldiers could see the court (which was only a little council of officers); while the American prisoners could not see their judges. This sort of a court which tried people without hearing them, struck the British judges; and when the witness (a foot soldier) told how he saw the Governor speaking to the officers, and saw them speaking to one another for a minute or two, and then turning to the Governor, who ordered the man to be called out of the ranks to be tied on a cannon for punishment: when the witness told that, the Lord Chief Baron McDonald called out—"Repeat that." The witness repeated it. Then the Chief Baron inquired into the constitution of these drum-head courts, and to know if it was their course to try soldiers without hearing them: and put a question to that effect to the witness. Surprised at the question, the soldier, instead of answering it direct, yes or no, looked up at the judge, and said: "My Lord, I thought an Englishman had that privilege every where." And so thought the judge, who charged the jury, accordingly, and that even if there was a mutiny; and so thought the jury, who immediately brought in a verdict for murder; and so thought the King (George III.), who refused to pardon the Governor, or to respite him for longer than eight days, or to remit the anatomization of his dead body. There was law then in England against the oppressors of the humble, and judges to execute it, and a king to back them.

The narrative will now be resumed at the point at which it was suspended, and Commander Mackenzie's official report will still be followed for the order of the incidents, and his account of them.

It was nine o'clock on the morning of the first of December, that Gansevoort went into the ward-room to hurry the completion of the letter which the council of officers was drawing up, and which, under the stimulating remark that the commander was waiting for it, was soon ready. Purser Heiskill, who had been the pencil scribe of the proceedings, carried the letter, and read it to the commander. In what manner he received it, himself will tell:

"I at once concurred in the justice of their opinion, and in the necessity of carrying its recommendation into immediate effect. There were two others of the conspirators almost as guilty, so far as the intention was concerned, as the three ringleaders who had been first confined, and to whose cases the attention of the officers had been invited. But they could be kept in confinement without extreme danger to the ultimate safety of the vessel. The three chief conspirators alone were capable of navigating and sailing her. By their removal the motive to a rescue, a capture, and a carrying out of their original design of piracy was at once taken away. Their lives were justly forfeited to the country which they had betrayed; and the interests of that country and the honor and security of its flag required that the sacrifice, however painful, should be made. In the necessities of my position I found my law, and in them also I must trust to find my justification."

The promptitude of this concurrence precludes the possibility of deliberation, for which there was no necessity, as the deaths had been resolved upon two days before the council met, and as Gansevoort communicated with the commander the whole time. There was no need for deliberation, and there was none; and the rapidity of the advancing events proves there was no time for it. And in this haste one of the true reasons for hanging Small and Cromwell broke forth. They were the only two of all the accused (Spencer excepted) who could sail or navigate a vessel! and a mutiny to take a ship, and run her as a roving pirate, without any one but the chief to sail and navigate her, would have been a solecism too gross even for the silliest apprehension. Mr. M. C. Perry admitted upon his cross-examination that this knowledge was "one of the small reasons" for hanging them—meaning among the lesser reasons. Besides, three at least, may have been deemed necessary to make a mutiny. Governor Wall took that number; and riots, routs, and unlawful assemblies require it: so that in having three for a mutiny, the commander was taking the lowest number which parity of cases, though of infinitely lower degree, would allow. The report goes on to show the commander's preparations for the sacrifice; which preparations, from his own showing, took place before the assembling of the council, and in which he showed his skill and acumen.

"I had for a day or two been disposed to arm the petty officers. On this subject alone the first lieutenant differed from me in opinion, influenced in some degree by the opinions of some of the petty officers themselves, who thought that in the peculiar state of the vessel the commander and officers could not tell whom to trust, and therefore had better trust no one. I had made up my own mind, reasoning more from the probabilities of the case than from my knowledge of their characters, which was necessarily less intimate than that of the first lieutenant, that they could be trusted, and determined to arm them. I directed the first lieutenant to muster them on the quarter deck, to issue to each a cutlass, pistol and cartridge-box, and to report to me when they were armed. I then addressed them as follows: 'My lads! you are to look to me—to obey my orders, and to see my orders obeyed! Go forward!'"

This paragraph shows that the arming of the petty officers for the crisis of the hangings had been meditated for a day or two—that it had been the subject of consultation with the lieutenant, and also of him with some of the petty officers; and it was doubtless on this

occasion that he took the opinions of the officers (as proved on the court-martial trial) on the subject of hanging the three prisoners immediately if any more arrests were made. The commander and his lieutenant differed on the question of arming these petty officers—the only instance of a difference of opinion between them: but the commander's calculation of probabilities led him to overrule the lieutenant—to make up his own mind in favor of arming: and to have it done. The command at the conclusion is eminently concise, and precise, and entirely military; and the ending words remind us of the French infantry charging command: "En avant, mes enfans!" in English—"Forward, my children."

The reception of the council recommendation, and the order for carrying it into effect, were simultaneous: and carried into effect it was with horrible rapidity, and to the utmost letter—all except in one particular—which forms a dreadful exception. The council had given the recommendation with the Christian reservation of allowing the doomed and helpless victims "sufficient time to prepare"—meaning, of course, preparation for appearance at the throne of God. That reservation was disregarded. Immediate execution was the word! and the annunciation of the death decree, and the order for putting it in force, were both made known to the prisoners in the same moment, and in the midst of the awful preparations for death.

"I gave orders to make immediate preparation for hanging the three principal criminals at the mainyard arms. All hands were now called to witness the punishment. The afterguard and idlers of both watches were mustered on the quarterdeck at the whip (the halter) intended for Mr. Spencer: forecastle-men and foretop-men at that of Cromwell, to whose corruption they had been chiefly exposed. The maintop of both watches, at that intended for Small who, for a month, had filled the situation of captain of the maintop. The officers were stationed about the decks, *according to the watch bill I had made out the night before*, and the petty officers were similarly distributed, with orders to cut down whoever should let go the whip (the rope) with even one hand; or fail to haul on (pull at the rope) when ordered."

Here it is unwittingly told that the guard stations at the hangings were all made out the night before.

For the information of the unlearned in nautical language, it may be told that what is called the whip at sea, is not an instrument of flagellation, but of elevation—a small tackle with a single rope, used to hoist light bodies; and so called from one of the meanings of the word whip, used as a verb, then signifying to snatch up suddenly. It is to be hoped that the sailors appointed to haul on this tackle had been made acquainted (though the commander's report does not say so) with the penalty which awaited them if they failed to pull at the word, or let go, even with one hand. The considerate arrangement for hanging each one at the spot of his imputed worst conduct, and under an appropriate watch, shows there had been deliberation on that part of the subject—deliberation which requires time—and for which there was no time after the reception of the council's answer; and which the report itself, so far as the watch is concerned, shows was made out the night before. The report continues:

"The ensign and pennant being bent on, and ready for hoisting, I now put on my full uniform, and proceeded to execute the most painful duty that has ever devolved on an American commander—*that of announcing to the criminals their fate*."

It has been before seen that these victims had no knowledge of the proceedings against them, while the seven officers were examining, in a room below, the thirteen seamen whose answers to questions (or rather, whose thoughts) were to justify the fate which was now to be announced to them. They had no knowledge of it at the time, nor afterwards, until standing in the midst of the completed arrangements for their immediate death. They were brought into the presence of death before they knew that any proceedings had been had against them,

and while under the belief, authorized by the commander himself, that they were to be brought home for trial. Their fate was staring them in the face before they knew it had been doomed. The full uniform of a commander in the American navy had been put on for the occasion, with what view is not expressed; and, in this imposing costume,—feathers and chapeau, gold lace and embroidery, sword and epaulettes—the commander proceeded to announce their fate to men in irons—double irons on the legs, and iron cuffs on the hands—and surrounded by guards to cut them down on the least attempt to avoid the gallows which stood before them. In what terms this annunciation, or rather, these annunciations (for there was a separate address to each victim, and each address adapted to its subject) were made, the captain himself will tell.

"I informed Mr. Spencer that when he had been about to take my life, and to dishonor me as an officer when in the execution of my rightful duty, without cause of offence to him, on speculation, it had been his intention to remove me suddenly from the world, in the darkness of the night, without a moment to utter one murmur of affection to my wife and children—one prayer for their welfare. His life was now forfeited to his country; and the necessities of the case growing out of his corruption of the crew, compelled me to take it. I would not, however, imitate his intended example. If there yet remained one feeling true to nature, it should be gratified. *If he had any word to send to his parents, it should be recorded, and faithfully delivered.* Ten minutes should be granted him for this purpose; and Midshipman Egbert Thompson was called to note the time, and inform me when the ten minutes had elapsed."

Subsequent events require this appeal to Spencer, and promise to him, to be noted. He is invoked, in the name of Nature, to speak to his parents, and his words promised delivery. History will have to deal with that invocation, and promise.

This is the autographic account of the annunciation to Spencer; and if there is a parallel to it in Christendom, this writer has yet to learn the instance. The vilest malefactors, convicts of the greatest crimes, are allowed an interval for themselves when standing between time and eternity; and during that time they are left, undisturbed, to their own thoughts. Even pirates allow that much to vanquished and subdued men. The ship had religious exercises upon it, and had multiplied their performance since the mutiny had been discovered. The commander was a devout attendant at these exercises, and harangued the crew morally and piously daily, and in this crisis twice or thrice a day. He might have been of some consolation to the desolate youth in this supreme moment. He might have spoken to him some words of pity and of hope: he might at least have refrained from reproaches: he might have omitted the comparison in which he assumed to himself such a superiority over Spencer in the manner of taking life. It was the Pharisee that thanked God he was not like other men, nor like that Publican. But the Pharisee did not take the Publican's life, nor charge him with crimes. Besides, the comparison was not true, admitting that Spencer intended to kill him in his sleep. There is no difference of time between one minute and ten minutes in the business of killing; and the most sudden death—a bullet through the heart in sleep—would be mercy compared to the ten minutes' reprieve allowed Spencer: and that time taken up (as the event proved) in harassing the mind, enraging the feelings, and in destroying the character of the young man before he destroyed his body. It is to be hoped that the greater part of what the commander says he said to Spencer, was not said: it would be less discreditable to make a false report in such cases than to have said what was alleged; and there were so many errors in the commander's report that disbelief of it becomes easy, and even obligatory. It is often variant or improbable in itself, and sometimes impossible; and almost entirely contradicted by the testimony. In the vital—really vital—case of holding the watch, he is contradicted. He says Midshipman Thompson was called to note the time, and to report its expiration. Mr. O. H.

Perry swore in the court that the order was given to him—that he reported it—and that the commander said, “very well.” This was clear and positive: but Mr. Thompson was examined to the same point, and testified thus: That he heard him (the commander) say something about ten minutes—that he told Mr. Perry, he thinks, to note the time—that Perry and himself both noted it—thinks he reported it—don’t recollect what the commander said—is under an impression he said “very good.” So that Mr. Perry was called to note the time, and did it, and reported it, and did not know that Thompson had done it. To the question, “What did Mr. Thompson say when he came back from reporting the time?” the answer is: “I did not know that he reported it.” At best, Mr. Thompson was a volunteer in the business, and too indifferent to it to know what he did. Mr. O. H. Perry is the one that had the order, and did the duty. Now it is quite immaterial which had the order: but it is very material that the commander should remember the true man.—The manner in which the young man received this dreadful intelligence, is thus reported:

“This intimation quite overpowered him. He fell upon his knees, and said he was not fit to die.”

“Was not fit to die!” that is to say, was not in a condition to appear before his God. The quick perishing of the body was not the thought that came to his mind, but the perishing of his soul, and his sudden appearance before his Maker, unpurged of the sins of this life. Virtue was not dead in the heart which could forget itself and the world in that dread moment, and only think of his fitness to appear at the throne of Heaven. Deeply affecting as this expression was—am not fit to die—it was still more so as actually spoken, and truly stated by competent witnesses before the court. “When he told him he was to die in ten minutes, Spencer told him he was not fit to die—that he wished to live longer to get ready. The commander said, I know you are not, but I cannot help it.”—A remark which was wicked in telling him he knew he was not fit to die, and false, in saying he could not help it. So far from not being able to help it, he was the only man that could prevent the preparation for fitness. The answer then was, an exclamation of unfitness to die, and a wish to live longer to get ready. But what can be thought of the heart which was dead to such an appeal? and which, in return, could occupy itself with reproaches to the desolate sinner; and could deliver exhortations to the trembling fleeting shadow that was before him, to study looks and attitudes, and set an example of decorous dying to his two companions in death? for that was the conduct of Mackenzie: and here is his account of it:

“I repeated to him his own catechism, and begged him at least to let the *officer* set to the men he had corrupted and seduced, the example of dying with decorum.”

“The men whom he had corrupted and seduced,”—outrageous words, and which the commander says, “immediately restored him to entire self-possession.” But they did not turn away his heart from the only thing that occupied his mind—that of fitting himself, as well as he could, to appear before his God. He commenced praying with great fervor, and begging from Heaven that mercy for his soul which was denied on earth to his body.

The commander then went off to make the same annunciation to the other two victims, and returning when the ten minutes was about half out—when the boy had but five minutes to live, as he was made to believe—he soon made apparent the true reason which all this sudden announcement of death in ten minutes was in reality intended for. It was to get confessions! it was to make up a record against him! to excite him against Small and Cromwell! to take advantage of terror and resentment to get something from him for justification in taking his life! and in that work he spent near two hours, making up a record against himself of revolting atrocity, aggravated and made still worse by the evidence before the court. The first movement was to make him believe that Cromwell and Small had informed upon him, and

thus induce him to break out upon them, or to confess, or to throw the blame upon the others. He says:

“I returned to Mr. Spencer. I explained to him how Cromwell had made use of him. I told him that remarks had been made about the two, and not very flattering to him, and which he might not care to hear; and which showed the relative share ascribed to each of them in the contemplated transaction. He expressed great anxiety to hear what was said.”

It is to be borne in mind that Spencer was in prayer, with but five minutes to go upon, when Mackenzie interrupts him with an intimation of what Small and Cromwell had said of him, and piques his curiosity to learn it by adding, “which he might not care to hear”—artfully exciting his curiosity to know what it was. The desire thus excited, he goes on to tell him that one had called him a damn fool, and the other had considered him Cromwell’s tool: thus:

”One had told the first lieutenant: ‘In my opinion, sir, you have the damned fool on the larboard arm-chest, and the damned villain on the starboard.’ And another had remarked, that after the vessel should have been captured by Spencer, Cromwell might allow him to live, provided he made himself useful; he would probably make him his secretary.”

Spencer was on the larboard arm-chest; Cromwell on the starboard: so that Small was the speaker, and the damned fool applied to Spencer, and the damned villain to Cromwell: and Spencer, who had all along been the chief, was now to be treated as an instrument, only escaping with his life if successful in taking the vessel, and, that upon condition of making himself useful; and then to have no higher post on the pirate than that of Cromwell’s secretary. This was a hint to Spencer to turn States’ evidence against Cromwell, and throw the whole blame on him. The commander continues, still addressing himself to Spencer—

“*I think this would not have suited your temper.*”

This remark, inquisitively made, and evidently to draw out something against Cromwell, failed of its object. It drew no remark from Spencer; it merely acted upon his looks and spirit, according to the commander—who proceeds in this strain:

“This effectually aroused him, and his countenance assumed a demoniacal expression. He said no more of the innocence of Cromwell. Subsequent circumstances too surely confirmed his admission of his guilt. He might perhaps have wished to save him, in fulfilment of some mutual oath.”

This passage requires some explanation. Spencer had always declared his total ignorance of Cromwell, and of his visionary schemes: he repeated it earnestly as Mackenzie turned off to go and announce his fate to him. Having enraged him against the man, he says he now said no more about Cromwell’s innocence; and catching up that silence as an admission of his guilt, he quotes it as such; but remembering how often Spencer had absolved him from all knowledge even of his foolish joking, he supposes he wished to save him—in fulfilment of some mutual oath. This imagined cause for saving him is shamefully gratuitous, unwarranted by a word from any delator, not inferrible from any premises, and atrociously wicked. In fact this whole story after the commander returned from Small and Cromwell, is without warrant from any thing tangible. Mackenzie got it from Gansevoort; and Gansevoort got one half from one, and the other half from another, without telling which, or when—and it was provably not then; and considering the atrocity of such a communication to Spencer at such time, it is certainly less infamous to the captain and lieutenant to consider it a falsehood of their own invention, to accomplish their own design. Mackenzie’s telling it, however, was infernal. The commander then goes on with a batch of gratuitous assumptions, which shows he had no limit in such assumptions but in his capacity at invention. Hear them!

"He (Spencer) more probably hoped that he might yet get possession of the vessel, and carry out the scheme of murder and outrage matured between them. It was in Cromwell that he had apparently trusted, in fulfilment of some agreement for a rescue; and he eloquently plead to Lieutenant Gansevoort when Cromwell was ironed, for his release, as altogether ignorant of his designs, and innocent. He had endeavored to make of Elisha Andrews appearing on the list of the "certain," an *alias* for Small, though his name as Small appeared also in the list of those to effect the murder in the cabin, by falsely asserting that Small was a feigned name, when he had evidence in a letter addressed by Small's mother to him that Small was her name as well as his."

Assumptions without foundations, inferences without premises, beliefs without knowledge, thoughts without knowing why, suspicions without reasons—are all a species of *inventions* but little removed from direct falsehood, and leaves the person who indulges in them without credit for any thing he may say. This was pre-eminently the case with the commander Slidell Mackenzie, and with all his informers; and here is a fine specimen of it in himself. First: the presumed probability that Spencer yet hoped to get possession of the vessel, and carry out the scheme of murder and piracy which he had matured. What a presumption in such a case! the case of men, ironed, bagged and helpless,—standing under the gallows in the midst of armed men to shoot and stab for a motion or a sign—and a presumption, not only without a shadow to rest upon, but contradicted by the entire current of all that was sworn—even by Garty and Wales. "Fulfilment of secret agreement for rescue." Secret! Yes! very secret indeed! There was not a man on board the vessel that ever heard such a word as rescue pronounced until after the arrests! The crazy misgivings of a terrified imagination could alone have invented such a scheme of rescue. The name of Small was a sad stumbling block in the road to his sacrifice, as that of Andrews to the truth of the razor case paper. One was not in the list, and the other was not in the ship: and all these forced assumptions were to reconcile these contradictions; and so the idea of an *alias dictus* was fallen upon, though no one had ever heard Small called Edward Andrews, and his mother, in her letter, gave her own name as her son's, as Small. Having now succeeded in getting Spencer enraged against his two companions in death, the commander takes himself to his real work—that of getting confessions—or getting up something which could be recorded as confessions, under the pretext of writing to his father and mother: and to obtain which all this refined aggravation of the terrors of death had been contrived. But here recourse must be had to the testimony before the court to supply details on which the report is silent, or erroneous, and in which what was omitted must be brought forward to be able to get at the truth. McKinley swears that he was six or eight feet from Spencer when the commander asked him if he wished to write. Spencer answered that he did. An apprentice named Dunn was then ordered to fetch paper and campstool out of the cabin. Spencer took the pen in his hand, and said—"I cannot write." "The commander spoke to him in a low tone. I do not know what he then said. I saw the commander writing. Whether Mr. Spencer asked him to write for him or not, I can't say."—Mr. Oliver H. Perry swears: "Saw the commander order Dunn to bring him paper and ink: saw the commander write: was four or five feet from him while writing: heard no part of the conversation between the commander and Spencer: was writing ten or fifteen minutes."—Other witnesses guess at the time as high as half an hour. The essential parts of this testimony, are—*first*, That Spencer's hands were ironed, and that he could not write: *secondly*, that the commander, instead of releasing his hands, took the pen and wrote himself: *thirdly*, that he carried on all his conversation with Spencer in so low a voice that those within four or five feet of him (and in the deathlike stillness which then prevailed, and the breathless anxiety of every one) *heard not a word of what passed between them!* neither what Mackenzie said to Spencer, nor Spencer said to him. Now the report of the commander is silent upon this lowness of tone which could not be heard four or five feet—silent upon the

handcuffs of Spencer—silent upon the answer of Spencer that he could not write; and for which he substituted on the court-martial the answer that he "declined to write"—a substitution which gave rise to a conversation between the judge advocate and Mackenzie, which the judge advocate reported to the court in writing; and which all felt to be a false substitution both upon the testimony, and the facts of the case. A man in iron handcuffs cannot write! but it was necessary to show him "declining" in order to give him a recording secretary! And it is silent upon the great fact that he sat on the arm-chest with Spencer, and whispering so low that not a human being could hear what passed: and, consequently, that Mackenzie chose that he himself should be the recording secretary on that occasion, and that no one could know whether the record was true or false. The declaration in the report that Spencer read what was written down, and agreed to it, will be attended to hereafter. The point at present is the secrecy, and the fact that the man the most interested in the world in getting confessions from Spencer, was the recorder of these confessions, without a witness! without even Wales, Gansevoort, Garty; or any one of his familiars. For the rest, it becomes a fair question, which every person can solve for themselves, whether it is possible for two persons to talk so low to one another for, from a quarter to half an hour, in such profound stillness, and amidst so much excited expectation, and no one in arm's length able to hear one word. If this is deemed impossible, it may be a reasonable belief that nothing material was said between them—that Mackenzie wrote without dictation from Spencer; and wrote what the necessity of his condition required—confessions to supply the place of total want of proof—admissions of guilt—acknowledgments that he deserved to die—begging forgiveness. And so large a part of what he reported was proved to be false, that this reasonable belief of a fabricated dialogue becomes almost a certainty.

The commander, now become sole witness of Spencer's last words—words spoken if at all—after his time on earth was out—after the announcement in his presence that the ten minutes were out—and hearing the commander's response to the notification, "Very well:" this commander thus proceeds with his report: "I asked him if he had no message to send to his friends? He answered none that they would wish to receive. When urged still further to send some words of consolation in so great an affliction, he said, 'Tell them I die wishing them every blessing and happiness. I deserve death for this and many other crimes—there are few crimes I have not committed. I feel sincerely penitent, and my only fear of death is that my repentance may come too late.'"—This is what the commander reports to the Secretary of the Navy, and which no human witness could gainsay, because no human being was allowed to witness what was said at the time; but there is another kind of testimony, independent of human eyes and ears, and furnished by the evil-doer himself, often in the very effort to conceal his guilt, and more convincing than the oath of any witness, and which fate, or accident, often brings to light for the relief of the innocent and the confusion of the guilty. And so it was in this case with Commander Alexander Slidell Mackenzie. That original record made out upon inaudible whispers on the camp-stool! It still existed—and was produced in court—and here is the part which corresponds (should correspond) with this quoted part of the report; and constituting the first part of the confession: "When asked if he had any message to send: none that they would wish to receive. Afterwards, that you die wishing them every blessing and happiness; deserved death for this and other sins; that you felt sincerely penitent, and only fear of death was that your repentance might *be too late*."—Compared together, and it is seen that the words "other sins," in the third sentence, is changed into "*many other crimes*,"—words of revoltingly different import—going beyond what the occasion required—and evidently substituted as an introduction to the further gratuitous confession: "*There are few crimes which I have not committed.*" Great consolation in this for those parents for whom the record was made, and who never saw it except as promulgated through the public press. In any court of justice the entire report would be

discredited upon this view of flagrant and wicked falsifications. For the rest, there is proof that the first sentence is a fabrication. It is to be recollected that this inquiry as to Spencer's wishes to communicate with his parents was made publicly, and before the pen, ink and paper was sent for, and that the answer was the inducement to send for those writing materials. That public answer was heard by those around, and was thus proved before the court-martial—McKinley the witness: "*The commander asked him if he wished to write?* Mr. Spencer said he did. The commander ordered Dunn to fetch paper and campstool out of the cabin. Spencer took the pen in his hand—he said, 'I cannot write.' The commander spoke to him in a low tone: I do not know what he then said. I saw the commander writing." This testimony contradicts the made-up report, in showing that Spencer was asked to write himself, instead of sending a message: that the declaration, "*nothing that they would wish to hear*," is a fabricated addition to what he did say—and that he was prevented from writing, not from disinclination and declining, as the commander attempted to make out, but because upon trial—after taking the pen in his hand—he could not with his handcuffs on. Certainly this was understood beforehand. Men do not write in iron handcuffs. They were left on to permit the commander to become his secretary, and to send a message for him: which message he never sent! the promise to do so being a mere contrivance to get a chance of writing for the Secretary of the Navy, and the public.

The official report continues: "I asked him if there was any one he had injured, to whom he could yet make reparation—any one suffering obloquy for crimes which he had committed. He made no answer; but soon after continued: 'I have wronged many persons, but chiefly my parents.' He said 'this will kill my poor mother.' I was not before aware that he had a mother." The corresponding sentences in the original, run thus: "Many that he had wronged, but did not know how reparation could be made to them. Your parents most wronged ... himself by saying he had entertained same idea in John Adams and Potomac, but had not ripened into.... Do you not think that such a mania should ... certainly. Objected to manner of death." The dots in place of words indicate the places where the writing was illegible. The remarkable variations between the report and the original in these sentences is, that the original leaves out all those crimes which he had committed, and which were bringing obloquy upon others, and to which he made no answer, but shows that he did make answer as to having wronged persons, and that answer was, that he did not know how reparation could be made. There is no mention of mother in this part of the original—it comes in long after. Then the John Adams and the Potomac, which are here mentioned in the twelfth line of the original, only appear in the fifty-sixth in the report—and the long gap filled up with things not in the original—and the word "idea," as attributed to Spencer, substituted by "mania."

The report continues (and here it is told once for all, that the quotations both from the report and the original, of which it should be a copy, follow each in its place in consecutive order, leaving no gap between each quoted part and what preceded it): "*when recovered from the pain of this announcement (the effect upon his mother)*, I asked him if it would not have been still more dreadful had he succeeded in his attempt, murdered the officers and the greater part of the crew of the vessel, and run that career of crime which, with so much satisfaction he had marked out for himself: he replied after a pause; 'I do not know what would have become of me if I had succeeded.' I told him Cromwell would soon have made way with him, and McKinley would probably have cleared the whole of them from his path." The corresponding part of the original runs thus: "Objected to manner of death: requested to be shot. Could not make any distinction between him and those he had seduced. Justifiable desire at first to.... The last words he had to say, and hoped they would be believed, that Cromwell was innocent ... Cromwell. Admitted it was just that no distinction should be made."—This is the consecutive part in the original, beginning in utter variance with what should be its

counterpart—hardly touching the same points—leaving out all the cruel reproaches which the official report heaps upon Spencer—ending with the introduction of Cromwell, but without the innocence which the original contains, with the substitution of Cromwell's destruction of him, and with the addition of McKinley's destruction of them all, and ultimate attainment of the chief place in that long career of piracy which was to be ran—and ran in that state of the world in which no pirate could live at all. What was actually said about Cromwell's innocence by Spencer and by McKinley as coming from Cromwell "to stir up the devil between them," as the historian Cooper remarked, was said before this writing commenced! said when Mackenzie returned from announcing the ten minutes lease of life to him and Small! which Mackenzie himself had reported in a previous part of his report, before the writing materials were sent for: and now, strange enough, introduced again in an after place, but with such alterations and additions as barely to leave their identity discoverable.

The official report proceeds: "'I fear,' said he, 'this may injure my father.' I told him it was too late to think of that—that had he succeeded in his wishes it would have injured his father much more—that had it been possible to have taken him home as I intended to do, it was not in nature that his father should not have interfered to save him—*that for those who have friends or money in America there was no punishment for the worst of crimes*—that though this had nothing to do with my determination, which had been forced upon me in spite of every effort I had made to avert it, I, on this account the less regretted the dilemma in which I was placed: it would injure his father a great deal more if he got home alive, should he be condemned and yet escape. The best and only service which he could do his father was to die."—Now from the original, beginning at the end of the last quotation: "Asked that his face might be covered. Granted. When he found that his repentance might not be in season, I referred him to the story of the penitent thief. Tried to find it. Could not. Read the Bible, the prayer-book. Did not know what would have become of him if he had succeeded. Makes no objection to death, but objects to time. Reasons—God would understand of him offences ... many crimes. Dies, praying God to bless and preserve.... I am afraid this will injure my father."—The quotation from the report opens with apprehended fear of injury to his father: it concludes with commending him to die, as the only service he could render that parent: and the whole is taken up with that topic, and crowned with the assertion that, for those who have friends or money in America there is no punishment for the worst of crimes—a sweeping reproach upon the American judiciary; and, however unfounded in his broad denunciation, may he not himself have counted on the benefit of the laxity of justice which he denounced? and—more—did he not receive it? The rest of the paragraph is only remarkable for the declaration of the intention to have brought his prisoners home, and of the change, of which intention they had no notice until placed in the presence of the completed preparations for death, and told they had but ten minutes, by the watch, to live.—Turning to the original of this paragraph, and it will be seen that it opens with preparations for death—goes on in the same spirit—barely mentions his father—and ends with his death—"*dies praying God to bless and preserve*".... This is evidently the termination of the whole scene. It carries him through the last preparations, and ends his life—sees him die praying to God. Now does the report give any of these circumstances? None. Does the report stop there? It does not. Does it go on? Yes: two hundred and thirty lines further. And the original record go on further? Yes: sixty lines further—which was just double the distance it had come. Here was a puzzle. The man to be talking double as much after his death as before it. This solecism required a solution—and received it before the court-martial: and the solution was that this double quantity was written after hanging—how long, not stated—but after it. Before the court Mackenzie delivered in a written and sworn statement, that his record embracing what was taken down from the lips of Spencer finished at the sentence—"*I am afraid this will injure my father*:" and that the remainder was written shortly afterwards. Now the part written before

the death was thirty-three lines: the part written shortly after it, is above fifty. This solecism explained, another difficulty immediately arises. The commander reported that, "he (Spencer) *read over what he (Mackenzie) had written down*," and agreed to it all, with one exception—which was corrected. Now he could not have read the fifty odd lines which were written after his death. (All the lines here mentioned are the short ones in the double column pages of the published, "Official Proceedings of the Naval Court Martial.)" These fifty odd lines could not have been read by Spencer. That is certain. The previous thirty-three it is morally certain he never read. They are in some places illegible—in others unintelligible; and are printed in the official report with blanks because there were parts which could not be read. No witness says they were read by Spencer.

The additional fifty odd lines, expanded by additions and variations into about two hundred in the official report, requires but a brief notice, parts of it being amplifications and aggravations of what had been previously noted, and additional insults to Spencer; with an accumulation of acknowledgments of guilt, of willingness to die, of obligations to the commander, and entreaties for his forgiveness. One part of the reported scene was even more than usually inhuman. Spencer said to him: "But are you not going too far? are you not too fast? does the law entirely justify you?" To this the commander represents himself as replying: "That he (Spencer) had not consulted him in his arrangements—that his opinion could not be an unprejudiced one—that I had consulted all his brother officers, his messmates included, except the boys; and I placed before him their opinion. He stated that it was just—that he deserved death," For the honor of human nature it is to be hoped that Mackenzie reports himself falsely here—which is probable, both on its face, and because it is not in the original record. The commander says that he begged for one hour to prepare himself for death, saying the time is so short, asking if there was time for repentance, and if he could be changed so soon (from sin to grace). To the request for the hour, the commander says no answer was given: to the other parts he reminded him of the *thief* on the cross, who was pardoned by our Saviour, and that for the rest, God would understand the difficulties of his situation and be merciful. The commander also represents himself as recapitulating to Spencer the arts he had used to seduce the crew. The commander says upwards of an hour elapsed before the hanging: he might have said two hours: for the doom of the prisoners was announced at about eleven, and they were hung at one. But no part of this delay was for their benefit, as he would make believe, but for his own, to get confessions under the agonies of terror. No part of it—not even the whole ten minutes—was allowed to Spencer to make his peace with God; but continually interrupted, questioned, outraged, inflamed against his companions in death, he had his devotions broken in upon, and himself deprived of one peaceful moment to commune with God.

The report of the confessions is false upon its face: it is also invalidated by other matter within itself, showing that Mackenzie had two opposite ways of speaking of the same person, and of the same incident, before and after the design upon Spencer's life. I speak of the attempt, and of the reasons given for it, to get the young man transferred to another vessel before sailing from New York. According to the account given first of these reasons, and at the time, the desire to get him out of the Somers was entirely occasioned by the crowded state of the midshipmen's room—seven, where only five could be accommodated. Thus:

"When we were on the eve of sailing, two midshipmen who had been with me before, and in whom I had confidence, joined the vessel. This carried to seven, the number to occupy a space capable of accommodating only five. I had heard that Mr. Spencer had expressed a willingness to be transferred from the Somers to the Grampus. I directed Lieut. Gansevoort to say to him that if he would apply to Commodore Perry to detach him (there was no time to communicate with the Navy Department), I would second the application. He made the

application; I seconded it, earnestly urging that it should be granted on the score of the comfort of the young officers. The commodore declined detaching Mr. Spencer, but offered to detach midshipman Henry Rodgers, who had been last ordered. I could not consent to part with Midshipman Rodgers, whom I knew to be a seaman, an officer, a gentleman; a young man of high attainments within his profession and beyond it. The Somers sailed with seven in her steerage. They could not all sit together round the table. The two oldest and most useful had no lockers to put their clothes in, and have slept during the cruise on the steerage deck, the camp-stools, the booms, in the tops, or in the quarter boats."

Nothing can be clearer than this statement. It was to relieve the steerage room where the young midshipmen congregated, that the transfer of Spencer was requested; and this was after Captain Mackenzie had been informed that the young man had been dismissed from the Brazilian squadron, for drunkenness. "And this fact," he said, "made me very desirous of his removal from the vessel, chiefly on account of the young men who were to mess and be associated with him, the rather that two of them were connected with me by blood and two by marriage; and all four intrusted to my especial care." After the deaths he wrote of the same incident in these words:

"The circumstance of Mr. Spencer's being the son of a high officer of the government, by enhancing his baseness in my estimation, made me more desirous to be rid of him. On this point I beg that I may not be misunderstood. I revere authority. I recognize, in the exercise of its higher functions in this free country, the evidences of genius, intelligence, and virtue; but I have no respect for the base son of an honored father; on the contrary, I consider that he who, by misconduct sullies the lustre of an honorable name, is more culpable than the unfriended individual whose disgrace falls only on himself. I wish, however, to have nothing to do with baseness in any shape; the navy is not the place for it. On these accounts I readily sought the first opportunity of getting rid of Mr. Spencer."

Here the word base, as applicable to the young Spencer, occurs three times in a brief paragraph, and this baseness is given as the reason for wishing to get the young man, not out of the ship, but out of the navy! And this sentiment was so strong, that reverence for Spencer's father could not control it. He could have nothing to do with baseness. The navy is not the place for it. Now all this was written after the young man was dead, and when it was necessary to make out a case of justification for putting him, not out of the ship, nor even out of the navy, but out of the world. This was an altered state of the case, and the captain's report accommodated itself to this alteration. The reasons now given go to the baseness of the young man: those which existed at the time, went to the comfort of the four midshipmen, connected by blood and alliance with the captain, and committed to his special care:—as if all in the ship were not committed to his special care, and that by the laws of the land—and without preference to relations. The captain even goes into an account of his own high moral feelings at the time, and disregard of persons high in power, in showing that he then acted upon a sense of Spencer's baseness, maugre the reverence he had for his father and his cabinet position. Every body sees that these are contradictions—that all this talk about baseness is after-talk—that all these fine sentiments are of subsequent conception: in fact, that the first reasons were those of the time, before he expected to put the young man to death, and the next after he had done it! and when the deed exacted a justification, and that at any cost of invention and fabrication. The two accounts are sufficient to establish one of those errors of fact which the law considers as discrediting a witness in all that he says. But it is not all the proof of erroneous statement which the double relation of this incident affords: there is another, equally flagrant. The captain, in his after account, repulses association with baseness, that is with Spencer, in any shape: his elaborate report superabounds with

expressions of the regard with which he had treated him during the voyage, and even exacts acknowledgment of his kindness while endeavoring to torture out of him confessions of guilt.

The case of Spencer was now over: the cases of Small and Cromwell were briefly despatched. The commander contrived to make the three victims meet in a narrow way going to the sacrifice, all manacled and hobbling along, helped along, for they could not walk, by persons appointed to that duty. Gansevoort helped Spencer—a place to which he had entitled himself by the zeal with which he had pursued him. The object of the meeting was seen in the use that was made of it. It was to have a scene of crimination and recrimination between the prisoners, in which mutual accusations were to help out the miserable testimony and the imputed confessions. They are all made to stop together. Spencer is made to ask the pardon of Small for having seduced him: Small is made to answer, and with a look of horror—"*No, by God!*" an answer very little in keeping with the lowly and Christian character of Small, and rebutted by ample negative testimony: for this took place after the secret whispering was over, and in the presence of many. Even Gansevoort, in giving a minute account of this interview, reports nothing like it, nor any thing on which it could be founded. Small really seems to have been a gentle and mild man, imbued with kind and pious feelings, and no part of his conduct corresponds with the brutal answer to Spencer attributed to him. When asked if he had any message to send, he answered, "I have nobody to care for me but a poor old mother, and I had rather she did not know how I died." In his Bible was found a letter from his mother, filled with affectionate expressions. In that letter the mother had rejoiced that her son was contented and happy, as he had informed her; upon which the commander maliciously remarked, in his report, "that was before his acquaintance with Spencer." There was nothing against him, but in the story of the informer, Wales. He instantly admitted his "foolish conversations" with Spencer when arrested, but said it was no mutiny. When standing under the ship gallows (yard-arm) he began a speech to his shipmates, declaring his innocence, saying "I am no pirate: I never murdered any body!" At these words Mackenzie sung out to Gansevoort, "Is that right?" meaning, ought he to be allowed to speak so? He was soon stopped, and Gansevoort swears he said "he deserved his punishment." Cromwell protested his innocence to the last, and with evident truth. When arrested, he declared he knew nothing about the mutiny, and the commander told him he was to be carried home with Spencer to be tried; to which he answered, "I assure you I know nothing about it." His name was not on the razor-case paper. Spencer had declared his ignorance of all his talk, when the commander commenced his efforts, under the ten minutes' reprieve, to get confessions, and when Spencer said to him, as he turned off to go to Small and Cromwell with the ten minutes' news—the first they heard of it: "As these are the last words I have to say, I trust they will be believed: Cromwell is innocent." When told his doom, he (Cromwell) exclaimed, "God of the Universe look down upon me; I am innocent! Tell my wife—tell Lieutenant Morris I die innocent!" The last time that Mackenzie had spoken to him before was to tell him he would be carried to the United States for trial. The meeting of the three victims was crowned by reporting them, not only as confessing, and admitting the justice of their deaths, but even praising it, as to the honor of the flag, and—penitently begging pardon and forgiveness from the commander and his lieutenant!—and they mercifully granting the pardon and forgiveness! The original record says there were no "hangmen" on board the ship: but that made no balk. The death signal, and command, were given by the commander and his lieutenant—the former firing the signal gun himself—the other singing out "whip!" at which word the three wretched men went up with a violent jerk to the yard-arm. There is something unintelligible about Cromwell in the last words of this original "record." It says: "S. Small stept up. Cromwell overboard, rose dipping to yard-arm." Upon which the editor remarks: "The above paper of Commander Mackenzie is so illegible, as not to be correctly written" (copied). Yet it was this paper that Spencer is officially reported to have read while

waiting to be jerked up, and to have agreed to its correctness—and near two-thirds of which were not written until after his death!

The men were dead, and died innocent, as history will tell and show. Why such conduct towards them—not only the killing, but the cruel aggravations? The historian Cooper, in solving this question, says that such was the obliquity of intellect shown by Mackenzie in the whole affair, that no analysis of his motives can be made on any consistent principle of human action. This writer looks upon personal resentment as having been the cause of the deaths, and terror, and a desire to create terror, the cause of the aggravations. Both Spencer and Cromwell had indulged in language which must have been peculiarly offensive to a man of the commander's temperament, and opinion of himself—an author, an orator, a fine officer. They habitually spoke of him before the crew, as "the old humbug—the old fool;" graceless epithets, plentifully garnished with the prefix of "damned;" and which were so reported to the captain (after the discovery of the mutiny—never before) as to appear to him to be "blasphemous vituperation." This is the only tangible cause for hanging Spencer and Cromwell, and as for poor Small, it would seem that his knowledge of navigation, and the necessity of having three mutineers, decided his fate: for his name is on neither of the three lists (though on the distribution list), and he frankly told the commander of Spencer's foolish conversations—always adding, it was no mutiny. These are the only tangible, or visible causes for putting the men to death. The reason for doing it at the time it was done, was for fear of losing the excuse to do it. The vessel was within a day and a half of St. Thomas, where she was ordered to go—within less time of many other islands to which she might go—in a place to meet vessels at any time, one of which she saw nearly in her course, and would not go to it. The excuse for not going to these near islands, or joining the vessel seen, was that it was disgraceful to a man-of-war to seek protection from foreigners! as if it was more honorable to murder than to take such protection. But the excuse was proved to be false; for it was admitted the vessel seen was too far off to know her national character: therefore, she was not avoided as a foreigner, but for fear she might be American. The same of the islands: American vessels were sure to be at them, and therefore these islands were not gone to. It was therefore indispensable to do the work before they got to St. Thomas, and all the machinery of new arrests, and rescue was to justify that consummation. And as for not being able to carry the ship to St. Thomas, with an obedient crew of 100 men, it was a story not to be told in a service where Lieutenant John Rodgers and Midshipman Porter, with 11 men, conducted a French frigate with 173 French prisoners, three days and nights, into safe port.

The three men having hung until they ceased to give signs of life, and still hanging up, the crew were piped down to dinner, and to hear a speech from the commander, and to celebrate divine service—of which several performances the commander gives this account in his official report:

"The crew were now piped down from witnessing punishment, and all hands called to cheer ship. I gave the order, 'stand by to give three hearty cheers for the flag of our country!' Never were three heartier cheers given. In that electric moment I do not doubt that the patriotism of even the worst of the conspirators for an instant broke forth. I felt that I was once more completely commander of the vessel which had been entrusted to me; equal to do with her whatever the honor of my country might require. The crew were now piped down and piped to dinner. I noticed with pain that many of the boys, as they looked to the yard-arm, indulged in laughter and derision."

He also gives an impressive account of the religious service which was performed, the punctuality and devotion with which it was attended, and the appropriate prayer—that of thanks to God for deliverance from a great danger—with which it was concluded.

"The service was then read, the responses audibly and devoutly made by the officers and crew, and the bodies consigned to the deep. This service was closed with that prayer so appropriate to our situation, appointed to be read in our ships of war, 'Preserve us from the dangers of the sea, and from the violence of enemies; that we may be a safeguard to the United States of America, and a security for such as pass on the seas upon their lawful occasions; that the inhabitants of our land may in peace and quietude serve thee our God; and that we may return in safety to enjoy the blessings of our land, with the fruits of our labor, with a thankful remembrance of thy mercies, to praise and glorify thy holy name through Jesus Christ our Lord.'"

This religious celebration concluded, and the prayer read, the commander indulges in a remark upon their escape from a danger plotted before the ship left the United States, as unfeeling, inhuman and impious at the time, as it was afterwards proved to be false and wicked. After the arrest of Spencer, the delators discovered that he had meditated these crimes before he left the United States, and had let his intention become known at a house in the Bowery at New York. In reference to that early inception of the plot, now just found out by the commander, he thus remarks:

"In reading this (prayer) and in recollecting the uses to which the Somers had been destined, as I now find, before she quitted the waters of the United States, I could not but humbly hope that divine sanction would not be wanting to the deed of that day."

Here it is assumed for certain that piratical uses were intended for the vessel by Spencer before he left New York; and upon that assumption the favor of Heaven was humbly hoped for in looking down upon the deed of that day. Now what should be the look of Heaven if all this early plotting should be a false imputation—a mere invention—as it was proved to be. Before the court-martial it was proved that the sailor boarding-house remark about this danger to the Somers, was made by another person, and before Spencer joined the vessel—and from which vessel the commander knew he had endeavored to get transferred to the Grampus, after he had come into her—the commander himself being the organ of his wishes. Foiled before the court in attaching this boarding-house remark to Spencer, the delators before the court undertook to fasten it upon Cromwell: there again the same fate befell them: the remark was proved to have been made by a man of the name of Phelps, and before Cromwell had joined the vessel: and so ended this last false and foul insinuation in his report.

The commander then made a speech, whereof he incorporates a synopsis in his report; and of which, with its capital effects upon the crew, he gives this account:

"The crew were now ordered aft, and I addressed them from the trunk, on which I was standing. I called their attention first to the fate of the unfortunate young man, whose ill-regulated ambition, directed to the most infamous ends, had been the exciting cause of the tragedy they had just witnessed. I spoke of his honored parents, of his distinguished father, whose talents and character had raised him to one of the highest stations in the land, to be one of the six appointed counsellors of the representative of our national sovereignty. I spoke of the distinguished social position to which this young man had been born; of the advantages of every sort that attended the outset of his career, and of the professional honors to which a long, steady, and faithful perseverance in the course of duty might ultimately have raised him. After a few months' service at sea, most wretchedly employed, so for as the acquisition of professional knowledge was concerned, he had aspired to supplant me in a command

which I had only reached after nearly 30 years of faithful servitude; and for what object I had already explained to them. I told them that their future fortunes were in their own control: they had advantages of every sort and in an eminent degree for the attainment of professional knowledge. The situations of warrant officers and of masters in the navy were open to them. They might rise to commands in the merchant service, to respectability, to competence, and to fortune; but they must advance regularly, and step by step; every step to be sure, must be guided by truth, honor, and fidelity. I called their attention to Cromwell's case. He must have received an excellent education, his handwriting was even elegant. But he had also fallen through brutish sensuality and the greedy thirst for gold."

But there was another speech on the Sunday following, of which the commander furnishes no report, but of which some parts were remembered by hearers—as thus by McKee:—(the judge advocate having put the question to him whether he had heard the commander's addresses to the crew after the execution). Answer: "I heard him on the Sunday after the execution: he read Mr. Spencer's letters: he said he was satisfied the young man had been lying to him for half an hour before his death." Another witness swore to the same words, with the addition, "that he died with a lie in his mouth." Another witness (Green) gives a further view into this letter-reading, and affords a glimpse of the object of such a piece of brutality. In answer to the same question, if he heard the commander's speech the Sunday after the execution? He answered, "Yes, sir. I heard him read over Mr. Spencer's letter, and pass a good many remarks on it. He said that Cromwell had been very cruel to the boys: that he had called him aft, and spoke to him about it several times. To the question, Did he say any thing of Mr. Spencer? he answered—"Yes, sir. He said he left his friends, lost all his clothes, and shipped in a whaling vessel." To the question whether any thing was said about Mr. Spencer's truth or falsehood? he answered: "I heard the commander say, this young man died with a lie in his mouth; but do not know whether he meant Mr. Spencer, or some one else." It is certain the commander was making a base use of these letters, as he makes no mention of them any where, and they seem to have been used solely to excite the crew against Cromwell and Spencer.

In finding the mother's letter in Small's bible, the captain finds occasion to make two innuendos against the dead Spencer, then still hanging up. He says:

"She expressed the joy with which she had learned from him that he was so happy on board the Somers (at that time Mr. Spencer had not joined her); that no grog was served on board of her. Within the folds of this sacred volume he had preserved a copy of verses taken from the Sailor's Magazine, enforcing the value of the bible to seamen. I read these verses to the crew. Small had evidently valued his bible, but could not resist temptation."

This happiness of Small is discriminated from his acquaintance with Spencer: it was before the time that Spencer joined the ship! as if his misery began from that time! when it only commenced from the time he was seized and ironed for mutiny. Then the temptation which he could not resist, *innuendo*, tempted by Spencer—of which there was not even a tangible hearsay, and no temptation necessary. Poor Small was an habitual drunkard, and drank all that he could get—his only fault, as it seems. But this bible of Small's gave occasion to another speech, and moral and religious harangue, of which the captain gave a report, too long to be noticed here except for its characteristics, and which go to elucidate the temper and state of mind in which things were done:

"I urged upon the youthful sailors to cherish their bibles with a more entire love than Small had done; to value their prayer books also; they would find in them a prayer for every necessity, however great; a medicine for every ailment of the mind. I endeavored to call to their recollection the terror with which the three malefactors had found themselves suddenly

called to enter the presence of an offended God. No one who had witnessed that scene could for a moment believe even in the existence of such a feeling as honest Atheism: a disbelief in the existence of a God. They should also remember that scene. They should also remember that Mr. Spencer, in his last moments, had said that 'he had wronged many people, but chiefly his parents.' From these two circumstances they might draw two useful lessons: a lesson of filial piety, and of piety toward God. With these two principles for their guides they could never go astray."

This speech was concluded with giving cheers to God, not by actual shouting, but by singing the hundredth psalm, and cheering again—all for deliverance from the hands of the pirates. Thus:

"In conclusion, I told them that they had shown that they could give cheers for their country; they should now give cheers to their God, for they would do this when they sung praises to his name. The colors were now hoisted, and above the American ensign, the only banner to which it may give place, the banner of the cross. The hundredth psalm was now sung by all the officers and crew. After which, the usual service followed; when it was over, I could not avoid contrasting the spectacle presented on that day by the Somers, with what it would have been in pirates' hands."

During all this time the four other men in irons sat manacled behind the captain, and he exults in telling the fine effects of his speaking on these "deeply guilty," as well as upon all the rest of the ship's crew.

"But on this subject I forbear to enlarge. I would not have described the scene at all, so different from the ordinary topics of an official communication, but for the unwonted circumstances in which we were placed, and the marked effect which it produced on the ship's company, even on those deeply guilty members of it who sat manacled behind me, and that it was considered to have done much towards restoring the allegiance of the crew."

Of these deeply guilty, swelled to twelve before the ship got home, three appeared before the court-martial, and gave in their experience of that day's work. McKee, the first one, testifies that he had so little suspicion of what was going on, that, when he saw the commander come upon deck in full uniform, he supposed that some ship was seen, and that it was the intention to visit or speak her. To the question, what passed between yourself and the commander, after the execution? he answered: "He said he could find nothing against any of the four that were then in irons—if he had found any proof our fate would have been the same; and if he could find any excuse for not taking them home in irons, he would do so. I understood him to mean he would release them from their irons." Green, another of them, in answer to the question whether the commander spoke to him after hanging, answered—"Yes, sir. He said he could not find any thing against us; if he could, our fate would have been the same as the other three. He asked me if I was satisfied with it?" McKinley was the third, and to the same question, whether the commander spoke to him on the day of the executions? he answered—"He did while the men were hanging at the yard arm, but not before. He came to me, and said, 'McKinley, did you hear what I said to those other young men?' I told him, 'No, sir.' 'Well,' said he, 'it is the general opinion of the officers that you are a pretty good boy, but I shall have to take you home in irons, to see what the Secretary of the Navy can do for you.' He said: 'In risking your life for other persons (or something to that effect) is all that saves you.' He left me then, and I spoke to Mr. Gansevoort—I asked him if he thought the commander thought I was guilty of any thing of the kind. He said: 'No, I assure you if he did, he would have strung you up.'" Wilson, the fourth of the arrested, was not examined before the court; but the evidence of three of them, with McKenzie's refusal to proceed against them in New York, and the attempt to tamper with one of them, is proof enough that he had no

accusation against these four men: that they were arrested to fulfil the condition on which the first three were to be hanged, and to be brought home in irons with eight others, to keep up the idea of mutiny.

The report having finished the history of the mutiny—its detection, suppression, execution of the ringleaders, and seizure of the rest (twelve in all) to be brought home in bags and irons—goes on, like a military report after a great victory, to point out for the notice and favor of the government, the different officers and men who had distinguished themselves in the affair, and to demand suitable rewards for each one according to his station and merits. This concluding part opened thus:

"In closing this report, a pleasing, yet solemn duty devolves upon me, which I feel unable adequately to fulfil—to do justice to the noble conduct of every one of the officers of the Somers, from the first lieutenant to the commander's clerk, who has also, since her equipment, performed the duty of midshipman. Throughout the whole duration of the difficulties in which we have been involved, their conduct has been courageous, determined, calm, self-possessed—animated and upheld always by a lofty and chivalrous patriotism, perpetually armed by day and by night, waking and sleeping, with pistols often cocked for hours together."

The commander, after this general encomium, brings forward the distinguished, one by one, beginning of course with his first lieutenant:

"I cannot forbear to speak particularly of Lieutenant Gansevoort. Next to me in rank on board the Somers, he was my equal in every respect to protect and defend her. The perfect harmony of our opinions, and of our views of what should be done, on each new development of the dangers which menaced the integrity of command, gave us a unity of action that added materially to our strength. Never since the existence of our navy has a commanding officer been more ably and zealously seconded by his lieutenant."

Leaving out every thing minor, and dependent upon the oaths of others, there are some things sworn to by Gansevoort himself which derogate from his chivalrous patriotism. *First*, going round to the officers who were to sit in council upon the three prisoners, and taking their agreement to execute the three on hand if more arrests were made. *Secondly*, encouraging and making those arrests on which the lives of the three depended. *Thirdly*, going out of the council to obtain from Spencer further proofs of his guilt—Spencer not knowing for what purpose he was thus interrogated. *Fourthly*, his calmness and self-possession were shown in the fire of his pistol while assisting to arrest Cromwell, and in that consternation inspired in him at the running towards where he was of a cluster of the apprentice boys, scampering on to avoid the boatswain's colt—a slender cord to whip them over the clothes, like a switch. Midshipman Rodgers had gone aft, or forward, as the case may be, to drive a parcel of these boys to their duty, taking the boatswain along to apply his colt to all the hindmost. Of course the boys scampered briskly to escape the colt. The lieutenant heard them coming—thought they were the mutineers—sung out, God! they are coming—levelled his revolver, and was only prevented from giving them the contents of the six barrels, had they not sung out "It is me—it is me;" for that is what the witnesses stated. But the richness of the scene can only be fully seen from the lieutenant's own account of it, which he gave before the court with evident self-satisfaction: "The commander and myself were standing on the larboard side of the quarter deck, at the after end of the trunk: we were in conversation: it was dark at the time. I heard an unusual noise—a rushing aft toward the quarter deck; I said to the commander, 'God! I believe they are coming.' I had one of Colt's pistols, which I immediately drew and cocked: the commander said his pistols were below. I jumped on the trunk, and ran forward to meet them. As I was going along I sung out to them not to come aft.

I told them I would blow the first man's brains out who would put his foot on the quarter deck. I held my pistol pointed at the tallest man that I saw in the starboard gangway, and I think Mr. Rodgers sung out to me, that he was sending the men aft to the mast rope. I then told them they must have no such unusual movements on board the vessel: what they did, they must do in their usual manner: they knew the state of the vessel, and might get their brains blown out before they were aware of it. Some other short remarks, I do not recollect at this time what they were, and ordered them to come aft and man the mast rope: to move quietly." To finish this view of Mr. Gansevoort's self-possession, and the value of his "beliefs," it is only necessary to know that, besides letting off his pistol when Cromwell was arrested, he swore before the court that, "I had an idea that he (Cromwell) meant to take me overboard with him," when they shook hands under the gallows yard arm, and under that idea, "turned my arm to get clear of his grasp."

The two non-combatants, purser Heiskill and assistant surgeon Leecock, come in for high applause, although for the low business of watching the crew and guarding the prisoners. The report thus brings them forward:

"Where all, without exception, have behaved admirably, it might seem invidious to particularize: yet I cannot refrain calling your attention to the noble conduct of purser H. W. Heiskill, and passed assistant surgeon Leecock, for the services which they so freely yielded beyond the sphere of their immediate duties."

The only specification of this noble conduct, and of these services beyond their proper sphere, which is given in the report, is contained in this sentence:

"Both he and Mr. Heiskill cheerfully obeyed my orders to go perpetually armed, to keep a regular watch, to guard the prisoners: the worst weather could not drive them from their posts, or draw from their lips a murmur."

To these specifications of noble conduct, and extra service, might have been added those of eaves-dropping and delation—capacity to find the same symptoms of guilt in opposite words and acts—sitting in council to judge three men whom they had agreed with Gansevoort two days before to hang if necessary to make more arrests, and which arrests, four in number, were made with their concurrence and full approbation. Finally, he might have told that this Heiskill was a link in the chain of the revelation of the mutinous and piratical plot. He was the purser of whom Wales was the steward, and to whom Wales revealed the plot—he then revealing to Gansevoort—and Gansevoort to Mackenzie. It was, then, through his subordinate (and who was then stealing his liquor) and himself that the plot was detected.

A general presentation of government thanks to all the officers, is next requested by the lieutenant:

"I respectfully request that the thanks of the Navy Department may be presented to all the officers of the Somers, for their exertions in the critical situation in which she has been placed. It is true they have but performed their duty, but they have performed it with fidelity and zeal."

The purser's steward, Wales, is then specially and encomiastically presented, and a specific high reward solicited for him:

"I respectfully submit, that Mr. J. W. Wales, by his coolness, his presence of mind, and his fidelity, has rendered to the American navy a memorable service. I had a trifling difficulty with him, not discreditable to his character, on the previous cruise to Porto Rico—on that account he was sought out, and tampered with. But he was honest, patriotic, humane; he resisted temptation, was faithful to his flag, and was instrumental in saving it from dishonor.

A pursership in the navy, or a handsome pecuniary reward, would after all be an inconsiderable recompense, compared with the magnitude of his services."

Of this individual the commander had previously reported a contrivance to make a mistake in doubling the allowed quantity of brandy carried out on the cruise, saying: "By accident, as it was thought at the time, but subsequent developments would rather go to prove by design, he (Wales) had contrived to make a mistake, and the supply of brandy was ordered from two different groceries; thus doubling the quantity intended to be taken." Of this double supply of brandy thus contrived to be taken out, the commander reports Wales for continual "*stealing*" of it—always adding that he was seduced into these "thefts" by Spencer. Being a temperance man, the commander eschews the use of this brandy on board, except furtively for the corruption of the crew by Spencer through the seduction of the steward: thus: "None of the brandy was used in the mess, and all of it is still on board except what was stolen by the steward at the request of Mr. Spencer, and drank by him, and those he endeavored to corrupt." By his own story this Wales comes under the terms of Lord Hale's idea of a "desperate villain"—a fellow who joins in a crime, gets the confidence of accomplices, then informs upon them, gets them hanged, and receives a reward. This was the conduct of Wales upon his own showing: and of such informers the pious and mild Lord Hale judicially declared his abhorrence—held their swearing unworthy of credit unless corroborated—said that they had done more mischief in getting innocent people punished than they had ever done good in bringing criminals to justice. Upon this view of his conduct, then, this Wales comes under the legal idea of a desperate villain. Legal presumptions would leave him in this category but the steward and the commander have not left it there. They have lifted a corner of the curtain which conceals an unmentionable transaction, to which these two persons were parties—which was heard of, but not understood by the crew—which was hugger-muggered into a settlement between them about the time of Spencer's arrest, though originating the preceding cruise—which neither would explain—which no one could name—and of which Heiskill, the intermediate between his steward and the commander, could know nothing except that it was of a "delicate nature," and that it had been settled between them. The first hint of this mysterious transaction was in the commander's report—in his proud commendation of this steward for a pursership in the United States Navy—and evidently to rehabilitate his witness, and to get a new lick at Spencer. The hint runs thus: "I had a trifling difficulty, not discreditable to his character, on the previous cruise to Porto Rico." On the trial the purser Heiskill was interrogated as to the nature of this difficulty between his subordinate and his superior. To the question—"Did he know any thing, and what, about a misunderstanding between the steward and the commander at Porto Rico?" he answered, "he knew there was a misunderstanding, which Wales told him was explained to the satisfaction of the commander." To the further question, "Was it of a delicate nature?" the answer was, "yes, sir." To the further question, as to the time when this misunderstanding was settled? the purser answered: "I do not know—some time since, I believe." Asked if it was before the arrest? he answers: "I think Mr. Wales spoke of this matter before the arrest." Pressed to tell, if it was shortly before the arrest, the purser would neither give a long nor a short time, but ignored the inquiry with the declaration, "I won't pretend to fix upon a time." Wales himself interrogated before the court, as to the fact of this misunderstanding, and also as to what it was? admitted the fact, but refused its disclosure. His answer, as it stands in the official report of the trial is: "I had a difficulty, but decline to explain it." And the obliging court submitted to the contempt of this answer.

Left without information in a case so mysterious, and denied explanation from those who could give it, history can only deal with the facts as known, and with the inferences fairly resulting from them; and, therefore, can only say, that there was an old affair between

the commander and the purser's steward, originating in a previous voyage, and settled in this one, and settled before the arrest of midshipman Spencer; and secondly, that the affair was of so delicate a nature as to avoid explanation from either party. Now the word "delicate" in this connection, implies something which cannot be discussed without danger—something which will not bear handling, or exposure—and in which silence and reserve are the only escapes from a detection worse than any suspicion. And thus stands before history the informer upon the young Spencer—the thief of brandies, the desperate villain according to Lord Hale's classification, and the culprit of unmentionable crime, according to his own implied admission. Yet this man is recommended for a pursership in the United States navy, or a handsome pecuniary reward; while any court in Christendom would have committed him for perjury, on his own showing, in his swearing before the court-martial.

Sergeant Michael H. Garty is then brought forward; thus:

"Of the conduct of Sergeant Michael H. Garty (of the marines) I will only say it was worthy of the noble corps to which he has the honor to belong. Confined to his hammock by a malady which threatened to be dangerous, at the moment when the conspiracy was discovered, he rose upon his feet a well man. Throughout the whole period, from the day of Mr. Spencer's arrest to the day after our arrival, and until the removal of the mutineers, his conduct was calm, steady, and soldierlike. But when his duty was done, and health was no longer indispensable to its performance, his malady returned upon him, and he is still in his hammock. In view of this fine conduct, I respectfully recommend that Sergeant Garty be promoted to a second lieutenancy in the marine corps. Should I pass without dishonor through the ordeal which probably awaits me, and attain in due time to the command of a vessel entitled to a marine officer, I ask no better fortune than to have the services of Sergeant Garty in that capacity."

Now here is something like a miracle. A bedridden man to rise up a well man the moment his country needed his services, and to remain a well man to the last moment those services required, and then to fall down a bedridden man again. Such a miracle implies a divine interposition which could only be bottomed on a full knowledge of the intended crime, and a special care to prevent it. It is quite improbable in itself, and its verity entirely marred by answers of this sergeant to certain questions before the court-martial. Thus: "When were you on the sick list in the last cruise?" Answer: "I was twice on the list: the last time about two days." Now these two days must be that hammock confinement from the return of the malady which immediately ensued on the removal of the mutineers (the twelve from the Somers to the North Carolina guardship at New York), and which seemed as chronic and permanent as it was before the arrest. Questioned further, whether he "remained in his hammock the evening of Spencer's arrest?" the answer is, "Yes, sir: I was in and out of it all that night." So that the rising up a well man does not seem to have been so instantaneous as the commander's report would imply. The sergeant gives no account of this malady which confined him to his hammock in the marvellous way the commander reports. He never mentioned it until it was dragged out of him on cross-examination. He was on the sick list. That does not imply bedridden. Men are put on the sick list for a slight indisposition: in fact, to save them from sickness. Truth is, this Garty seems to have been one of the class of which every service contains some specimens—scamps who have a pain, and get on the sick list when duty runs hard; and who have no pain, and get on the well list, as soon as there is something pleasant to do. In this case the sergeant seems to have had a pleasant occupation from the alacrity with which he fulfilled it, and from the happy relief which it procured him from his malady as long as it lasted. That occupation was superintendent of the bagging business. It was he who attended to the wearing and fitting of the bags—seeing that they were punctually put on when a prisoner was made, tightly tied over the head of nights, and snugly

drawn round the neck during the day. To this was added eavesdropping and delating, and swearing before all the courts, and in this style before the council of officers: “Thinks there are some persons at large that would voluntarily assist the prisoners if they had an opportunity.”—”Thinks if the prisoners were at large the brig would certainly be in great danger.”—”Thinks there are persons adrift yet, who, if opportunity offered, would rescue the prisoners.”—”Thinks the vessel would be safer if Cromwell, Spencer, and Small were put to death.”—”Thinks Cromwell a desperate fellow.”—”Thinks their object (that of Cromwell and Spencer), in taking slavers, would be to convert them to their own use, and not to suppress the slave trade.” All this was swearing like a sensible witness, who knew what was wanted, and would furnish it. It covered all the desired points. More arrests were wanted at that time to justify the hanging of the prisoners on hand: he thinks more arrests ought to be made. The fear of a rescue was wanted: he thinks there will be a rescue attempted. The execution of the prisoners is wanted: he thinks the vessel would be safer if they were all three put to death. And it was for these noble services—bagging prisoners, eavesdropping, delating, swearing to what was wanted—that this sergeant had his marvellous rise-up from a hammock, and was now recommended for an officer of marines. History repulses the marvel which the commander reports. A kind Providence may interpose for the safety of men and ships, but not through an agent who is to bag and suffocate innocent men—to eaves-drop and delate—to swear in all places, and just what was wanted—all by thoughts, and without any thing to bottom a thought upon. Certainly this Sergeant Garty, from his stomach for swearing, must have something in common, besides nativity, with Mr. Jemmy O’Brien; and, from his alacrity and diligence in taking care of prisoners, would seem to have come from the school of the famous Major Sirr, of Irish rebellion memory.

Mr. O. H. Perry, the commander’s clerk and nephew, the same whose blunder in giving the order about the mast, occasioned it to break; and, in breaking, to become a sign of the plotting, mutiny, and piracy; and the same that held the watch to mark the ten minutes that Spencer was to live: this young gentleman was not forgotten, but came in liberally for praise and spoil—the spoil of the young man whose messmate he had been, against whom he had testified, and whose minutes he had counted, and proclaimed when out:

“If I shall be deemed by the Navy Department to have had any merit in preserving the Somers from those treasonable toils by which she had been surrounded since and before her departure from the United States, I respectfully request that it may accrue without reservation for my nephew O. H. Perry, now clerk on board the Somers, and that his name may be placed on the register in the name left vacant by the treason of Mr. Spencer. I think, under the peculiar circumstances of the case, an act of Congress, if necessary, might be obtained to authorize the appointment.”

All these recommendations for reward and promotion, bespeak an obliquity of mental vision, equivalent to an aberration of the mind; and this last one, obliquitous as any, superadds an extinction of the moral sense in demanding the spoil of the slain for the reward of a nephew who had promoted the death of which he was claiming the benefit. The request was revolting! and, what is equally revolting, it was granted. But worse still. An act of Congress at that time forbid the appointment of more midshipmen, of which there were then too many, unless to fill vacancies: hence the request of the commander, that his nephew’s name may take the place in the Navy Register of the name left vacant by the “*treason*” of Mr. Spencer!

The commander, through all his witnesses, had multiplied proofs on the attempts of Spencer to corrupt the crew by largesses lavished upon them—such as tobacco, segars, nuts, sixpences thrown among the boys, and two bank-notes given to Cromwell on the coast of Africa to send home to his wife before the bank failed. Now what were the temptations on the other side?

What the inducements to the witnesses and actors in this foul business to swear up to the mark which Mackenzie's acquittal and their promotion required? The remarks of Mr. Fenimore Cooper, the historian, here present themselves as those of an experienced man speaking with knowledge of the subject, and acquaintance with human nature:

"While on this point we will show the extent of the temptations that were thus inconsiderately placed before the minds of these men—what preferment they had reason to hope would be accorded to them should Mackenzie's conduct be approved, *viz.*: Garty, from the ranks, to be an officer, with twenty-five dollars per month, and fifty cents per diem rations: and the prospect of promotion. Wales, from purser's steward, at eighteen dollars a month, to quarter-deck rank, and fifteen hundred dollars per annum. Browning, Collins, and Stewart, petty officers, at nineteen dollars a month, to be boatswains, with seven hundred dollars per annum. King, Anderson, and Rogers, petty officers, at nineteen dollars a month, to be gunners, at seven hundred dollars per annum. Dickinson, petty officer, at nineteen dollars a month, to be carpenter, with seven hundred dollars per annum."

Such was the list of temptations placed before the witnesses by Commander Mackenzie, and which it is not in human nature to suppose were without their influence on most of the persons to whom they were addressed.

The commander could not close his list of recommendations for reward without saying something of himself. He asked for nothing specifically, but expected approbation, and looked forward to regular promotion, while gratified at the promotions which his subordinates should receive, and which would redound to his own honor. He did not ask for a court of inquiry, or a court-martial, but seemed to apprehend, and to deprecate them. The Secretary of the Navy immediately ordered a court of inquiry—a court of three officers to report upon the facts of the case, and to give their opinion. There was no propriety in this proceeding. The facts were admitted, and the law fixed their character. Three prisoners had been hanged without trial, and the law holds that to be murder until reduced by a judicial trial to a lower degree of offence—to manslaughter, excusable, or justifiable homicide. The finding of the court was strongly in favor of the commander; and unless this finding and opinion were disapproved by the President, no further military proceeding should be had—no court-martial ordered—the object of the inquiry being to ascertain whether there was necessity for one. The necessity being negatived, and that opinion approved by the President, there was no military rule of action which could go on to a court-martial: to the general astonishment such a court was immediately ordered—and assembled with such precipitation that the judge advocate was in no condition to go on with the trial; and, up to the third day of its sitting, was without the means of proceeding with the prosecution; and for his justification in not being able to go on, and in asking some delay, the judge advocate, Wm. H. Norris, Esq., of Baltimore, submitted to the court this statement in writing:

"The judge advocate states to the court that he has not been furnished by the department, as yet, with any list of witnesses on the part of the government: that he has had no opportunity of conversing with any of the witnesses, of whose names he is even entirely ignorant except by rumor in respect to a few of them; and that, therefore, he would need time to prepare the case by conversation with the officers and crew of the brig Somers, before he can commence the case on the part of the government. The judge advocate has issued two subpœnas, *duces tecum*, for the record in the case of the court of inquiry into the alleged mutiny, which have not yet been returned, and by which record he could have been notified of the witnesses and facts to constitute the case of the government."

The judge advocate then begged a delay, which was granted, until eleven o'clock the next day. Here then was a precipitation, unheard of in judicial proceedings, and wholly

incompatible with the idea of any real prosecution. The cause of this precipitancy becomes a matter of public inquiry, as the public interest requires the administration of justice to be fair and impartial. The cause of it then was this: The widow of Cromwell, to whom he had sent his last dying message, that he was innocent, undertook to have Mackenzie prosecuted before the civil tribunals for the murder of her husband. She made three attempts, all in vain. One judge, to whom an application for a warrant was made, declined to grant it, on the ground that he was too much occupied with other matters to attend to that case—giving a written answer to that effect. A commissioner of the United States, appointed to issue warrants in all criminal cases, refused one in this case, because, as he alleged, he had no authority to act in a military case. The attempt was then made in the United States district court, New York, to get the Grand Jury to find an indictment: the court instructed the jury that it was not competent for a civil tribunal to interfere with matters which were depending before a naval tribunal: in consequence of which instruction the bill was ignored. Upon this instruction of the court the historian, Cooper, well remarks: "That after examining the subject at some length, we are of opinion that the case belonged exclusively to the civil tribunals." Here, then, is the reason why Mackenzie was run so precipitately before the court-martial. It was to shelter him by an acquittal there: and so apprehensive was he of being got hold of by some civil tribunal, before the court-martial could be organized, that he passed the intervening days between the two courts "in a bailiwick where the ordinary criminal process could not reach him."—(Cooper's Review of the Trial.) When the trial actually came on, the judge advocate was about as bad off as he was the first day. He had a list of witnesses. They were Mackenzie's officers—and refused to converse with him on the nature of their testimony. He stated their refusal to the court—declared himself without knowledge to conduct the case—and likened himself to a new comer in a house, having a bunch of keys given to him, without information of the lock to which each belonged—so that he must try every lock with every key before he could find out the right one.

The hurried assemblage of the court being shown, its composition becomes a fair subject of inquiry. The record shows that three officers were excused from serving on their own application after being detailed as members of the court; and the information of the day made known that another was excused before he was officially detailed. The same history of the day informs that these four avoided the service because they had opinions against the accused. That was all right in them. Mackenzie was entitled to an impartial trial, although he allowed his victims no trial at all. But how was it on the other side? any one excused there for opinions in favor of the accused? None! and history said there were members on the court strongly in favor of him—as the proceedings on the trial too visibly prove. Engaged in the case without a knowledge of it, the judge advocate confined himself to the testimony of one witness, merely proving the hanging without trial; and then left the field to the accused. It was occupied in great force—a great number of witnesses, all the reports of Mackenzie himself, all the statements before the council of officers—all sorts of illegal, irrelevant, impertinent or frivolous testimony—every thing that could be found against the dead since their death, in addition to all before—assumption or assertion of any fact or inference wanted—questions put not only leading to the answer wanted, but affirming the fact wanted—all the persons served as witnesses who had been agents or instruments in the murders—Mackenzie himself submitting his own statements before the court: such was the trial! and the issue was conformable to such a farrago of illegalities, absurdities, frivolities, impertinences and wickednesses. He was acquitted; but in the lowest form of acquittal known to court-martial proceedings. "Not proven," was the equivocal mode of saying "not guilty:" three members of the court were in favor of conviction for murder. The finding was barely permitted to stand by the President. To approve, or disprove court-martial proceedings is the regular course: the President did neither. The official promulgation of the proceedings wound

up with this unusual and equivocal sanction: “As these charges involved the life of the accused, and as the finding is in his favor, he is entitled to the benefit of it, as in the analogous case of a verdict of not guilty before a civil court, and there is no power which can constitutionally deprive him of that benefit. The finding, therefore, is simply *confirmed*, and carried into effect without any expression of approbation or disapprobation on the part of the President: no such expression being necessary.” No acquittal could be of lower order, or less honorable. The trial continued two months; and that long time was chiefly monopolized by the defence, which became in fact a trial of the dead—who, having no trial while alive, had an ample one of sixty days after their deaths. Of course they were convicted—the dead and the absent being always in the wrong. At the commencement of the trial, two eminent counsel of New York—Messrs. Benjamin F. Butler and Charles O’Connor, Esqs.,—applied to the court at the instance of the father of the young Spencer to be allowed to sit by, and put questions approved by the court; and offer suggestions and comments on the testimony when it was concluded. This request was entered on the minutes, and refused. So that at the long *post mortem* trial which was given to the boy after his death, the father was not allowed to ask one question in favor of his son.

And here two remarks require to be made—first, as to that faithful promise of the Commander Mackenzie to send to his parents the dying message of the young Spencer: not a word was ever sent! all was sent to the Navy Department and the newspapers! and the “faithful promise,” and the moving appeal to the “feelings of nature,” turn out to have been a mere device to get a chance to make a report to the Secretary of the Navy of confessions to justify the previous condemnation and the pre-determined hanging. Secondly: That the Secretary despatched a man-of-war immediately on the return of Mackenzie to the Isle of Pines, to capture the confederate pirates (according to Wales’s testimony), who were waiting there for the young Spencer and the Somers. A bootless errand. The island was found, and the pines; but no pirates! nor news of any for near twenty years! Thus failed the indispensable point in the whole piratical plot: but without balking in the least degree the raging current of universal belief.

The trial of Mackenzie being over, and he acquitted, the trial of the rest of the implicated crew—the twelve mutineers in irons—would naturally come on; and the court remained in session for that purpose. The Secretary of the Navy had written to the judge advocate to proceed against such of them as he thought proper: the judge advocate referred that question to Mackenzie, giving him the option to choose any one he pleased to carry on the prosecutions. He chose Theodore Sedgwick, Esq., who had been his own counsel on his trial. Mackenzie was acquitted on the 28th of March: the court remained in session until the 1st of April: the judge advocate heard nothing from Mackenzie with respect to the prosecutions. On that day Mackenzie not being present, he was sent for. He was not to be found! and the provost marshal ascertained that he had gone to his residence in the country, thirty miles off. This was an abandonment of the prosecutions, and in a very unmilitary way—by running away from them, and saying nothing to any body. The court was then dissolved—the prisoners released—and the innocence of the twelve stood confessed by the recreancy of their fugitive prosecutor. It was a confession of the innocence of Spencer, Small, and Cromwell; for he was tried for the three murders together. The trial of Mackenzie had been their acquittal in the eyes of persons accustomed to analyze evidence, and to detect perjuries in made-up stories. But the masses could form no such analysis. With them the confessions were conclusive, though invalidated by contradictions, and obtained, if obtained at all, under a refinement of terror and oppression which has no parallel on the deck of a pirate. When has such a machinery of terror been contrived to shock and torture a helpless victim? Sudden annunciation of death in the midst of preparations to take life: ten minutes allowed to live,

and these ten minutes taken up with interruptions. An imp of darkness in the shape of a naval officer in full uniform, squat down at his side, writing and whispering; and evidently making out a tale which was to murder the character in order to justify the murder of the body. Commander Mackenzie had once lived a year in Spain, and wrote a book upon its manners and customs, as a "Young American." He must have read of the manner in which confessions were obtained in the dungeons of the Inquisition. If he had, he showed himself an apt scholar; if not, he showed a genius for the business from which the familiars of the Holy Office might have taken instruction.

Spencer's real design was clearly deducible even from the tenors of the vile swearing against him. He meant to quit the navy when he returned to New York, obtain a vessel in some way, and go to the northwest coast of America—to lead some wild life there; but not piratical, as there is neither prey nor shelter for pirates in that quarter. This he was often saying to the crew, and to this his list of names referred—mixed up with foolish and even vicious talk about piracy. His first and his last answer was the same—that it was all a joke. The answer of Small was the same when he was arrested; and it was well brought out by the judge advocate in incessant questions during the two months' trial, that there was not a single soul of the crew, except Wales, that ever heard Spencer mention one word about mutiny! and not one, inclusive of Wales, that ever heard one man of the vessel speak of a rescue of the prisoners. Remaining long in command of the vessel as Mackenzie did, and with all his power to punish or reward, and allowed as he was to bring forward all that he was able to find since the deaths of the men, yet he could not find one man to swear to these essential points; so that in a crew steeped in mutiny, there was not a soul that had heard of it! in a crew determined upon a rescue of prisoners, there was not one that ever heard the word pronounced. The state of the brig, after the arrests, was that of crazy cowardice and insane suspicion on the part of the officers—of alarm and consternation on the part of the crew. Armed with revolvers, cutlasses and swords, the officers prowled through the vessel, ready to shoot any one that gave them a fright—the weapon generally cocked for instant work. Besides the officers, low wretches, as Wales and Garty, were armed in the same way, with the same summary power over the lives and deaths of the crew. The vessel was turned into a laboratory of spies, informers, eavesdroppers and delators. Every word, look, sign, movement, on the part of the crew, was equally a proof of guilt. If the men were quick about their duty, it was to cover up their guilt: if slow, it was to defy the officers. If they talked loud, it was insolence: if low, it was plotting. If collected in knots, it was to be ready to make a rush at the vessel: if keeping single and silent, it was because, knowing their guilt, they feigned aversion to escape suspicion. Belief was all that was wanted from any delator. Belief, without a circumstance to found it upon, and even contrary to circumstances, was accepted as full legal evidence. Arrests were multiplied, to excite terror, and to justify murder. The awe-stricken crew, consisting four-fifths of apprentice boys, was paralyzed into dead silence and abject submission. Every arrest was made without a murmur. The prisoners were ironed and bagged as mere animals. No one could show pity, much less friendship. No one could extend a comfort, much less give assistance. Armed sentries stood over them, day and night, to shoot both parties for the slightest sign of intelligence—and always to shoot the prisoner first. What Paris was in the last days of the Reign of Terror, the United States brig Somers was during the terrible week from the arrest to the hanging of Spencer.

Analogous to the case of Commander Mackenzie was that of Lieutenant Colonel Wall, of the British service, Governor of Goree on the coast of Africa—the circumstances quite parallel, and where they differ, the difference in favor of Wall—but the conclusion widely different. Governor Wall fancied there was a mutiny in the garrison, the one half (of 150) engaged in it, and one Armstrong and two others, leaders in it. He ordered the "long roll" to be beat—which

brings the men, without arms, into line on the parade. He conversed a few minutes with the officers, out of hearing of the men, then ordered the line to form circle, a cannon to be placed in the middle of it, the three men tied upon it, and receive 800 blows each with an inch thick rope. It was not his intent to kill them, and the surgeon of the garrison, as in all cases of severe punishment, was ordered to attend, and observe it: which he did, saying nothing: the three men died within a week. This was in the year 1782. Wall came home—was arrested (by the civil authority), broke custody and fled—was gone twenty years, and seized again by the civil authority on his return to England. The trial took place at the Old Bailey, and the prisoner easily proved up a complete case of mutiny, seventy or eighty men, assembled in open day before the governor's quarters, defying authority, clamoring for supposed rights, and cursing and damning. The full case was sworn up, and by many witnesses; but the attorney-general, Sir Edward Law (afterwards Lord Ellenborough), and the solicitor-general, Mr. Percival (afterwards First Lord of the Treasury and Chancellor of the Exchequer), easily took the made-up stories to pieces, and left the governor nakedly exposed, a false accuser of the dead, after having been the foul murderer of the innocent. It was to no purpose that he plead, that the punishment was not intended to kill: it was answered that it was sufficient that it was likely to kill, and did kill. To no purpose that he proved by the surgeon that he stood by, as the regulations required, to judge the punishment, and said nothing: the eminent counsel proved upon him, out of his own mouth, that he was a young booby, too silly to know the difference between a cat-o'-nine-tails, which cut the skin, and an inch rope, which bruised to the vitals. The Lord Chief Baron McDonald, charged the jury that if there was no mutiny, it was murder; and if there was mutiny, and no trial, it was murder. On this latter point, he said to the jury: "*If you are of opinion that there was a mutiny, you are then to consider the degree of it, and whether there was as much attention paid to the interest of the person accused as the circumstances of the case would admit, by properly advising him, and giving him an opportunity of justifying himself if he could.*" The governor was only tried in one case, found guilty, hanged within eight days, and his body, like that of any other murderer, delivered up to the surgeons for dissection—the King on application, first for pardon, then for longer respite, and last for remission of the anatomization, refusing any favor, upon the ground that it was worse than any common murder—being done by a man in authority, far from the eye of the government, on helpless people subject to his power, and whom he was bound to protect, and to defend from oppression. It is a case—a common one in England since the judges became independent of the crown—which does honor to British administration of justice: and, if any one wishes to view the extremes of judicial exhibitions—legality, regularity, impartiality, knowledge of the law, promptitude on one hand, and the reverse of it all on the other—let them look at the proceedings of the one-day trial of Governor Wall before a British civil court, and the two months' trial of Commander Mackenzie before an American naval court-martial. But the comparison would not be entirely fair. Courts-martial, both of army and navy, since the trial of Admiral Byng in England to Commodore Porter, Commander Mackenzie, and Lieutenant-colonel Frémont in the United States, have been machines in the hands of the government (where it took an interest in the event), to acquit, or convict: and has rarely disappointed the intention. Cooper proposes, in view of the unfitness of the military courts for judicial investigation, that they be stripped of all jurisdiction in such cases: and his opinion strongly addresses itself to the legislative authority.

Commander Mackenzie had been acquitted by the authorities: he had been complimented by a body of eminent merchants: he had been applauded by the press: he had been encomiastically reviewed in a high literary periodical. The loud public voice was for him: but there was a small inward monitor, whose still and sinister whisperings went cutting through the soul. The acquitted and applauded man withdrew to a lonely retreat, oppressed with

gloom and melancholly, visible only to a few, and was only roused from his depression to give signs of a diseased mind. It was five years after the event, and during the war with Mexico. The administration had conceived the idea of procuring peace through the instrumentality of Santa Anna—then an exile at Havana; and who was to be returned to his country upon some arrangement of the American government. This writer going to see the President (Mr. Polk) some day about this time, mentioned to him a visit from Commander Slidell Mackenzie to this exiled chief. The President was startled, and asked how this came to be known to me. I told him I read it in the Spanish newspapers. He said it was all a profound secret, confined to his cabinet. The case was this: a secret mission to Santa Anna was resolved upon: and the facile Mr. Buchanan, Secretary of State, dominated by the representative Slidell (brother to the commander), accepted this brother for the place. Now the views of the two parties were diametrically opposite. One wanted secrecy—the other notoriety. Restoration of Santa Anna to his country, upon an agreement, and without being seen in the transaction, was the object of the government; and that required secrecy: removal from under a cloud, restoration to public view, rehabilitation by some mark of public distinction, was the object of the Slidells; and that required notoriety: and the game being in their hands, they played it accordingly. Arriving at Havana, the secret minister put on the full uniform of an American naval officer, entered an open *volante*, and driving through the principal streets at high noon, proceeded to the suburban residence of the exiled dictator. Admitted to a private interview (for he spoke Spanish, learnt in Spain), the plumed and decorated officer made known his secret business. Santa Anna was amazed, but not disconcerted. He saw the folly and the danger of the proceeding, eschewed blunt overture, and got rid of his queer visitor in the shortest time, and the civilest phrases which Spanish decorum would admit. The repelled minister gone, Santa Anna called back his secretary, exclaiming as he entered—"*Porque el Presidente me ha enviado este tonto?*" (Why has the President sent me this fool?) It was not until afterwards, and through the instrumentality of a sounder head, that the mode of the dictator's return was arranged: and the folly which Mackenzie exhibited on this occasion was of a piece with his crazy and preposterous conceptions on board the Somers.

Fourteen years have elapsed since this tragedy of the Somers. The chief in that black and bloody drama (unless Wales is to be considered the master-spirit, and the commander and lieutenant only his instruments) has gone to his long account. Some others, concerned with him, have passed away. The vessel itself, bearing a name illustrious in the navy annals, has gone to the bottom of the sea—foundering—and going down with all on board; the circling waves closing over the heads of the doomed mass, and hiding all from the light of Heaven before they were dead. And the mind of seamen, prone to belief in portents, prodigies, signs and judgments, refer the hapless fate of the vessel to the innocent blood which had been shed upon her.

History feels it to be a debt of duty to examine this transaction to the bottom, and to judge it closely—not with a view to affect individuals, but to relieve national character from a foul imputation. It was the crime of individuals: it was made national. The protection of the government, the lenity of the court, the evasions of the judiciary, and the general approving voice, made a nation's offence out of the conduct of some individuals, and brought reproach upon the American name. All Christendom recoiled with horror from the atrocious deed: all friends to America beheld with grief and amazement the national assumption of such a crime. Cotemporary with the event, and its close observer, the writer of this View finds confirmed now, upon the fullest examination, the severe judgment which he formed upon it at the time.

The naval historian, Fenimore Cooper (who himself had been a naval officer), wrote a clear exposure of all the delusion, falsehood, and wickedness of this imputed mutiny, and of the

mockery of the court-martial trial of Mackenzie: but unavailing in the then condition of the public mind, and impotent against the vast machinery of the public press which was brought to bear on the dead. From that publication, and the official record of the trial, this view of the transaction is made up.

124. Retirement Of Mr. Webster From Mr. Tyler's Cabinet

Mr. Tyler's cabinet, as adopted from President Harrison, in April 1841, had broken up, as before related, in September of the same year—Mr. Webster having been prevailed upon to remain, although he had agreed to go out with the rest, and his friends thought he should have done so. His remaining was an object of the greatest importance with Mr. Tyler, abandoned by all the rest, and for such reasons as they published. He had remained with Mr. Tyler until the spring of the year 1843, when the progress of the Texas annexation scheme, carried on privately, not to say clandestinely, had reached a point to take an official form, and to become the subject of government negotiation, though still secret. Mr. Webster, Secretary of State, was an obstacle to that negotiation. He could not even be trusted with the secret, much less with the conduct of the negotiations. How to get rid of him was a question of some delicacy. Abrupt dismission would have revolted his friends. Voluntary resignation was not to be expected, for he liked the place of Secretary of State, and had remained in it against the wishes of his friends. Still he must be got rid of. A middle course was fallen upon—the same which had been practised with others in 1841—that of compelling a resignation. Mr. Tyler became reserved and indifferent to him. Mr. Gilmer and Mr. Upshur, with whom he had but few affinities, took but little pains to conceal their distaste to him. It was evident to him when the cabinet met, that he was one too many; and reserve and distrust was visible both in the President and the Virginia part of his cabinet. Mr. Webster felt it, and named it to some friends. They said, resign! He did so; and the resignation was accepted with an alacrity which showed that it was waited for. Mr. Upshur took his place, and quickly the Texas negotiation became official, though still private; and in this appointment, and immediate opening of the Texas negotiation, stood confessed, the true reason for getting rid of Mr. Webster.

125. Death Of William H. Crawford

He was among the few men of fame that I have seen, that aggrandized on the approach—that having the reputation of a great man, became greater, as he was more closely examined. There was every thing about him to impress the beholder favorably and grandly—in stature "a head and shoulders" above the common race of men, justly proportioned, open countenance, manly features, ready and impressive conversation, frank and cordial manners. I saw him for the first time in 1820, when he was a member of Mr. Monroe's cabinet—when the array of eminent men was thick—when historic names of the expiring generation were still on the public theatre, and many of the new generation (to become historic) were entering upon it: and he seemed to compare favorably with the foremost. And that was the judgment of others. For a long time he was deferred to generally, by public opinion, as the first of the new men who were to become President. Mr. Monroe, the last of the revolutionary stock, was passing off: Mr. Crawford was his assumed successor. Had the election come on one term sooner, he would have been the selected man: but his very eminence became fatal to him. He was formidable to all the candidates, and all combined against him. He was pulled down in 1824; but at an age, with an energy, a will, a talent and force of character, which would have brought him up within a few years, if a foe more potent than political combinations had not fallen upon him: he was struck with paralysis before the canvass was over, but still received an honorable vote, and among such competitors as Jackson, Adams, and Clay. But his career was closed as a national man, and State appointments only attended him during the remaining years of his life.

Mr. Crawford served in the Senate during Mr. Madison's administration, and was the conspicuous mark in that body, then pre-eminent for its able men. He had a copious, ready and powerful elocution—spoke forcibly and to the point—was the Ajax of the administration, and as such, had constantly on his hands the splendid array of federal gentlemen who then held divided empire in the Senate chamber. Senatorial debate was of high order then—a rivalship of courtesy, as well as of talent: and the feeling of respect for him was not less in the embattled phalanx of opposition, than in the admiring ranks of his own party. He was invaluable in the Senate, but the state of Europe—then convulsed with the approaching downfall of the Great Emperor—our own war with Great Britain, and the uncertainty of the new combinations which might be formed—all required a man of head and nerve—of mind and will, to represent the United States at the French Court: and Mr. Crawford was selected for the arduous post. He told Mr. Madison that the Senate would be lost if he left it (and it was); but a proper representative in France in that critical juncture of Europe, was an overpowering consideration—and he went. Great events took place while he was there. The Great Emperor fell: the Bourbons came up, and fell. The Emperor reappeared, and fell again. But the interests of the United States were kept unentangled in European politics; and the American minister was the only one that could remain at his post in all these sudden changes. At the marvellous return from Elba, he was the sole foreign representative remaining in Paris. Personating the neutrality of his country with decorum and firmness, he succeeded in commanding the respect of all, giving offence to none. From this high critical post he was called by Mr. Monroe, at his first election, to be Secretary of the Treasury; and, by public expectation, was marked for the presidency. There was a desire to take him up at the close of Mr. Monroe's first term; but a generous and honorable feeling would not allow him to become the competitor of his friend; and before the second term was out, the combinations had become too strong for him. He was the last candidate nominated by a Congress caucus, then fallen into great disrepute, but immeasurably preferable, as an organ of public opinion,

to the conventions of the present day. He was the dauntless foe of nullification; and, while he lived, that heresy could not root in the patriotic soil of Georgia.

126. First Session Of The Twenty-Eighth Congress: List Of Members: Organization Of The House Of Representatives

Senate.

Maine.—John Fairfield, George Evans.

New Hampshire.—Levi Woodbury, Charles G. Atherton.

Vermont.—Samuel Phelps, William C. Upham.

Massachusetts.—Rufus Choate, Isaac C. Bates.

Rhode Island.—William Sprague, James F. Simmons.

Connecticut.—J. W. Huntington, John M. Niles.

New York.—N. P. Tallmadge, Silas Wright.

New Jersey.—W. L. Dayton, Jacob W. Miller.

Pennsylvania.—D. W. Sturgeon, James Buchanan.

Delaware.—R. H. Bayard, Thomas Clayton.

Maryland.—William D. Merrick, Reverdy Johnson.

Virginia.—Wm. C. Rives, Wm. S. Archer.

North Carolina.—Willie P. Mangum, Wm. H. Haywood, jr.

South Carolina.—Daniel E. Hugér, George McDuffie.

Georgia.—John M. Berrien, Walter T. Colquitt.

Alabama.—William R. King, Arthur P. Bagby.

Mississippi.—John Henderson, Robert J. Walker.

Louisiana.—Alexander Barrow, Alexander Porter.

Tennessee.—E. H. Foster, Spencer Jarnagan.

Kentucky.—John T. Morehead, John J. Crittenden.

Ohio.—Benjamin Tappan, William Allen.

Indiana.—Albert S. White, Ed. A. Hannegan.

Illinois.—James Semple, Sidney Breese.

Missouri.—T. H. Benton, D. R. Atchison.

Arkansas.—Wm. S. Fulton, A. H. Sevier.

Michigan.—A. S. Porter, W. Woodbridge.

House of Representatives.

Maine.—Joshua Herrick, Robert P. Dunlap, Luther Severance, Hannibal Hamlin.

Massachusetts.—Robert C. Winthrop, Daniel P. King, William Parmenter, Charles Hudson, (Vacancy), John Quincy Adams, Henry Williams, Joseph Grinnel.

New Hampshire.—Edmund Burke, John R. Reding, John P. Hale, Moses Norris, jr.

Rhode Island.—Henry Y. Cranston, Elisha R. Potter.

Connecticut.—Thomas H. Seymour, John Stewart, George S. Catlin, Samuel Simons.

Vermont.—Solomon Foot, Jacob Collamer, George P. Marsh, Paul Dillingham, jr.

New York.—Selah B. Strong, Henry C. Murphy, J. Philips Phœnix, William B. Maclay, Moses G. Leonard, Hamilton Fish, Jos. H. Anderson, R. D. Davis, Jas. G. Clinton, Jeremiah Russell, Zadoc Pratt, David L. Seymour, Daniel D. Barnard, Wm. G. Hunter, Lemuel Stetson, Chesselden Ellis, Charles S. Benton, Preston King, Orville Hungerford, Samuel Beardsley, J. E. Cary, S. M. Purdy, Orville Robinson, Horace Wheaton, George Rathbun, Amasa Dana, Byram Green, Thos. J. Patterson, Charles H. Carroll, Wm. S. Hubbell, Asher Tyler, Wm. A. Moseley, Albert Smith, Washington Hunt.

New Jersey.—Lucius Q. C. Elmer, George Sykes, Isaac G. Farlee, Littleton Kirkpatrick, Wm. Wright.

Pennsylvania.—Edward J. Morris, Joseph R. Ingersoll, John T. Smith, Charles J. Ingersoll, Jacob S. Yost, Michael H. Jenks, Abrah. R. McIlvaine, Henry Nes, James Black, James Irvin, Andrew Stewart, Henry D. Foster, Jeremiah Brown, John Ritter, Rich. Brodhead, jr., Benj. A. Bidlack, Almond H. Read, Henry Frick, Alexander Ramsey, John Dickey, William Wilkins, Samuel Hays, Charles M. Read, Joseph Buffington.

Delaware.—George B. Rodney.

Maryland.—J. M. S. Causin, F. Brengle, J. Withered, J. P. Kennedy, Dr. Preston, Thomas A. Spence.

Virginia.—Archibald Atkinson, Geo. C. Dromgoole, Walter Coles, Edmund Hubard, Thomas W. Gilmer, John W. Jones, Henry A. Wise, Willoughby Newton, Samuel Chilton, William F. Lucas, William Taylor, A. A. Chapman, Geo. W. Hopkins, Geo. W. Summers, Lewis Steenrod.

North Carolina.—Thomas J. Clingman, D. M. Barringer, David S. Reid, Edmund Deberry, R. M. Saunders, James J. McKay, J. R. Daniel, A. H. Arrington, Kenneth Rayner.

South Carolina.—James A. Black, Richard F. Simpson, Joseph A. Woodward, John Campbell, Artemas Burt, Isaac E. Holmes, R. Barnwell Rhett.

Georgia.—E. J. Black, H. A. Haralson, J. H. Lumpkin, Howell Cobb, Wm. H. Stiles, Alexander H. Stevens, A. H. Chappell.

Kentucky.—Linn Boyd, Willis Green, Henry Grider, George A. Caldwell, James Stone, John White, William P. Thompson, Garrett Davis, Richard French, J. W. Tibbatts.

Tennessee.—Andrew Johnson, William T. Senter, Julius W. Blackwell, Alvan Cullom, George W. Jones, Aaron V. Brown, David W. Dickinson, James H. Peyton, Cave Johnson, John B. Ashe, Milton Brown.

Ohio.—Alexander Duncan, John B. Weller, Robt. C. Schenck, Joseph Vance, Emery D. Potter, Joseph J. McDowell, John I. Vanmeter, Elias Florence, Heman A. Moore, Jacob Brinkerhoff, Samuel F. Vinton, Perley B. Johnson, Alexander Harper, Joseph Morris, James Mathews, Wm. C. McCauslin, Ezra Dean, Daniel R. Tilden, Joshua R. Giddings, H. R. Brinkerhoff.

Louisiana.—John Slidell, Alcée Labranche, John B. Dawson, P. E. Bossier.

Indiana.—Robt. Dale Owen, Thomas J. Henley, Thomas Smith, Caleb B. Smith, Wm. J. Brown, John W. Davis, Joseph A. Wright, John Pettit, Samuel C. Sample, Andrew Kennedy.

Illinois.—Robert Smith, John A. McClernand, Orlando B. Ficklin, John Wentworth, Stephen A. Douglass, Joseph P. Hoge, J. J. Hardin.

Alabama.—James Dellet, James E. Belser, Dixon H. Lewis, William W. Payne, George S. Houston, Reuben Chapman, Felix McConnell.

Mississippi.—Wm. H. Hammett, Robert W. Roberts, Jacob Thompson, Tilghman M. Tucker.

Missouri.—James M. Hughes, James H. Relfe, Gustavus B. Bower, James B. Bowlin, John Jameson.

[5665]Arkansas.—Edward Cross.

Michigan.—Robert McClelland, Lucius Lyon, James B. Hunt.

Territorial Delegates.

Florida.—David Levy.

Wisconsin.—Henry Dodge.

Iowa.—Augustus C. Dodge.

The election of Speaker was the first business on the assembling of the Congress, and its result was the authentic exposition of the state of parties. Mr. John W. Jones, of Virginia, the democratic candidate, received 128 votes on the first ballot, and was elected—the whig candidate (Mr. John White, late Speaker) receiving 59. An adverse majority of more than two to one was the result to the whig party at the first election after the extra session of 1841—at the first election after that "log-cabin, hard-cider and coon-skin" campaign in which the whigs had carried the presidential election by 234 electoral votes against 60: so truly had the democratic senators foreseen the destruction of the party in the contests of the extra session of 1841. The Tyler party was "no where"—Mr. Wise alone being classified as such—the rest, so few in number as to have been called the "corporal's guard," had been left out of Congress by their constituents, or had received office from Mr. Tyler, and gone off. Mr. Caleb McNulty, of Ohio, also democratic, was elected clerk of the House, and by a vote of two to one, thus ousting an experienced and capable whig officer, in the person of Mr. Matthew St. Clair Clarke—a change which turned out to be unfortunate for the friends of the House, and mortifying to those who did it—the new clerk becoming a subject of indictment for embezzlement before his service was over.

127. Mr. Tyler’s Second Annual Message

The prominent topics of the message were the state of our affairs with Great Britain and Mexico—with the former in relation to Oregon, the latter in relation to Texas. In the same breath in which the President announced the happy results of the Ashburton treaty, he was forced to go on and show the improvidence of that treaty on our part, in not exacting a settlement of the questions which concerned the interests of the United States, while settling those which lay near to the interests of Great Britain. The Oregon territorial boundary was one of these omitted American subjects; but though passed over by the government in the negotiations, it was forced upon its attention by the people. A stream of emigration was pouring into that territory, and their presence on the banks of the Columbia caused the attention of both governments to be drawn to the question of titles and boundaries; and Mr. Tyler introduced it accordingly to Congress.

“A question of much importance still remains to be adjusted between them. The territorial limits of the two countries in relation to what is commonly known as the Oregon Territory, still remains in dispute. The United States would be at all times indisposed to aggrandize themselves at the expense of any other nation; but while they would be restrained by principles of honor, which should govern the conduct of nations as well as that of individuals, from setting up a demand for territory which does not belong to them, they would as unwillingly consent to a surrender of their rights. After the most rigid, and, as far as practicable, unbiassed examination of the subject, the United States have always contended that their rights appertain to the entire region of country lying on the Pacific, and embraced within 42° and 54° 40’ of north latitude. This claim being controverted by Great Britain, those who have preceded the present Executive—actuated, no doubt, by an earnest desire to adjust the matter upon terms mutually satisfactory to both countries—have caused to be submitted to the British Government propositions for settlement and final adjustment, which, however, have not proved heretofore acceptable to it. Our Minister at London has, under instructions, again brought the subject to the consideration of that Government; and while nothing will be done to compromit the rights or honor of the United States, every proper expedient will be resorted to, in order to bring the negotiation now in the progress of resumption to a speedy and happy termination.”

This passage, while letting it be seen that we were already engaged in a serious controversy with Great Britain—engaged in it almost before the ink was dry which had celebrated the peace mission which was to settle all questions—also committed a serious mistake in point of fact, and which being taken up as a party watchword, became a difficult and delicate point of management at home: it was the line of 54 degrees 40 minutes north for our northern boundary on the Pacific. The message says that the United States have always contended for that line. That is an error. From the beginning of the dispute, the United States government had proposed the parallel of 49 degrees, as being the continuation of the dividing line on this side of the Rocky Mountains, and governed by the same law—the decision of the commissaries appointed by the British and French under the tenth article of the treaty of Utrecht to establish boundaries between them on the continent of North America. President Jefferson offered that line in 1807—which was immediately after the return of Messrs. Lewis and Clark from their meritorious expedition, and as soon as it was seen that a question of boundary was to arise in that quarter with Great Britain. President Monroe made the same offer in 1818, and also in 1824. Mr. Adams renewed it in 1826: so that, so far from having always claimed to 54-40, the United States had always offered the parallel of 49. As to 54-40,

no American statesman had ever thought of originating a title there. It was a Russian point of demarcation on the coast and islands—not a continental line at all—first assigned to the Russian Fur Company by the Emperor Paul, and afterwards yielded to Russia by the United States and Great Britain, separately, in separating their respective claims on the north-west of America. She was allowed to come south to that point on the coast and islands, not penetrating the interior of the continent—leaving the rest for Great Britain and the United States to settle as they could. It was proposed at the time that the three powers should settle together—in a tripartite treaty: but the Emperor Alexander, like a wise man, contented himself with settling his own boundary, without mixing himself in the dispute between the United States and Great Britain. This he did about the year 1820: and it was long afterwards, and by those who knew but little of this establishment of a southern limit for the Russian Fur Company, that this point established in their charter, and afterwards agreed to by the United States and Great Britain, was taken up as the northern boundary for the United States. It was a great error in Mr. Tyler to put this Russian limit in his message for our line; and, being taken up by party spirit, and put into one of those mushroom political creeds, called "platforms" (wherewith this latter generation has been so plentifully cursed), it came near involving the United States in war.

The prospective war with Mexico on the subject of Texas was thus shadowed forth:

"I communicate herewith certain despatches received from our Minister at Mexico, and also a correspondence which has recently occurred between the envoy from that republic and the Secretary of State. It must be regarded as not a little extraordinary that the government of Mexico, in anticipation of a public discussion, which it has been pleased to infer, from newspaper publications, as likely to take place in Congress, relating to the annexation of Texas to the United States, should have so far anticipated the result of such discussion as to have announced its determination to visit any such anticipated decision by a formal declaration of war against the United States. If designed to prevent Congress from introducing that question as a fit subject for its calm deliberation and final judgment, the Executive has no reason to doubt that it will entirely fail of its object. The representatives of a brave and patriotic people will suffer no apprehension of future consequences to embarrass them in the course of their proposed deliberations. Nor will the Executive Department of the government fail, for any such cause, to discharge its whole duty to the country."

At the time of communicating this information to Congress, the President was far advanced in a treaty with Texas for her annexation to the United States—an event which would be war itself with Mexico, without any declaration on her part, or our part—she being then at war with Texas as a revolted province, and endeavoring to reclaim her to her former subjection. Still prepossessed with his idea of a national currency of paper money, in preference to gold and silver, the President recurs to his previous recommendation for an Exchequer bank—regrets its rejection by Congress,—vaunts its utility—and thinks that it would still aid, in a modified form, in restoring the currency to a sound and healthy state.

"In view of the disordered condition of the currency at the time, and the high rates of exchange between different parts of the country, I felt it to be incumbent on me to present to the consideration of your predecessors a proposition conflicting in no degree with the constitution or the rights of the States, and having the sanction—not in detail, but in principle—of some of the eminent men who had preceded me in the executive office. That proposition contemplated the issuing of treasury notes of denominations not less than five, nor more than one hundred dollars, to be employed in payment of the obligations of the government in lieu of gold and silver, at the option of the public creditor, and to an amount not exceeding $15,000,000. It was proposed to make them receivable every where, and to

establish at various points depositories of gold and silver, to be held in trust for the redemption of such notes, so as to insure their convertibility into specie. No doubt was entertained that such notes would have maintained a par value with gold and silver—thus furnishing a paper currency of equal value over the Union, thereby meeting the just expectations of the people, and fulfilling the duties of a parental government. Whether the depositories should be permitted to sell or purchase bills under very limited restrictions, together with all its other details, was submitted to the wisdom of Congress, and was regarded as of secondary importance. I thought then, and think now, that such an arrangement would have been attended with the happiest results. The whole matter of the currency would have been placed where, by the constitution, it was designed to be placed—under the immediate supervision and control of Congress. The action of the government would have been independent of all corporations; and the same eye which rests unceasingly on the specie currency, and guards it against adulteration, would also have rested on the paper currency, to control and regulate its issues, and protect it against depreciation. Under all the responsibilities attached to the station which I occupy, and in redemption of a pledge given to the last Congress, at the close of its first session, I submitted the suggestion to its consideration at two consecutive sessions. The recommendation, however, met with no favor at its hands. While I am free to admit that the necessities of the times have since become greatly ameliorated, and that there is good reason to hope that the country is safely and rapidly emerging from the difficulties and embarrassments which every where surrounded it in 1841, yet I cannot but think that its restoration to a sound and healthy condition would be greatly expedited by a resort to the expedient in a modified form."

Such were still the sighings and longings of Mr. Tyler for a national currency of paper money. They were his valedictory to that delusive cheat. Before he had an opportunity to present another annual message, the Independent Treasury System, and the revived gold currency had done their office—had given ease and safety to the government finances, had restored prosperity and confidence to the community, and placed the country in a condition to dispense with all small money paper currency—all under twenty dollars—if it only had the wisdom to do so.

128. Explosion Of The Great Gun On Board The Princeton Man-Of-War: The Killed And Wounded

On the morning of the 28th of February, a company of some hundred guests, invited by Commodore Stockton, including the President of the United States, his cabinet, members of both Houses of Congress, citizens and strangers, with a great number of ladies, headed by Mrs. Madison, ex-presidentess, repaired on board the steamer man-of-war Princeton, then lying in the river below the city, to witness the working of her machinery (a screw propeller), and to observe the fire of her two great guns—throwing balls of 225 pounds each. The vessel was the pride and pet of the commodore, and having undergone all the trials necessary to prove her machinery and her guns, was brought round to Washington for exhibition to the public authorities. The day was pleasant—the company numerous and gay. On the way down to the vessel a person whispered in my ear that Nicholas Biddle was dead. It was my first information of that event, and heard not without reflections on the instability and shadowy fleetingness of the pursuits and contests of this life. Mr. Biddle had been a Power in the State, and for years had baffled or balanced the power of the government. He had now vanished, and the news of his death came in a whisper, not announced in a tumult of voices; and those who had contended with him might see their own sudden and silent evanescence in his. It was a lesson upon human instability, and felt as such; but without a thought or presentiment that, before the sun should go down, many of that high and gay company should vanish from earth—and the one so seriously impressed barely fail to be of the number.

The vessel had proceeded down the river below the grave of Washington—below Mount Vernon—and was on her return, the machinery working beautifully, the guns firing well, and the exhibition of the day happily over. It was four-o'clock in the evening, and a sumptuous collation had refreshed and enlivened the guests. They were still at the table, when word was brought down that one of the guns was to be fired again; and immediately the company rose to go on deck and observe the fire—the long and vacant stretch in the river giving full room for the utmost range of the ball. The President and his cabinet went foremost, this writer among them, conversing with Mr. Gilmer, Secretary of the Navy. The President was called back: the others went on, and took their places on the left of the gun—pointing down the river. The commodore was with this group, which made a cluster near the gun, with a crowd behind, and many all around. I had continued my place by the side of Mr. Gilmer, and of course was in the front of the mass which crowded up to the gun. The lieutenant of the vessel, Mr. Hunt, came and whispered in my ear that I would see the range of the ball better from the breech; and proposed to change my place. It was a tribute to my business habits, being indebted for this attention to the interest which I had taken all day in the working of the ship, and the firing of her great guns. The lieutenant placed me on a carronade carriage, some six feet in the rear of the gun, and in the line of her range. Senator Phelps had stopped on my left, with a young lady of Maryland (Miss Sommerville) on his arm. I asked them to get on the carriage to my right (not choosing to lose my point of observation): which they did—the young lady between us, and supported by us both, with the usual civil phrases, that we would take care of her. The lieutenant caused the gun to be worked, to show the ease and precision with which her direction could be changed and then pointed down the river to make the fire—himself and the gunners standing near the breech on the right. I opened my mouth wide to receive the concussion on the inside as well as on the outside of the head and ears, so as to lessen the force of the external shock. I saw the hammer pulled back—heard a tap—saw a flash—felt a blast in the face, and knew that my hat was gone: and that was the last that I

knew of the world, or of myself, for a time, of which I can give no account. The first that I knew of myself, or of any thing afterwards, was rising up at the breech of the gun, seeing the gun itself split open—two seamen, the blood oozing from their ears and nostrils, rising and reeling near me—Commodore Stockton, hat gone, and face blackened, standing bolt upright, staring fixedly upon the shattered gun. I had heard no noise—no more than the dead. I only knew that the gun had bursted from seeing its fragments. I felt no injury, and put my arm under the head of a seaman, endeavoring to rise, and falling back. By that time friends had ran up, and led me to the bow—telling me afterwards that there was a supernatural whiteness in the face and hands—all the blood in fact having been driven from the surface. I saw none of the killed: they had been removed before consciousness returned. All that were on the left had been killed, the gun bursting on that side, and throwing a large fragment, some tons weight, on the cluster from which I had been removed, crushing the front rank with its force and weight. Mr. Upshur, Secretary of State; Mr. Gilmer, Secretary of the Navy; Commodore Kennon, of the navy; Mr. Virgil Maxey, late United States chargé at the Hague; Mr. Gardiner of New York, father-in-law that would have been to Mr. Tyler—were the dead. Eleven seamen were injured—two mortally. Commodore Stockton was scorched by the burning powder, and stunned by the concussion; but not further injured. I had the tympanum of the left ear bursted through, the warm air from the lungs issuing from it at every breathing. Senator Phelps and the young lady on my right, had fallen inwards towards the gun, but got up without injury. We all three had fallen inwards, as into a vacuum. The President's servant who was next me on the left was killed. Twenty feet of the vessels bulwark immediately behind me was blown away. Several of the killed had members of their family on board—to be deluded for a little while, by the care of friends, with the belief that those so dear to them were only hurt. Several were prevented from being in the crushed cluster by the merest accidents—Mr. Tyler being called back—Mr. Seaton not finding his hat in time—myself taken out of it the moment before the catastrophe. Fortunately there were physicians on board to do what was right for the injured, and to prevent blood-letting, so ready to be called for by the uninformed, and so fatal when the powers of life were all on the retreat. Gloomily and sad the gay company of the morning returned to the city, and the calamitous intelligence flew over the land. For myself, I had gone through the experience of a sudden death, as if from lightning, which extinguishes knowledge and sensation, and takes one out of the world without thought or feeling. I think I know what it is to die without knowing it—and that such a death is nothing to him that revives. The rapid and lucid working of the mind to the instant of extinction, is the marvel that still astonishes me. I heard the tap—saw the flash—felt the blast—and knew nothing of the explosion. I was cut off in that inappreciable point of time which intervened between the flash and the fire—between the burning of the powder in the touch-hole, and the burning of it in the barrel of the gun. No mind can seize that point of time—no thought can measure it; yet to me it was distinctly marked, divided life from death—the life that sees, and feels, and knows—from death (for such it was for the time), which annihilates self and the world. And now is credible to me, or rather comprehensible, what persons have told me of the rapid and clear working of the mind in sudden and dreadful catastrophes—as in steamboat explosions, and being blown into the air, and have the events of their lives pass in review before them, and even speculate upon the chances of falling on the deck, and being crushed, or falling on the water and swimming: and persons recovered from drowning, and running their whole lives over in the interval between losing hope and losing consciousness.

129. Reconstruction Of Mr. Tyler’s Cabinet

This was the second event of the kind during the administration of Mr. Tyler—the first induced by the resignation of *Messrs.* Ewing, Crittenden, Bell, and Badger, in 1841; the second, by the deaths of *Messrs.* Upshur and Gilmer by the explosion of the Princeton gun. Mr. Calhoun was appointed Secretary of State; John C. Spencer of New York, Secretary of the Treasury; William Wilkins of Pennsylvania, Secretary at War; John Y. Mason, of Virginia, Secretary of the Navy; Charles A. Wickliffe, of Kentucky, Postmaster General; John Nelson, of Maryland, Attorney General. The resignation of Mr. Spencer in a short time made a vacancy in the Treasury, which was filled by the appointment of George M. Bibb, of Kentucky.

130. Death Of Senator Porter, Of Louisiana: Eulogium Of Mr. Benton

Mr Benton. I rise to second the motion which has been made to render the last honors of this chamber to our deceased brother senator, whose death has been so feelingly announced; and in doing so, I comply with an obligation of friendship, as well as conform to the usage of the Senate. I am the oldest personal friend which the illustrious deceased could have upon this floor, and amongst the oldest which he could have in the United States. It is now, sir, more than the period of a generation—more than the third of a century—since the then emigrant Irish boy, Alexander Porter, and myself, met on the banks of the Cumberland River, at Nashville, in the State of Tennessee; when commenced a friendship which death only dissolved on his part. We belonged to a circle of young lawyers and students at law, who had the world before them, and nothing but their exertions to depend upon. First a clerk in his uncle's store, then a student at law, and always a lover of books, the young Porter was one of that circle, and it was the custom of all that belonged to it to spend their leisure hours in the delightful occupation of reading. History, poetry, elocution, biography, the ennobling speeches of the living and the dead, were our social recreation; and the youngest member of the circle was one of our favorite readers. He read well, because he comprehended clearly, felt strongly, remarked beautifully upon striking passages, and gave a new charm to the whole with his rich, mellifluous Irish accent. It was then that I became acquainted with Ireland and her children, read the ample story of her wrongs, learnt the long list of her martyred patriots' names, sympathized in their fate, and imbibed the feelings for a noble and oppressed people which the extinction of my own life can alone extinguish.

Time and events dispersed that circle. The young Porter, his law license signed, went to the Lower Mississippi; I to the Upper. And, years afterwards, we met on this floor, senators from different parts of that vast Louisiana which was not even a part of the American Union at the time that he and I were born. We met here in the session of 1833-'34—high party times, and on opposite sides of the great party line; but we met as we had parted years before. We met as friends; and, though often our part to reply to each other in the ardent debate, yet never did we do it with other feelings than those with which we were wont to discuss our subjects of recreation on the banks of the Cumberland.

I mention these circumstances, Mr. President, because, while they are honorable to the deceased, they are also justificatory to myself for appearing as the second to the motion which has been made. A personal friendship of almost forty years gives me a right to appear as a friend to the deceased on this occasion, and to perform the office which the rules and the usage of the Senate permit, and which so many other senators would so cordially and so faithfully perform.

In performing this office, I have, literally, but little less to do but to second the motion of the senator from Louisiana (Mr. Barrow). The mover has done ample justice to his great subject. He also had the advantage of long acquaintance and intimate personal friendship with the deceased. He also knew him on the banks of the Cumberland, though too young to belong to the circle of young lawyers and law students, of which the junior member—the young Alexander Porter—was the chief ornament and delight. But he knew him—long and intimately—and has given evidence of that knowledge in the just, the feeling, the cordial, and impressive eulogium which he has just delivered on the life and character of his deceased friend and colleague. He has presented to you the matured *man*, as developed in his ripe and

meridian age: he has presented to you the finished scholar—the eminent lawyer—the profound judge—the distinguished senator—the firm patriot—the constant friend—the honorable man—the brilliant converser—the social, cheerful, witty companion. He has presented to you the ripe fruit, of which I saw the early blossom, and of which I felt the assurance more than thirty years ago, that it would ripen into the golden fruit which we have all beheld.

Mr. President, this is no vain or empty ceremonial in which the Senate is now engaged. Honors to the illustrious dead go beyond the discharge of a debt of justice to them, and the rendition of consolation to their friends: they become lessons and examples for the living. The story of their humble beginning and noble conclusion, is an example to be followed, and an excitement to be felt. And where shall we find an example more worthy of imitation, or more full of encouragement, than in the life and character of Alexander Porter?—a lad of tender age—an orphan with a widowed mother and younger children—the father martyred in the cause of freedom—an exile before he was ten years old—an ocean to be crossed, and a strange land to be seen, and a wilderness of a thousand miles to be penetrated before he could find a resting-place for the sole of his foot: then education to be acquired, support to be earned, and even citizenship to be gained, before he could make his own talents available to his support: conquering all these difficulties by his own exertions, and the aid of an affectionate uncle—(I will name him, for the benefactor of youth deserves to be named, and named with honor in the highest places)—with no other aid but that of an uncle's kindness, Mr. Alexander Porter, sen., merchant of Nashville, also an emigrant from Ireland, and full of the generous qualities which belong to the children of that soil: this lad, an exile and an orphan from the Old World, thus starting in the New World, with every thing to gain before it could be enjoyed, soon attained every earthly object, either brilliant or substantial, for which we live and struggle in this life—honors, fortune, friends; the highest professional and political distinction; long a supreme judge in his adopted State; twice a senator in the Congress of the United States—wearing all his honors fresh and glowing to the last moment of his life—and the announcement of his death followed by the adjournment of the two Houses of the American Congress! What a noble and crowning conclusion to a beginning so humble, and so apparently hopeless! Honors to such a life—the honors which we now pay to the memory of Senator Porter—are not mere offerings to the dead, or mere consolations to the feelings of surviving friends and relations; they go further, and become incentives and inducements to the ingenuous youth of the present and succeeding generations, encouraging their hopes, and firing their spirits with a generous emulation.

Nor do the benefits of these honors stop with individuals, nor even with masses, or generations of men. They are not confined to *persons*, but rise to *institutions*—to the noble republican institutions under which such things can be! Republican government itself—that government which holds man together in the proud state of equality and liberty—this government is benefited by the exhibition of the examples such as we now celebrate, and by the rendition of the honors such as we now pay. Our deceased brother senator has honored and benefited our free republican institutions by the manner in which he has advanced himself under them; and we make manifest that benefit by the honors which we pay him. He has given a practical illustration of the working of our free, and equal, and elective form of government; and our honors proclaim the nature of that working. What is done in this chamber is not done in a corner, but on a lofty eminence, seen of all people. Europe, as well as America, will see how our form of government has worked in the person of an orphan exiled boy, seeking refuge in the land which gives to virtue and talent all that they will ever ask—the free use of their own exertions for their own advancement.

Our deceased brother was not an American citizen by accident of birth; he became so by the choice of his own will, and by the operation of our laws. The events of his life, and the business of this day, shows this title to citizenship to be as valid in our America as it was in the great republic of antiquity. I borrow the thought, not the language of Cicero, in his pleading for the poet Archias, when I place the citizen who becomes so by law and choice on an equal footing with the citizen who becomes so by chance. And, in the instance before us, we may say that our adopted citizen has repaid us for the liberality of our laws; that he has added to the stock of our national character by the contributions which he has brought to it in the purity of his private life, the eminence of his public services, the ardor of his patriotism, and the elegant productions of his mind.

And here let me say—and I say it with pride and satisfaction—our deceased brother senator loved and admired his adopted country, with a love and admiration increasing with his age, and with his better knowledge of the countries of the Old World. A few years ago, and after he had obtained great honor and fortune in this country, he returned on a visit to his native land, and to the continent of Europe. It was an occasion of honest exultation for the orphan emigrant boy to return to the land of his fathers, rich in the goods of this life, and clothed with the honors of the American Senate. But the visit was a melancholy one to him. His soul sickened at the state of his fellow man in the Old World (I had it from his own lips), and he returned from that visit with stronger feelings than ever in favor of his adopted country. New honor awaited him here—that of a second election to the American Senate. But of this he was not permitted to taste; and the proceedings of this day announce his second brief elevation to this body, and his departure from it through the gloomy portals of death, and the radiant temple of enduring fame.

131. Naval Academy, And Naval Policy Of The United States

By scraps of laws, regulations, and departmental instructions, a Naval Academy has grown up, and a naval policy become established for the United States, without the legislative wisdom of the country having passed upon that policy, and contrary to its previous policy, and against its interest and welfare. A Naval Academy, with 250 pupils, and annually coming off in scores, makes perpetual demand for ships and commissions; and these must be furnished, whether required by the public service or not; and thus the idea of a limited navy, or of a naval peace establishment, is extinguished; and a perpetual war establishment in time of peace is growing up upon our hands. Prone to imitate every thing that was English, there was a party among us from the beginning which wished to make the Union, like Great Britain, a great naval power, without considering that England was an island, with foreign possessions; which made a navy a necessity of her position and her policy, while we were a continent, without foreign possessions, to whom a navy would be an expensive and idle encumbrance; without considering that England is often by her policy required to be aggressive, the United States never; without considering that England is a part of the European system, and subject to wars (to her always maritime) in which she has no interest, while the United States, in the isolation of their geographical position, and the independence of their policy, can have no wars but her own; and those defensive. On the other hand, there was a large party, and dominant after the presidential election of 1800, which saw great evil in emulating Great Britain as a naval power, and made head against that emulation in all the modes of acting on the public mind: speeches and votes in Congress, essays, legislative declarations. The most authoritative, and best considered declaration of the principles of this party, was made some fifty years ago, in the General Assembly of Virginia, in the era of her greatest men; and when the minds of these men, themselves fathers of the State, was most profoundly turned to the nature, policy, and working of our government. All have heard of the Virginia resolutions of 1798-'99, to restrain the unconstitutional and unwise action of the federal government: there were certain other cotemporaneous resolutions from the same source in relation to a navy, of which but little has been known; and which, for forty years, and now, are of more practical importance than the former. In the session of her legislature, 1799-1800, in their "Instructions to Senators," that General Assembly said:

"With respect to the navy, it may be proper to remind you, that whatever may be the proposed object of its establishment, or whatever may be the prospect of temporary advantages resulting therefrom, it is demonstrated by the experience of all nations, which have ventured far into naval policy, that such prospect is ultimately delusive; and that a navy has ever, in practice, been known more as an instrument of power, a source of expense, and an occasion of collisions and of wars with other nations, than as an instrument of defence, of economy, or of protection to commerce. Nor is there any nation, in the judgment of this General Assembly, to whose circumstances these remarks are more applicable than to the United States."

Such was the voice of the great men of Virginia, some fifty years ago—the voice of reason and judgment then; and more just, judicious, and applicable, now, than then. Since that time the electro-magnetic telegraph, and the steam-car, have been invented—realizing for defensive war, the idea of the whole art of war, as conceived and expressed by the greatest of generals—DIFFUSION FOR SUBSISTENCE: CONCENTRATION FOR ACTION. That was the language of the Great Emperor: and none but himself could have so conceived and

expressed that idea. And now the ordinary commander can practise that whole art of war, and without ever having read a book upon war. He would know what to have done, and the country would do it. Play the telegraph at the approach of an invader, and summon the volunteer citizens to meet him at the water's edge. They would be found at home, diffused for subsistence: they would concentrate for action, and at the rate of 500 miles a day, or more if need be. In two days they would come from the Mississippi to the Atlantic. It would be the mere business of the accumulation of masses upon a given point, augmenting continually, and attacking incessantly. Grand tactics, and the "nineteen manœuvres," would be unheard of: plain and direct killing would be the only work. No amount of invading force could sustain itself a fortnight on any part of our coast. If hundreds of thousands were not enough to cut them up, millions would come—arms, munitions, provisions, arriving at the same time. With this defence—cheap, ready, omnipotent—who, outside of an insane hospital, would think of building and keeping up eternal fleets to meet the invader and fight him at sea? The idea would be senseless, if practicable; but it would be impracticable. There will never be another naval action fought for the command of the seas. There has been none such fought since the French and British fleets met off Ouessant, in 1793. That is the last instance of a naval action fought upon consent: all the rest have been mere catching and whipping: and there will never be another. Fleets must approach equality before they can fight; and with her five hundred men-of-war on hand, Great Britain is too far ahead to be overtaken by any nation, even if any one was senseless enough to incur her debt and taxes for the purpose. Look at Russia: building ships from the time of Peter the Great; and the first day they were wanted, all useless and a burden! only to be saved by the strongest fortifications in the world, filled with the strongest armies of the world! and all burnt, or sunk, that could not be so protected. Great Britain is compelled by the necessities of her position, to keep up great fleets: the only way to make head against them is to avoid swelling their numbers with the fleets of other nations—avoid the Trafalgars, Aboukirs, Copenhagens, St. Vincents—and prey upon her with cruisers and privateers. It is the profound observation of Alison, the English historian of the wars of the French revolution that the American cruisers did the British more mischief in their two years' war of 1812, than all the fleets of France did during their twenty years' war. What a blessing to our country, if American statesmen could only learn that one little sentence in Alison.

The war of 1812 taught American statesmen a great lesson; but they read it backwards, and understood it the reverse of its teaching. It taught the efficacy of cruising—the inefficacy of fleets. American cruisers, and privateers, did immense mischief to British commerce and shipping: British fleets did no mischief to America. Their cruisers did some mischief—their fleets none. And that is the way to read the lesson taught by the naval operations of the war of 1812. Cruisers, to be built when they are needed for use: not fleets to rot down in peace, while waiting for war. Yet, for forty years we have been building great ships—frigates equal to ships of the line: liners, nearly double the old size—120 guns instead of seventy-fours. Eleven of these great liners have been built, merely to rot! at enormous cost in the building, and great continual cost to delay the rotting; which, nevertheless, goes on with the regularity and certainty of time. A judicious administrative economy would have them all broken up (to say nothing of others), and the serviceable parts all preserved, to be built into smaller vessels when there shall be need for them. It is forty years since this system of building vessels for which there was no use, took its commencement, and the cry for more is greater now than it was in the beginning; and must continue. A history of each ship built in that time—what the building cost? what the repairs? what the alterations? what the equipment? what the crew? and how many shot she fired at an enemy? would be a history which ought to be instructive; for it would show an incredible amount of money as effectually wasted as if it had been thrown into the sea. Great as this building and rotting has been for forty years past, it must

continue to become greater. The Naval Academy is a fruitful mother, bearing 250 embryo officers in her womb at a time, and all the time; and most of them powerfully connected: and they must have ships and commissions, when they leave the mother's breast. They are the children of the country, and must be provided for—they and their children after them. This academy commits the government to a great navy, as the Military Academy commits it to a great army. It is no longer the wants of the country, but of the *eleves* of the institution which must be provided for; and routine officers are to take all the places. Officers are now to be made in schools, whether they have any vocation for the profession or not; and slender is the chance of the government to get one that would ever have gained a commission by his own exertions. This writer was not a senator for thirty years, and the channel of incessant applications for cadet and midshipman places, without knowing the motives on which such applications were made; and these motives may be found in three classes. First, and most honorable would be the case of a father, who would say—"I have a son, a bright boy, that I have been educating for a profession, but his soul is on fire for the army, or navy, and I have yielded to his wishes, though against my own, and believe if he gets the place, that he will not dishonor his country's flag." One of the next class would say—"I have a son, and he is not a bright boy (meaning that he is a booby), and cannot take a profession, but he would do very well in the army or navy." Of the third class, an unhappy father would say—"I have a son, a smart boy, but wild (meaning he was vicious), and I want to get him in the army or navy, where he could be disciplined." These, and the hereditary class (those whose fathers and grandfathers have been in the service) are the descriptions of applicants for these appointments; so that, it may be seen, the chances are three or four to one against getting a suitable subject for an officer; and of those who are suitable, many resign soon after they have got educated at public expense, and go into civil life. Routine officers are, therefore, what may be expected from these schools—officers whom nature has not licensed, and who keep out of the service those whom she has. The finest naval officers that the world ever saw, were bred in the merchant service; and of that England, Holland, France, Genoa, and Venice, are proofs; and none more so than our own country. The world never saw a larger proportion of able commanders than our little navy of the Revolution, and of the Algerine and Tripolitan wars, and the war of 1812, produced. They all came (but few exceptions) from the merchant service; and showed an ability and zeal which no school-house officers will ever equal.

Great Britain keeps up squadrons in time of peace, and which is a necessity of her insular position, and of her remote possessions: we must have squadrons also, though no use for them abroad, and infinitely better to remain in our own ports, and spend the millions at home which are now spent abroad. There is not a sea in which our commerce is subject to any danger of a kind which a man-of-war would prevent, or punish, in which a cruiser would not be sufficient. All our squadrons are anomalies, and the squadron system should be broken up. The Home should never have existed, and owes its origin to the least commendable period of our existence; the same of the African, conceived at the same time, put upon us by treaty, under the insidious clause that we could get rid of it in five years, and which has already continued near three times five; and which timidity and conservatism will combine to perpetuate—that timidity which is the child of temporization, and sees danger in every change. As for the Mediterranean, the Brazil, the Pacific, the East India squadron, they are mere British imitations without a reason for the copy, and a pretext for saying the ships are at sea. The fact is, they are in comfortable stations, doing nothing, and had far better be at home, and in ordinary. One hundred and forty court-martials, many dismissions without courts, and two hundred eliminations at a single dash, proclaim the fact that our navy is idle! and that this idleness gives rise to dissipation, to dissensions, to insubordination, to quarrels, to accusations, to court-martials. The body of naval officers are as good as any other citizens, but idleness is a destroyer which no body of men can stand. We have no use for a navy, and

never shall have; yet we continue building ships and breeding officers—the ships to rot—the officers to become “the cankers of a calm world and a long peace.”

The Virginia resolves of 1799-1800 on the subject of a navy, contain the right doctrine for the United States, even if the state of the world had remained what it was—even if the telegraph and the steam-car had not introduced a new era in the art of defensive war. It is the most expensive and inefficient of all modes of warfare. Its cost is enormous: its results nothing. A naval victory decides nothing but which shall have the other’s ships.

In the twenty years of the wars of the French revolution, Great Britain whipped all the inimical fleets she could catch. She got all their ships; and nothing but their ships. Not one of her naval victories had the least effect upon the fate of the wars: land battles alone decided the fate of countries, and commanded the issues of peace or war. Concluding no war, they are one of the fruitful sources of beginning wars. Only employed (by those who possess them) at long intervals, they must be kept up the whole time. Enormously expensive, the expense is eternal. Armies can be disbanded—navies must be kept up. Long lists of officers must be receiving pay when doing nothing. Pensions are inseparable from the system. Going to sea in time of peace is nothing but visiting foreign countries at the expense of the government. The annual expense of our navy now (all the heads of expense incident to the establishment included) is some fifteen millions of dollars: the number of men employed, is some 10,000—being at a cost of $1,500 a man, and they nothing to do. The whole number of guns afloat is some 2,000—which is at the rate of some $9,000 a gun; and they nothing in the world to shoot at. The expense of a navy is enormous. The protection of commerce is a phrase incessantly repeated, and of no application. Commerce wants no protection from men-of-war except against piratical nations; and they are fewer now than they were fifty years ago; and some cruisers were then sufficient. The Mediterranean, which was then the great seat of piracy, is now as free from it as the Chesapeake Bay is. We have no naval policy—no system adapted by the legislative wisdom—no peace establishment—no understood principle of action in relation to a navy. All goes by fits and starts. A rumor of war is started: more ships are demanded: a combined interest supports the demand—officers, contractors, politicians. The war does not come, but the ships are built, and rot: and so on in a circle without end.

132. The Home Squadron: Its Inutility And Expense

Early in the session of ‘43-’44, Mr. Hale, of New Hampshire, brought into the House a resolution of inquiry into the origin, use, and expense of the home squadron: to which Mr. Hamlin, of Maine, proposed the further inquiry to know what service that squadron had performed since it had been created. In support of his proposition, Mr. Hale said:

“He believed they were indebted to this administration for the home squadron. The whole sixteen vessels which composed that squadron were said to be necessary to protect the coasting trade; and though the portion of the country from which he came was deeply concerned in the coasting trade, yet he himself was convinced that many of those vessels might be dispensed with. If this information were laid before the House, they would have something tangible on which to lay their hands, in the way of retrenchment and reform. He wanted this information for the purpose of pointing out to the House where an enormous expense might be cut down, without endangering any of the interests of the country. Gentlemen had talked about being prepared with a sufficient navy to meet and contend with the naval power of Great Britain; but had they any idea of the outlay which was required to support such a navy? The expense of the navy of Great Britain amounted to between eighty and a hundred millions of dollars annually. We were not in want of such a great naval establishment to make ourselves respected at home or abroad. General Jackson alone had produced an impression upon one of the oldest nations of Europe, which it would be impossible for this administration to do with the assistance of all the navies in the world.”

Mr. Jared Ingersoll was in favor of retrenchment and economy, but thought the process ought to begin in the civil and diplomatic department—in the Congress itself, and in the expenses it allowed for multiplied missions abroad and incessant changes in the incumbents. With respect to abuses in the naval expenditures, he said:—

“He had no knowledge of his own on this subject; but he had learned from a distinguished officer of the navy, that in the navy-yards, in the equipment of ships, by the waste and extravagance caused by allowing officers to rebuild ships when they pleased, and the loss on the provisions of ships just returned from sea, which have been taken or thrown away, the greatest abuses have been practised, which have assisted in swelling up the naval expenditures to their present enormous amount.”

Mr. Adams differed from Mr. Ingersoll in the scheme of beginning retrenchment on the civil list, and presented the army and the navy as the two great objects of wasteful expenditure, and the points at which reform ought to begin, and especially with retrenching this home squadron, for which he had voted in 1841, but now condemned. He said:

“The gentleman gave the House, undoubtedly, a great deal of instruction as to the manner in which it should carry out retrenchment and reform, and finally elect a President; but his remarks did not happen to apply to the motion of the gentleman from New Hampshire; for he led them away from that motion, and told them, in substance, that it was not the nine million of dollars asked for by the Secretary of the Navy—and he did not know how much asked for the army—that was to be retrenched. Oh, no! The army and the navy were not the great expenses of this nation; it was not by curtailing the military and naval expenditures that economy was to be obtained; but by beginning with the two Houses of Congress. And what was the comparison, to come to dollars and cents, between the expenses of that House and the Navy Department? Why, the gentleman, with all his exaggerating eloquence, had made the executive, legislative, and judicial powers of the country, to cost at least two millions of

dollars; while the estimates for the navy were nine millions, to enable our ships to go abroad and display the stripes and stars. And for what purpose was it necessary to have this home squadron? Was the great maritime power of the earth in such a position towards us as to authorize us to expect a hostile British squadron on our coasts? No; he believed not. Then what was this nine millions of dollars wanted for? There was a statement, two years ago, in the report of the Secretary of the Navy, in which they were told that our present navy, in comparison with that of Great Britain, was only as one to eight—that is, that the British navy was eight times as large as ours. Now, in that year eight millions of dollars was asked for for the navy; the report of the present year asks for nine millions. This report contained the principle that we must go on to increase our navy until it is at least one-half as large as that of Great Britain; and what, then, was the proportion of additional expense we must incur to arrive at that result? Why, four times eight are thirty-two; so that it will take an annual expenditure of thirty-two millions to give us a navy half as large as that of Great Britain. If, however, gentlemen were to go on in this way, $32,000,000—nay, $50,000,000 would not be enough to pay the expense of their navy. He expressed his approval of the resolution of the gentleman from New Hampshire, and his gratification that it had come from such a quarter—a quarter which was so deeply interested in having a due protection for their mercantile navy and their coasting trade, by the establishment of a home squadron. At the time the home squadron was first proposed, he was, himself, in favor of it, and it was adopted with but very little opposition; and the reason was, because the House did not understand it at that time. It looked to a war with Great Britain. It looked more particularly to a war with Great Britain (the honorable gentleman was understood to say), provided she took the island of Cuba. He saw no necessity for a large navy, unless it was to insult other nations, by taking possession of their territory in time of peace. What was the good, he asked, of a navy which cost the country $9,000,000 a year, compared with what was done there in the legislative department of the nation? He expressed his ardent hope that the gentleman from Tennessee [Mr. Cave Johnson], and the gentleman from North Carolina [Mr. McKay]—now the chairman of the Committee of Ways and Means—would persevere in the same spirit that marked their conduct during the last Congress, and still advocate reductions in the army and the navy."

Mr. Hale replied to the several gentlemen who, without offering a word in favor of the utility of this domestic squadron, were endeavoring to keep it up; and who, without denying the great abuse and extravagance in the naval disbursements, were endeavoring to prevent their correction by starting smaller game—and that smaller game not to be pursued, and bagged, but merely started to prevent the pursuit of the great monster which was ravaging the fields. Thus:—

"He believed that the greatest abuses existed in every department of the government, and that the extravagances of all required correction. Look at the army of 8,000 men only, kept up at an expense to the nation of $1,000 for each man. Was not this a crying abuse that ought to be corrected? Why, if the proposition had succeeded to increase the army to 20,000 men, the expenditure at this rate would have been twenty millions annually. If any gentleman knew of the existence of abuses, let him bring them to the notice of the House, and he would vote not only for the proper inquiry into them, but to apply the remedy. In regard to this home squadron, he begged leave to disclaim any of the suspicions entertained by the gentleman from Massachusetts. In offering his resolution he had no reference to Cuba, or any thing else suggested by the gentleman. He wanted the House and the country to look at it as the Secretary of the Navy presented it to their view. As to the pretence that it was intended for the protection of the coasting trade, it was a most idle one. He wished the gentlemen from Maine (the State most largely interested in that trade) to say whether they needed any such protection. He would answer for them, and say that they did not. He himself lived among

those who were extensively engaged in the coasting trade, and part of his property was invested in it. He could, therefore, speak with some knowledge on the subject; and he hesitated not to say, that the idea of keeping up this squadron for its protection was a most preposterous and idle one. Sir, said he, the navy has been the pet child of the nation, and, like all other pet children, has run away with the whole patrimonial estate. If it were found that the best interest of the country required the maintenance of the home squadron, then he would go for it; but if it were found to be utterly useless, as he believed, then he was decidedly against it. But he would give this further notice; that he did not mean to stop here; that when the appropriations should come up, he intended to propose to limit those appropriations to a sum sufficient only to support the squadron stationed in the Mediterranean. It was entirely useless for this country to endeavor to contend with monarchies in keeping up the pageantry of a naval establishment."

The proposed inquiry produced no result, only ending in demonstrating what was well known to the older members, namely, the difficulty, and almost impossibility of introducing any reform, or economy into the administration of any department of the government unless the Executive takes the lead. And of this truth a striking instance occurred at this session and upon this subject. The executive government, that is to say, the President and his Secretary of the Navy had made a lawless expenditure of about $700,000 during the recess of Congress; and Congress under a moral duress, was compelled to adopt that expenditure as its own, and make it good. When the clause in the naval appropriation bill for covering this item, was under consideration, Mr. Ezra Dean, of Ohio, stood up and said:

"It was nothing less than a bill making appropriations to the amount of $750,000 which had been expended by the department in virtue of its own will and pleasure, and without the sanction of any law whatever; and the House was called on to approve this proceeding. He had supposed that any department which took upon itself the power of expending the public money, without authority of law, would have been subjected to the severest rebuke of Congress. He had supposed that this would have been a reform Congress, and that all the abuses of this administration would be ferreted out and corrected; but in this he had been grievously disappointed. He had endeavored to get the consent of the House to take up the navy retrenchment bill, which would correct all these abuses, but he had been mistaken; and so far from being able to get the bill before the House, he had been unable even to get the yeas and nays on the question of taking it up. There was great reason for this. This Navy Department had been for the last two years the great vortex which had swallowed up two-thirds of the revenues of the government. In 1840, a law was passed that no money should be expended for the building of ships without the express sanction of Congress; and yet, in defiance of this law, the Navy Department had gone on to build an iron steamship at Pittsburg, and six sloops-of-war; and he was told that part of the appropriations in this bill were to complete these vessels. Mr. D. then spoke of the utter uselessness of these steamships on the western waters, and referred to the number of ships that were now rotting for want of use, both on the stocks and laid up in ordinary; and particularly referred to the magnificent ship Delaware, which had just returned from a cruise, and was dismantled, and laid up to rot at Norfolk, while the department was clamorous for building more ships. There were not only more ships now built and building than could be used, but there were three times as many officers as could be employed. There were 96 commanders, with salaries of $3,500 a-year, while there was only employment for 38 of them; and there were 68 captains, while there was only employment for but 18. He then referred to the number of officers waiting orders, and on leave of absence, and said that the country would be astonished to learn, that for such officers, the country was now paying $283,700 a year; and that, by referring to the records of the Navy Department, it would be found that for the last twenty years, more than half of the

officers of the navy were drawing their pay and emoluments while at home, on leave of absence, or waiting orders. Mr. D. spoke of many other abuses in the navy, which he said required correction, and expressed his great regret that he had not been able to get the House to act on his navy retrenchment bill."

Mr. McKay, of North Carolina, who was the chairman of the Committee of Ways and Means, whose duty it became to present this item in the appropriation bill, fully admitted its illegality and wastefulness; but plead the necessity of providing for its payment, as the money had been earned by work and labor done on the faith of the government, and to withhold payment would be a wrong to laborers, and no punishment to the officers who had occasioned the illegal expenditure. A high officer had done this wrong. He was ready to join in a vote of censure upon him: but to repudiate the debt, and leave laboring people without pay for their work and materials was what he could not do. And thus ended the session with sanctioning an abuse of $700,000 in one item in the navy, which session had opened with a manly attempt to correct some of its extravagances. And thus have ended all similar attempts since. A powerful combined interest pushes forward an augmented navy, without regard to any object but their own interest in it. First, the politicians who raise a clamor of war at the return of each presidential canvass, and a cry for ships to carry it on. Next, the naval officers, who are always in favor of more ships to give more commands. And, thirdly, the contractors who are to build these ships, and get rich upon their contracts. These three parties combine to build ships, and Congress becomes a helpless instrument in their hands. The friends of economy, and of a wise national policy, which prefers cruisers and privateers to ships of the line, may deliver their complaints in vain. Ship building, and ship rotting, goes on unchecked, and even with accelerated speed; and must continue to so go on until the enormity of the abuse produces a revulsion which, in curing the abuse may nearly kill the navy itself.

133. Professor Morse: His Electro-Magnetic Telegraph

Communication of intelligence by concerted signals is as old as the human race, and by all, except the white race, remains where it was six thousand years ago. The smokes raised on successive hills to give warning of the approach of strangers, or enemies, were found to be the same by Frémont in his western explorations which were described by Herodotus as used for the same purpose by the barbarian nations of his time: the white race alone has made advances upon that rude and imperfect mode of communication, and brought the art to a marvellous perfection, but only after the intervention of thousands of years. It was not until the siege of Vienna by the Turks, that the very limited intelligence between the besieged in a city and their friends outside, was established by the telegraph: and it was not until the breaking out of the French revolution that that mode of intelligence was applied to the centre and to the circumference of a country: and at that point it was stationary for fifty years. It was reserved for our own day, and our own country to make the improvement which annihilates distance, which disregards weather and darkness, and which rivals the tongue and the pen in the precision and infinitude of its messages. Dr. Franklin first broached the idea of using electricity for communicating intelligence: Professor Morse gave practical application to his idea. This gentleman was a portrait painter by profession, and had been to Europe to perfect himself in his art. Returning in the autumn of 1832, and while making the voyage, the recent discoveries and experiments in electro-magnetism, and the affinity of electricity to magnetism, or rather their probable identity, became a subject of casual conversation between himself and a few of the passengers. It had recently been discovered that an electric spark could be obtained from a magnet, and this discovery had introduced a new branch of science, to wit: magneto-electricity. Dr. Franklin's experiments on the velocity of electricity, exceeding that of light, and exceeding 180,000 miles in a moment, the feasibility of making electricity the means of telegraphic intercourse, that is to say of writing at a distance, struck him with great force, and became the absorbing subject of his meditations. The idea of telegraphing by electricity was new to him. Fortunately he did not know that some eminent philosophers had before conceived the same idea, but without inventing a plan by which the thought could be realized. Knowing nothing of their ideas, he was not embarrassed or impeded by the false lights of their mistakes. As the idea was original with him, so was his plan. All previous modes of telegraphing had been by evanescent signs: the distinctive feature of Morse's plan was the self-recording property of the apparatus, with its ordinarily inseparable characteristic of audible clicks, answering the purposes of speech; for, in impressing the characters, the sounds emitted by the machinery gave notice of each that was struck, as well understood by the practised ear as the recorded language was by the eye. In this he became the inventor of a new art—the art of telegraphic recording, or imprinting characters telegraphically.

Mr. Morse then had his invention complete in his head, and his labor then begun to construct the machinery and types to reduce it to practice, in which having succeeded to the entire satisfaction of a limited number of observers in the years 1836 and '37, he laid it before Congress in the year 1838, made an exhibit of its working before a committee, and received a favorable report. Much time was then lost in vain efforts to procure patents in England and France, and returning to Congress in 1842, an appropriation of $30,000 was asked for to enable the inventor to test his discovery on a line of forty miles, between Washington and Baltimore. The appropriation was granted—the preparations completed by the spring of

1844, and messages exchanged instantaneously between the two points. The line was soon extended to New York, and since so multiplied, that the Morse electro-magnetic telegraph now works over 80,000 miles in America and 50,000 in Europe. It is one of the marvellous results of science, putting people who are thousands of miles apart in instant communication with the accuracy of a face to face conversation. Its wonderful advantages are felt in social, political, commercial and military communications, and, in conjunction with the steam car, is destined to work a total revolution in the art of defensive warfare. It puts an end to defensive war on the ocean, to the necessity of fortifications, except to delay for a few days the bombardment of a city. The approach of invaders upon any point, telegraphed through the country, brings down in the flying cars myriads of citizen soldiers, arms in hand and provisions in abundance, to overwhelm with numbers any possible invading force. It will dispense with fleets and standing armies, and all the vast, cumbrous, and expensive machinery of a modern army. Far from dreading an invasion, the telegraph and the car may defy and dare it—may invite any number of foreign troops to land—and assure the whole of them of death or captivity, from myriads of volunteers launched upon them hourly from the first moment of landing until the last invader is a corpse or a prisoner.

134. Fremont's Second Expedition

"The government deserves credit for the zeal with which it has pursued geographical discovery." Such is the remark which a leading paper made upon the discoveries of Frémont, on his return from his second expedition to the Great West; and such is the remark which all writers will make upon all his discoveries who write history from public documents and outside views. With all such writers the expeditions of Frémont will be credited to the zeal of the government for the promotion of science; as if the government under which he acted had conceived and planned these expeditions, as Mr. Jefferson did that of Lewis and Clark, and then selected this young officer to carry into effect the instructions delivered to him. How far such history would be true in relation to the first expedition, which terminated in the Rocky Mountains, has been seen in the account which has been given of the origin of that undertaking, and which leaves the government innocent of its conception; and, therefore, not entitled to the credit of its authorship, but only to the merit of permitting it. In the second, and greater expedition, from which great political as well as scientific results have flowed, their merit is still less; for, while equally innocent of its conception, they were not equally passive to its performance—countermanding the expedition after it had begun; and lavishing censure upon the adventurous young explorer for his manner of undertaking it. The fact was, that his first expedition barely finished, Mr. Frémont sought and obtained orders for a second one, and was on the frontier of Missouri with his command when orders arrived at St. Louis to stop him, on the ground that he had made a military equipment which the peaceful nature of his geographical pursuit did not require! as if Indians did not kill and rob scientific men as well as others if not in a condition to defend themselves. The particular point of complaint was that he had taken a small mountain howitzer, in addition to his rifles: and which, he was informed, was charged to him, although it had been furnished upon a regular requisition on the commandant of the Arsenal at St. Louis, approved by the commander of the military department (Colonel, afterwards General Kearney). Mr. Frémont had left St. Louis, and was at the frontier, Mrs. Frémont being requested to examine the letters that came after him, and forward those which he ought to receive. She read the countermanding orders, and detained them! and Frémont knew nothing of their existence until after he had returned from one of the most marvellous and eventful expeditions of modern times—one to which the United States are indebted (among other things) for the present ownership of California, instead of seeing it a British possession. The writer of this View, who was then in St. Louis, approved of the course which his daughter had taken (for she had stopped the orders before he knew of it); and he wrote a letter to the department condemning the recall, repulsing the reprimand which had been lavished upon Frémont, and demanding a court-martial for him when he should return. The Secretary at War was then Mr. James Madison Porter, of Pennsylvania; the chief of the Topographical corps the same as now (Colonel Aberts), himself an office man, surrounded by West Point officers, to whose pursuit of easy service Frémont's adventurous expeditions was a reproach; and in conformity to whose opinions the secretary seemed to have acted. On Frémont's return, upwards of a year afterwards, Mr. William Wilkins, of Pennsylvania, was Secretary at War, and received the young explorer with all honor and friendship, and obtained for him the brevet of captain from President Tyler. And such is the inside view of this piece of history—very different from what documentary evidence would make it.

To complete his survey across the continent, on the line of travel between the State of Missouri and the tide-water region of the Columbia, was Frémont's object in this expedition; and it was all that he had obtained orders for doing; but only a small part, and to his mind, an

insignificant part, of what he proposed doing. People had been to the mouth of the Columbia before, and his ambition was not limited to making tracks where others had made them before him. There was a vast region beyond the Rocky Mountains—the whole western slope of our continent—of which but little was known; and of that little, nothing with the accuracy of science. All that vast region, more than seven hundred miles square—equal to a great kingdom in Europe—was an unknown land—a sealed book, which he longed to open, and to read. Leaving the frontier of Missouri in May, 1843, and often diverging from his route for the sake of expanding his field of observation, he had arrived in the tide-water region of Columbia in the month of November; and had then completed the whole service which his orders embraced. He might then have returned upon his tracks, or been brought home by sea, or hunted the most pleasant path for getting back; and if he had been a routine officer, satisfied with fulfilling an order, he would have done so. Not so the young explorer who held his diploma from Nature, and not from the United States' Military Academy. He was at Fort Vancouver, guest of the hospitable Dr. McLaughlin, Governor of the British Hudson Bay Fur Company; and obtained from him all possible information upon his intended line of return—faithfully given, but which proved to be disastrously erroneous in its leading and governing feature. A southeast route to cross the great unknown region diagonally through its heart (making a line from the Lower Columbia to the Upper Colorado of the Gulf of California), was his line of return: twenty-five men (the same who had come with him from the United States) and a hundred horses, were his equipment; and the commencement of winter the time of starting—all with out a guide, relying upon their guns for support; and, in the last resort, upon their horses—such as should give out! for one that could carry a man, or a pack, could not be spared for food.

All the maps up to that time had shown this region traversed from east to west—from the base of the Rocky Mountains to the Bay of San Francisco—by a great river called the *Buena Ventura*: which may be translated, the *Good Chance*. Governor McLaughlin believed in the existence of this river, and made out a conjectural manuscript map to show its place and course. Frémont believed in it, and his plan was to reach it before the dead of winter, and then hybernate upon it. As a great river, he knew that it must have some rich bottoms; covered with wood and grass, where the wild animals would collect and shelter, when the snows and freezing winds drove them from the plains: and with these animals to live on, and grass for the horses, and wood for fires, he expected to avoid suffering, if not to enjoy comfort, during his solitary sojourn in that remote and profound wilderness. He proceeded—soon encountered deep snows which impeded progress upon the high lands—descended into a low country to the left (afterwards known to be the Great Basin, from which no water issues to any sea)—skirted an enormous chain of mountain on the right, luminous with glittering white snow—saw strange Indians, who mostly fled—found a desert—no Buena Ventura: and death from cold and famine staring him in the face. The failure to find the river, or tidings of it, and the possibility of its existence seeming to be forbid by the structure of the country, and hybernation in the inhospitable desert being impossible, and the question being that of life and death, some new plan of conduct became indispensable. His celestial observations told him that he was in the latitude of the Bay of San Francisco, and only seventy miles from it. But what miles! up and down that snowy mountain which the Indians told him no men could cross in the winter—which would have snow upon it as deep as the trees, and places where people would slip off, and fall half a mile at a time;—a fate which actually befell a mule, packed with the precious burden of botanical specimens, collected along a travel of two thousand miles. No reward could induce an Indian to become a guide in the perilous adventure of crossing this mountain. All recoiled and fled from the adventure. It was attempted without a guide—in the dead of winter—accomplished in forty days—the men and surviving horses—a woful procession, crawling along one by one: skeleton men leading

skeleton horses—and arriving at Suter's Settlement in the beautiful valley of the Sacramento; and where a genial warmth, and budding flowers, and trees in foliage, and grassy ground, and flowing streams, and comfortable food, made a fairy contrast with the famine and freezing they had encountered, and the lofty *Sierra Nevada* which they had climbed. Here he rested and recruited; and from this point, and by way of Monterey, the first tidings were heard of the party since leaving Fort Vancouver.

Another long progress to the south, skirting the western base of the Sierra Nevada, made him acquainted with the noble valley of the San Joaquin, counterpart to that of the Sacramento; when crossing through a gap and turning to the left, he skirted the Great Basin; and, by many deviations from the right line home, levied incessant contributions to science from expanded lands, not described before. In this eventful exploration all the great features of the western slope of our continent were brought to light—the Great Salt Lake, the Utah Lake, the Little Salt Lake; at all which places, then desert, the Mormons now are; the Sierra Nevada, then solitary in the snow, now crowded with Americans, digging gold from its flanks; the beautiful valleys of the Sacramento and San Joaquin, then alive with wild horses, elk, deer, and wild fowls, now smiling with American cultivation; the Great Basin itself, and its contents; the Three Parks; the approximation of the great rivers which, rising together in the central region of the Rocky Mountains, go off east and west, towards the rising and the setting sun:—all these, and other strange features of a new region, more Asiatic than American, were brought to light, and revealed to public view in the results of this exploration. Eleven months he was never out of sight of snow; and sometimes, freezing with cold, would look down upon a sunny valley, warm with genial heat;—sometimes panting with the summer's heat, would look up at the eternal snows which crowned the neighboring mountain. But it was not then that California was secured to the Union—to the greatest power of the New World—to which it of right belonged: but it was the first step towards the acquisition, and the one that led to it. That second expedition led to a third, just in time to snatch the golden California from the hands of the British, ready to clutch it. But of this hereafter. Frémont's second expedition was now over. He had left the United States a fugitive from his government, and returned with a name that went over Europe and America, and with discoveries bearing fruit which the civilized world is now enjoying.

135. Texas Annexation: Secret Origin; Bold Intrigue For The Presidency

In the winter of 1842-’3, nearly two years before the presidential election, there appeared in a Baltimore newspaper an elaborately composed letter on the annexation of Texas, written by Mr. Gilmer, a member of Congress from Virginia, urging the immediate annexation, as necessary to forestall the designs of Great Britain upon that young country. These designs, it was alleged, aimed at a political and military domination on our south-western border, with a view to abolition and hostile movements against us; and the practical part of the letter was an earnest appeal to the American people to annex the Texas republic immediately, as the only means of preventing such great calamities. This letter was a clap of thunder in a clear sky. There was nothing in the political horizon to announce or portend it. Great Britain had given no symptom of any disposition to war upon us, or to excite insurrection among our slaves. Texas and Mexico were at war, and to annex the country was to adopt the war: far from hastening annexation, an event desirable in itself when it could be honestly done, a premature and ill-judged attempt, upon groundless pretexts, could only clog and delay it. There was nothing in the position of Mr. Gilmer to make him a prime mover in the annexation scheme; and there was much in his connections with Mr. Calhoun to make him the reflector of that gentleman’s opinions. The letter itself was a counterpart of the movement made by Mr. Calhoun in the Senate, in 1836, to bring the Texas question into the presidential election of that year; its arguments were the amplification of the seminal ideas then presented by that gentleman: and it was his known habit to operate through others. Mr. Gilmer was a close political friend, and known as a promulgator of his doctrines—having been the first to advocate nullification in Virginia.

Putting all these circumstances together, I believed, the moment I saw it, that I discerned the finger of Mr. Calhoun in that letter, and that an enterprise of some kind was on foot for the next presidential election—though still so far off. I therefore put an eye on the movement, and by observing the progress of the letter, the papers in which it was republished, their comments, the encomiums which it received, and the public meetings in which it was commended, I became satisfied that there was no mistake in referring its origin to that gentleman; and became convinced that this movement was the resumption of the premature and abortive attempt of 1836. In the course of the summer of 1843, it had been taken up generally in the circle of Mr. Calhoun’s friends, and with the zeal and pertinacity which betrayed the spirit of a presidential canvass. Coincident with these symptoms, and indicative of a determined movement on the Texas question, was a pregnant circumstance in the executive branch of the government. Mr. Webster, who had been prevailed upon to remain in Mr. Tyler’s cabinet when all his colleagues of 1841 left their places, now resigned his place, also—induced, as it was well known, by the altered deportment of the President towards him; and was succeeded first by Mr. Legare, of South Carolina, and, on his early death, by Mr. Upshur, of Virginia.

Mr. Webster was inflexibly opposed to the Texas annexation, and also to the presidential elevation of Mr. Calhoun; the two gentlemen, his successors, were both favorable to annexation, and one (Mr. Upshur) extremely so to Mr. Calhoun; so that, here were two steps taken in the suspected direction—an obstacle removed and a facility substituted. This change in the head of the State Department, upon whatever motive produced, was indispensable to the success of the Texas movement, and could only have been made for some great cause never yet explained, seeing the service which Mr. Webster did Mr. Tyler in remaining with

him when the other ministers withdrew. Another sign appeared in the conduct of the President himself. He was undergoing another change. Long a democrat, and successful in getting office at that, he had become a whig, and with still greater success. Democracy had carried him to the Senate; whiggism elevated him to the vice-presidency; and, with the help of an accident, to the presidency. He was now settling back, as shown in a previous chapter, towards his original party, but that wing of it which had gone off with Mr. Calhoun in the nullification war—a natural line of retrogression on his part, as he had travelled it in his transit from the democratic to the whig camp. The papers in his interest became rampant for Texas; and in the course of the autumn, the rumor became current and steady that negotiations were in progress for the annexation, and that success was certain.

Arriving at Washington at the commencement of the session of 1843-'44, and descending the steps of the Capitol in a throng of members on the evening of the first day's sitting, I was accosted by Mr. Aaron V. Brown, a representative from Tennessee, with expressions of great gratification at meeting with me so soon; and who immediately showed the cause of his gratification to be the opportunity it afforded him to speak to me on the subject of the Texas annexation. He spoke of it as an impending and probable event—complimented me on my early opposition to the relinquishment of that country, and my subsequent efforts to get it back, and did me the honor to say that, as such original enemy to its loss and early advocate of its recovery, I was a proper person to take a prominent part in now getting it back. All this was very civil and quite reasonable, and, at another time and under other circumstances, would have been entirely agreeable to me; but preoccupied as my mind was with the idea of an intrigue for the presidency, and a land and scrip speculation which I saw mixing itself up with it, and feeling as if I was to be made an instrument in these schemes, I took fire at his words, and answered abruptly and hotly: *That it was, on the part of some, an intrigue for the presidency and a plot to dissolve the Union—on the part of others, a Texas scrip and land speculation; and that I was against it.*

This answer went into the newspapers, and was much noticed at the time, and immediately set up a high wall between me and the annexation party. I had no thought at the time that Mr. Brown had been moved by anybody to sound me, and presently regretted the warmth with which I had replied to him—especially as no part of what I said was intended to apply to him. The occurrence gave rise to some sharp words at one another afterwards, which, so far as they were sharp on my part, I have since condemned, and do not now repeat.

Some three months afterwards there appeared in the *Richmond Enquirer* a letter from General Jackson to Mr. Brown, in answer to one from Mr. Brown to the general, covering a copy of Mr. Gilmer's Texas letter, and asking the favor of his (the general's) opinion upon it: which he promptly and decidedly gave, and fully in favor of its object. Here was a revelation and a coincidence which struck me, and put my mind to thinking, and opened up a new vein of exploration, into which I went to work, and worked on until I obtained the secret history of the famous "Jackson Texas letter" (as it came to be called), and which played so large a part in the Texas annexation question, and in the presidential election of 1844; and which drew so much applause upon the general from many who had so lately and so bitterly condemned him. This history I now propose to give, confining the narrative to the intrigue for the presidential nomination, leaving the history of the attempted annexation (treaty of 1844) for a separate chapter, or rather chapters; for it was an enterprise of many aspects, according to the taste of different actors—presidential, disunion, speculation.

The outline of this history—that of the letter—is brief and authentic; and, although well covered up at the time, was known to too many to remain covered up long. It was partly made known to me at the time, and fully since. It runs thus:

Mr. Calhoun, in 1841-'2, had resumed his design (intermitted in 1840) to stand for the presidency, and determined to make the annexation of Texas—immediate annexation—the controlling issue in the election. The death of President Harrison in 1841, and the retreat of his whig ministers, and the accession of his friends to power in the person of Mr. Tyler (then settling back to his old love), and in the persons of some of his cabinet, opened up to his view the prospect of a successful enterprise in that direction; and he fully embraced it, and without discouragement from the similar budding hopes of Mr. Tyler himself, which it was known would be without fruit, except what Mr. Calhoun would gather—the ascendant of his genius assuring him the mastery when he should choose to assume it. His real competitors (foreseen to be Mr. Van Buren and Mr. Clay) were sure to be against it—immediate annexation—and they would have a heavy current to encounter, all the South and West being for the annexation, and a strong interest, also, in other parts of the Union. There was a basis to build upon in the honest feelings of the people, and inflammatory arguments to excite them; and if the opinion of General Jackson could be obtained in its favor, the election of the annexation candidate was deemed certain.

With this view the Gilmer letter was composed and published, and sent to him—and was admirably conceived for his purpose. It took the veteran patriot on the side of his strong feelings—love of country and the Union—distrust of Great Britain—and a southern susceptibility to the dangers of a servile insurrection. It carried him back to the theatre of his glory—the Lower Mississippi—and awakened his apprehensions for the safety of that most vulnerable point of our frontier. Justly and truly, but with a refinement of artifice in this case, it presented annexation as a strengthening plaster to the Union, while really intended to sectionalize it, and to effect disunion if the annexation failed. This idea of strengthening the Union had, and in itself deserved to have, an invincible charm for the veteran patriot. Besides, the recovery of Texas was in the line of his policy, pursued by him as a favorite object during his administration; and this desire to get back that country, patriotic in itself, was entirely compatible with his acquiescence in its relinquishment as a temporary sacrifice in 1819; an acquiescence induced by the "*domestic*" reason communicated to him by Mr. Monroe.

The great point in sending the Gilmer letter to him, with its portents of danger from British designs, was to obtain from him the expression of an opinion in favor of "immediate" annexation. No other opinion would do any good. A future annexation, no matter how soon after 1844, would carry the question beyond the presidential election, and would fall in with the known opinions of Mr. Van Buren and Mr. Clay, and most other American statesmen, the common sentiment being for annexation, when it could be honestly accomplished. Such annexation would make no issue at all. It would throw Texas out of the canvass. Immediate was, therefore, the game; and to bring General Jackson to that point was the object. To do that, the danger of British occupation was presented as being so imminent as to admit of no delay, and so disastrous in its consequences as to preclude all consideration of present objections. It was a bold conception, and of critical execution. Jackson was one of the last men in the world to be tampered with—one of the last to be used against a friend or for a foe—the very last to be willing to see Mr. Calhoun President—and the very first in favor of Mr. Van Buren. To turn him against his nature and his feelings in all these particulars was a perilous enterprise: but it was attempted—and accomplished.

It has already been shown that the letter of Mr. Gilmer was skilfully composed for its purpose: all the accessories of its publication and transmission to General Jackson were equally skilfully contrived. It was addressed to a friend in Maryland, which was in the opposite direction from the *locus* of its origin. It was drawn out upon the call of a friend: that is the technical way of getting a private letter before the public. It was published in

Baltimore—a city where its writer did not live. The name of the friend in Maryland who drew it out, was concealed; and that was necessary to the success of the scheme, as the name of this suspected friend (Mr. Duff Green) would have fastened its origin on Mr. Calhoun. And thus the accessories of the publication were complete, and left the mind without suspicion that the letter had germinated in a warm southern latitude. It was then ready to start on its mission to General Jackson; but how to get it there, without exciting suspicion, was the question. Certainly Mr. Gilmer would have been the natural agent for the transmission of his own letter; but he stood too close to Mr. Calhoun—was too much his friend and intimate—to make that a safe adventure. A medium was wanted, which would be a conductor of the letter and a non-conductor of suspicion; and it was found in the person of Mr. Aaron V. Brown. But he was the friend of Mr. Van Buren, and it was necessary to approach him through a medium also, and one was found in one of Mr. Gilmer's colleagues—believed to be Mr. Hopkins, of the House, who came from near the Tennessee line; and through him the letter reached Mr. Brown.

And thus, conceived by one, written by another, published by a third, and transmitted through two successive mediums, the missive went upon its destination, and arrived safely in the hands of General Jackson. It had a complete success. He answered it promptly, warmly, decidedly, affirmatively. So fully did it put him up to the point of "immediate" annexation, that his impatience outstripped expectation. He counselled haste—considered the present the accepted time—and urged the seizure of the "golden opportunity" which, if lost now, might never return. The answer was dated at the Hermitage, March 12th, 1843, and was received at Washington as soon as the mail could fetch it. Of course it came to Mr. Brown, to whom it belonged, and to whom it was addressed; but I did not hear of it in his hands. My first information of it was in the hands of Mr. Gilmer, in the hall of the House, immediately after its arrival—he, crossing the hall with the letter in his hand, greatly elated, and showing it to a confidential friend, with many expressions of now confident triumph over Mr. Van Buren. The friend was permitted to read the letter, but with the understanding that nothing was to be said about it at that time.

Mr. Gilmer then explained to his friend the purpose for which this letter had been written and sent to General Jackson, and the use that was intended to be made of his answer (if favorable to the design of the authors), which use was this: It was to be produced in the nominating convention, to overthrow Mr. Van Buren, and give Mr. Calhoun the nomination, both of whom were to be interrogated beforehand; and as it was well known what the answers would be—Calhoun for and Van Buren against immediate annexation—and Jackson's answer coinciding with Calhoun's, would turn the scale in his favor, "and blow Van Buren sky high."

This was the plan, and this the state of the game, at the end of February, 1843; but a great deal remained to be done to perfect the scheme. The sentiment of the democratic party was nearly unanimous for Mr. Van Buren, and time was wanted to undermine that sentiment. Public opinion was not yet ripe for immediate annexation, and time was wanted to cultivate that opinion. There was no evidence of any British domination or abolition plot in Texas, and time was wanted to import one from London. All these operations required time—more of it than intervened before the customary period for the meeting of the convention. That period had been the month of December preceding the year of the election, and Baltimore the place for these assemblages since Congress presidential caucuses had been broken down—that near position to Washington being chosen for the convenient attendance of that part of the members of Congress who charged themselves with these elections. If December remained the period for the meeting, there would be no time for the large operations which required to be performed; for, to get the delegates there in time, they must be elected beforehand, during

the summer—so that the working season of the intriguers would be reduced to a few months, when upwards of a year was required. To gain that time was the first object, and a squad of members, some in the interest of Mr. Calhoun, some professing friendship to Mr. Van Buren, but secretly hostile to him, sat privately in the Capitol, almost nightly, corresponding with all parts of the country, to get the convention postponed. All sorts of patriotic motives were assigned for this desired postponement, as that it would be more convenient for the delegates to attend—nearer to the time of election—more time for public opinion to mature; and most favorable to deliberate decision. But another device was fallen upon to obtain delay, the secret of which was not put into the letters, nor confided to the body of the nightly committee. It had so happened that the opposite party—the whigs—since the rout of the Congress presidential caucuses, had also taken the same time and place for their conventions—December, and Baltimore—and doubtless for the same reason, that of the more convenient attending of the President-making members of Congress; and this led to an intrigue with the whigs, the knowledge of which was confined to a very few. It was believed that the democratic convention could be the more readily put off if the whigs would do the like—and do it first.

There was a committee within the committee—a little nest of head managers—who undertook this collusive arrangement with the whigs. They proposed it to them, professing to act in the interest of Mr. Calhoun, though in fact against him, as well as against Mr. Van Buren. The whigs readily agreed to this proposal, because, being themselves then unanimous for Mr. Clay, it made no difference at what time he should be nominated; and believing they could more easily defeat Mr. Calhoun than Mr. Van Buren, they preferred him for an antagonist. They therefore agreed to the delay, and both conventions were put off (and the whigs first, to enable the democrats to plead it) from December, 1843, to May, 1844. Time for operating having now been gained, the night squad in the Capitol redoubled their activity to work upon the people. Letter writers and newspapers were secured. Good, easy members, were plied with specious reasons—slippery ones were directly approached. Visitors from the States were beset and indoctrinated. Men were picked out to operate on the selfish, and the calculating; and myriads of letters were sent to the States, to editors, and politicians. All these agents worked to a pattern, the primary object being to undo public sentiment in favor of Mr. Van Buren, and to manufacture one, ostensibly in favor of Mr. Calhoun, but in reality without being for him—they being for any one of four (Mr. Cass, Mr. Buchanan, Colonel Johnson, Mr. Tyler), in preference to either of them. They were for neither, and the only difference was that Mr. Calhoun believed they were for him: Mr. Van Buren knew they were against him. They professed friendship for him; and that was necessary to enable them to undermine him. The stress of the argument against him was that he could not be elected, and the effort was to make good that assertion. Now, or never, was the word with respect to Texas. Some of the squad sympathized with the speculators in Texas land and scrip; and to these Mr. Calhoun was no more palatable than Mr. Van Buren. They were both above plunder. Some wanted office, and knew that neither of these gentlemen would give it to them. They had a difficult as well as tortuous part to play. Professing democracy, they colluded with whigs. Professing friendship to Mr. Van Buren, they co-operated with Mr. Calhoun’s friends to defeat him. Co-operating with Mr. Calhoun’s friends, they were against his election. They were for any body in preference to either, and especially for men of easy temperaments, whose principles were not entrenched behind strong wills. To undo public sentiment in favor of Mr. Van Buren was their labor; to get unpledged and uninstructed delegates into convention, and to get those released who had been appointed under instructions, was the consummation of their policy. A convention untrammelled by instructions, independent of the people, and open to the machinations of a few politicians, was what was wanted. The efforts to accomplish these purposes were prodigious, and constituted the absorbing night and day work of the members

engaged in it. After all, they had but indifferent success—more with politicians and editors than with the people. Mr. Van Buren was almost universally preferred. Delegates were generally instructed to support his nomination. Even in the Southern States, in direct question between himself and Mr. Calhoun, he was preferred—as in Alabama and Mississippi. No delegates were released from their instructions by any competent authority, and only a few in any, by clusters of local politicians, convenient to the machinations of the committee in the Capitol—as at Shockoe Hill, Richmond, Virginia, where Mr. Ritchie, editor of the *Enquirer* (whose proclivity to be deceived in a crisis was generally equivalent in its effects to positive treachery), led the way—himself impelled by others.

The labors of the committee, though intended to be secret, and confined to a small circle, and chiefly carried on in the night, were subject to be discovered; and were so; and the discovery led to some public denunciations. The two senators from Ohio, Messrs. William Allen, and Tappan, and ten of the representatives from that State, published a card in the *Globe* newspaper, denouncing it as a conspiracy to defeat the will of the people. The whole delegation from South Carolina (Messrs. McDuffie and Huger, senators, and the seven representatives), fearing that they might be suspected on account of their friendship for Mr. Calhoun, published a card denying all connection with the committee; an unnecessary precaution, as their characters were above that suspicion. Many other members published cards, denying their participation in these meetings; and some, admitting the participation, denied the intrigue, and truly, as it concerned themselves; for all the disreputable part was kept secret from them—especially the collusion with the whigs, and all the mysteries of the Gilmer letter. Many of them were sincere friends of Mr. Van Buren, but deceived and cheated themselves, while made the instrument of deceiving and cheating others. It was probably one of the most elaborate pieces of political cheatery that has ever been performed in a free country, and well worthy to be studied by all who would wish to extend their knowledge of the manner in which presidential elections may be managed, and who would wish to see the purity of elections preserved and vindicated.

About this time came an occurrence well calculated to make a pause, if any thing could make a pause, in the working of political ambition. The explosion of the great gun on board the Princeton steamer took place, killing, among others, two of Mr. Tyler's cabinet (Mr. Upshur and Mr. Gilmer), both deeply engaged in the Texas project—barely failing to kill Mr. Tyler, who was called back in the critical moment, and who had embraced the Texas scheme with more than vicarious zeal; and also barely failing to kill the writer of this View, who was standing at the breech of the gun, closely observing its working, as well as that of the Texas game, and who fell among the killed and stunned, fortunately to rise again. Commodore Kennon, Mr. Virgil Maxcy, Mr. Gardiner, of New York, father-in-law (that was to be) of the President, were also killed; a dozen seamen were wounded, and Commodore Stockton burnt and scorched as he stood at the side of the gun. Such an occurrence was well calculated to impress upon the survivors the truth of the divine admonition: "What shadows we are—what shadows we pursue." But it had no effect upon the pursuit of the presidential shadow. Instantly Mr. Calhoun was invited to take Mr. Upshur's place in the Department of State, and took it with an alacrity, and with a patronizing declaration, which showed his zeal for the Texas movement, and as good as avowed its paternity. He declared he took the place for the Texas negotiation alone, and would quit it as soon as that negotiation should be finished. In brief, the negotiation, instead of pausing in the presence of so awful a catastrophe, seemed to derive new life from it, and to go forward with accelerated impetuosity. Mr. Calhoun put his eager activity into it: politicians became more vehement—newspapers more clamorous: the interested classes (land and scrip speculators) swarmed at Washington; and Mr. Tyler

embraced the scheme with a fervor which induced the suspicion that he had adopted the game for his own, and intended to stand a cast of the presidential die upon it.

The machinations of the committee, though greatly successful with individuals, and with the politicians with whom they could communicate, did not reach the masses, who remained firm to Mr. Van Buren; and it became necessary to fall upon some new means of acting upon them. This led to a different use of the Jackson Texas letter from what had been intended. It was intended to have been kept in the background, a secret in the hands of its possessors, until the meeting of the convention—then suddenly produced to turn the scale between Mr. Calhoun and Mr. Van Buren; and this design had been adhered to for about the space of a year, and the letter kept close: it was then recurred to as a means of rousing the masses.

Jackson's name was potential with the people, and it was deemed indispensable to bring it to bear upon them. The publication of the letter was resolved upon, and the *Globe* newspaper selected for the purpose, and Mr. Aaron V. Brown to have it done. All this was judicious and regular. The *Globe* had been the organ of General Jackson, and was therefore the most proper paper to bring his sentiments before the public. It was the advocate of Mr. Van Buren's election, and therefore would prevent the suspicion of sinistrous design upon him. Mr. Brown was the legal owner of the letter, and a professing friend of Mr. Van Buren, and, therefore, the proper person to carry it for publication.

He did so; but the editor, Mr. Blair, seeing no good that it could do Mr. Van Buren, but, on the contrary, harm, and being sincerely his friend, declined to publish it; and, after examination, delivered it back to Mr. Brown. Shortly thereafter, to wit, on the 22d of March, 1844, it appeared in the Richmond *Enquirer*, post-dated, that is to say, the date of 1843 changed into 1844—whether by design or accident is not known; but the post-date gave the letter a fresher appearance, and a more vigorous application to the Texas question. The fact that this letter had got back to Mr. Brown, after having been given up to Mr. Gilmer, proved that the letter travelled in a circle while kept secret, and went from hand to hand among the initiated, as needed for use.

The time had now come for the interrogation of the candidates, and it was done with all the tact which the delicate function required. The choice of the interrogator was the first point. He must be a friend, ostensible if not real, to the party interrogated. If real, he must himself be deceived, and made to believe that he was performing a kindly service; if not, he must still have the appearance. And for Mr. Van Buren's benefit a suitable performer was found in the person of Mr. Hamett, a representative in Congress from Mississippi, whose letter was a model for the occasion, and, in fact has been pretty well followed since. It abounded in professions of friendship to Mr. Van Buren—approached him for his own good—sought his opinion from the best of motives; and urged a categorical reply, for or against, immediate annexation. The sagacious Mr. Van Buren was no dupe of this contrivance, but took counsel from what was due to himself; and answered with candor, decorum and dignity. He was against immediate annexation, because it was war with Mexico, but for it when it could be done peaceably and honorably: and he was able to present a very fair record, having been in favor of getting back the country (in a way to avoid difficulties with Mexico) when Secretary of State, under President Jackson. His letter was sent to a small circle of friends at Washington before it was delivered to its address; but to be delivered immediately; which was done, and soon went into the papers.

Mr. Calhoun had superseded the necessity of interrogation in his letter of acceptance of the State Department: he was a hot annexationist, although there was an ugly record to be exhibited against him. In his almost thirty years of public life he had never touched Texas, except for his own purposes. In 1819, as one of Mr. Monroe's cabinet, he had concurred in

giving it away, in order to conciliate the anti-slavery interest in the Northeast by curtailing slave territory in the Southwest. In 1836 he moved her immature annexation, in order to bring the question into the presidential election of that year, to the prejudice of Mr. Van Buren; and urged instant action, because delay was dangerous. Having joined Mr. Van Buren after his election, and expecting to become his successor, he dropped the annexation for which he had been so impatient, and let the election of 1840 pass by without bringing it into the canvass; and now revived it for the overthrow of Mr. Van Buren, and for the excitement of a sectional controversy, by placing the annexation on strong sectional grounds. And now, at the approach of the election in 1844, after years of silence, he becomes the head advocate of annexation; and with all this forbidding record against him, by help of General Jackson's letter, and the general sentiment in favor of annexation, and the fictitious alarm of British abolition and hostile designs, he was able to appear as a champion of Texas annexation, baffling the old and consistent friends of the measure with the new form which had been given to the question. Mr. Clay was of this class. Of all the public men he was able to present the best and fairest Texas record. He was opposed to the loss of the province in 1819, and offered resolutions in the House of Representatives, supported by an ardent speech, in which he condemned the treaty which gave it away. As Secretary of State, under Mr. Adams, he had advised the recovery of the province, and opened negotiations to that effect, and wrote the instructions under which Mr. Poinsett, the United States minister, made the attempt. As a western man, he was the natural champion of a great western interest—pre-eminently western, while also national. He was interrogated according to the programme, and answered with firmness that, although an ancient and steadfast friend to the recovery of the country, he was opposed to immediate annexation, as adopting the war with Mexico, and making that war by treaty, when the war-making power belonged to Congress. There were several other democratic candidates, the whole of whom were interrogated, and answered promptly in favor of immediate annexation—some of them improving their letters, as advised, before publication. Mr. Tyler, also, now appeared above the horizon as a presidential candidate, and needed no interrogatories to bring out his declaration for immediate annexation, although he had voted against Mr. Clay's resolution condemning the sacrifice of the province. In a word, the Texas hobby was multitudinously mounted, and violently ridden, and most violently by those who had been most indifferent to it before. Mr. Clay and Mr. Calhoun were the only candidates that answered like statesmen, and they were both distanced.

The time was approaching for the convention to meet, and, consequently, for the conclusion of the treaty of annexation, which was to be a touchstone in it. It was signed the 12th of April, and was to have been sent to the Senate immediately, but was delayed by a circumstance which created alarm—made a balk—and required a new turn to be taken. Mr. Van Buren had not yet answered the interrogatories put to him through Mr. Hamett, or rather his answer had not yet been published. Uneasiness began to be felt, lest, like so many others, he should fall into the current, and answer in a way that would enable him to swim with it. To relieve this uncertainty, Mr. Blair was applied to by Mr. Robert J. Walker to write to him, and get his answer. This was a very proper channel to apply through. Mr. Blair, as the fast friend of Mr. Van Buren, had the privilege to solicit him. Mr. Calhoun, as the political adversary of Mr. Van Buren, could not ask Mr. Blair to do it. Mr. Walker stood in a relation to be ready for the work all round; as a professing friend of Mr. Van Buren, though co-operating with Mr. Calhoun and all the rest against him, he could speak with Mr. Blair on a point which seemed to be for Mr. Van Buren's benefit. As co-operating with Mr. Calhoun, he could help him against an adversary, though intending to give him the go-by in the end. As being in all the Texas mysteries, he was a natural person to ferret out information on every side. He it was, then, to whose part it fell to hasten the desired answer from Mr. Van Buren, and through the instrumentality of Mr. Blair. Mr. Blair wrote as solicited, not seeing any trap in it; but had

received no answer up to the time that the treaty was to go to the Senate. Ardent for Texas, and believing in the danger of delay, he wrote and published in the *Globe* a glowing article in favor of immediate annexation. That article was a poser and a dumbfounder to the confederates. It threw the treaty all aback. Considering Mr. Blair's friendship for Mr. Van Buren, and their confidential relations, it was concluded that this article could not have been published without his consent—that it spoke his sentiments—and was in fact his answer to the letter which had been sent to him. Here was an ugly balk. It seemed as if the long intrigue had miscarried—as if the plot was going to work out the contrary way, and elevate the man it was intended to put down. In this unexpected conjuncture a new turn became indispensable—and was promptly taken.

Mention has been made in the forepart of this chapter, of the necessity which was felt to obtain something from London to bolster up the accusation of that formidable abolition plot which Great Britain was hatching in Texas, and on the alleged existence of which the whole argument for immediate annexation reposed. The desired testimony had been got, and oracularly given to the public, as being derived from a "*private letter from a citizen of Maryland, then in London*." The name of this Maryland citizen was not given, but his respectability and reliability were fully vouched; and the testimony passed for true. It was to the point in charging upon the British government, with names and circumstances, all that had been alleged; and adding that her abolition machinations were then in full progress. This went back to London, immediately transmitted there by the British minister at Washington, Sir Richard Pakenham; and being known to be false, and felt to be scandalous, drew from the British Secretary of State (Lord Aberdeen) an indignant, prompt, and peremptory contradiction. This contradiction was given in a despatch, dated December 26th, 1843. It was communicated by Sir Richard Pakenham to Mr. Upshur, the United States Secretary of State, on the 26th day of February, 1844—a few days before the lamentable death of that gentleman by the bursting of the Princeton gun. This despatch, having no object but to contradict an unfounded imputation, required no answer—and received none. It lay in the Department of State unacknowledged until after the treaty had been signed, and until the day of the appearance of that redoubtable article in the *Globe*, which had been supposed to be Mr. Van Buren's answer to the problem of immediate annexation. Then it was taken up, and, on the 18th day of April, was elaborately answered by Mr. Calhoun in a despatch to the British minister—not to argue the point of the truth of the Maryland citizen's private letter—but to argue quite off upon a new text. It so happened that Lord Aberdeen—after the fullest contradiction of the imputed design, and the strongest assurances of non-interference with any slavery policy either of the United States or of Texas—did not stop there; but, like many able men who are not fully aware of the virtue of stopping when they are done, went on to add something more, of no necessary connection or practical application to the subject—a mere general abstract declaration on the subject of slavery; on which Mr. Calhoun took position, and erected a superstructure of alarm which did more to embarrass the opponents of the treaty and to inflame the country, than all other matters put together. This cause for this new alarm was found in the superfluous declaration, "*That Great Britain desires, and is constantly exerting herself to procure the general abolition of slavery throughout the world*." This general declaration, although preceded and followed by reiterated assurances of non-interference with slavery in the United States, and no desire for any dominant influence in Texas, were seized upon as an open avowal of a design to abolish slavery every where. These assurances were all disregarded. Our secretary established himself upon the naked declaration, stripped of all qualifications and denials. He saw in them the means of making to a northern man (Mr. Van Buren) just as perilous the support as the opposition of immediate annexation. So, making the declaration of Lord Aberdeen the text of a most elaborate reply, he took up the opposite ground (support and propagation of slavery), arguing it generally in

relation to the world, and specially in relation to the United States and Texas; and placing the annexation so fully upon that ground, that all its supporters must be committed to it. Here was a new turn, induced by Mr. Blair's article in the *Globe*, and by which the support of the treaty would be as obnoxious in the North as opposition to it would be in the South.

It must have been a strange despatch for a British minister to receive—an argument in favor of slavery propagandism—supported by comparative statements taken from the United States census, between the numbers of deaf, dumb, blind, idiotic, insane, criminal, and paupers among the free and the slave negroes—showing a large disproportion against the free negroes; and thence deducing a conclusion in favor of slavery. It was a strange diplomatic despatch, and incomprehensible except with a knowledge of the circumstances in which it was written. It must have been complete mystification to Lord Aberdeen; but it was not written for him, though addressed to him, and was sent to those for whom it was intended long before he saw it. The use that was made of it showed for whom it was written. Two days after its date, and before it had commenced its maritime voyage to London, it was in the American Senate—sent in with the treaty, with the negotiation of which it had no connection, being written a week after its signature, and after the time that the treaty would have been sent in had it not been for the appearance of the article (supposed to speak Mr. Van Buren's sentiments) in the *Globe*. It was no embarrassment to Mr. Van Buren, whose letter in answer to the interrogatories had been written, and was soon after published. It was an embarrassment to others. It made the annexation a sectional and a slavery question, and insured the rejection of the treaty. It disgusted northern senators; and that was one of the objects with which it had been written. For the whole annexation business had been conducted with a double aspect—one looking to the presidency, the other to disunion; and the latter the alternative, to the furtherance of which the rejection of the treaty by northern votes was an auxiliary step.

And while the whole negotiation bore that for one of its aspects from the beginning, this *ex post facto* despatch, written after the treaty was signed, and given to the American public before it got to the British Secretary of State, became the distinct revelation of what had been before dimly shadowed forth. All hope of the presidency from the Texas intrigue had now failed—the alternative aspect had become the absolute one; and a separate republic, consisting of Texas and some Southern States, had become the object. Neither the exposure of this object nor the history of the attempted annexation belong to this chapter. A separate chapter is required for each. And this incident of the Maryland citizen's private letter from London, Lord Aberdeen's contradiction, and the strange despatch of Mr. Calhoun to him, are only mentioned here as links in the chain of the presidential intrigue; and will be dismissed with the remark that the Maryland citizen was afterwards found out, and was discovered to be a citizen better known as an inhabitant of Washington than of Maryland; and that the private letter was intended to be for public use and paid for out of the contingent fund of the State Department; and the writer, a person whose name was the synonym of subserviency to Mr. Calhoun; namely, Mr. Duff Green. All this was afterwards brought out under a call from the United States Senate, moved by the writer of this View, who had been put upon the track by some really private information: and when the Presidential Message was read in the Senate, disclosing all these facts, he used an expression taken from a Spanish proverb which had some currency at the time: "*At last the devil is pulled from under the blanket.*"

The time was approaching for the meeting of the democratic presidential convention, postponed by collusion with the whigs (the managers in each party), from the month of December to the month of May—the 27th day of it. It was now May, and every sign was not only auspicious to Mr. Van Buren, but ominous to his opponents. The delegates almost universally remained under instructions to support him. General Jackson, seeing how his

letter to Mr. Brown had been used, though ignorant of the artifice by which it had been got from him, and justly indignant at finding himself used for a foe and against a friend, and especially when he deemed that foe dangerous to the Union—wrote a second Texas letter, addressed to the public, in which, while still adhering to his immediate annexation opinions, also adhered to Mr. Van Buren as his candidate for the presidency; and this second letter was a wet blanket upon the fires of the first one. The friends of Mr. Calhoun, seeing that he would have no chance in the Baltimore convention, had started a project to hold a third one in New York; a project which expired as soon as it got to the air; and in connection with which Mr. Cass deemed it necessary to make an authoritative contradiction of a statement made by Mr. Duff Green, who undertook to convince him, in spite of his denials, that he had agreed to it. In proportion as Mr. Calhoun was disappearing from this presidential canvass, Mr. Tyler was appearing in it; and eventually became fully developed as a candidate, intrusively on the democratic side; but his friends, seeing no chance for him in the democratic national convention, he got up an individual or collateral one for himself—to meet at the same time and place; but of this hereafter. This chapter belongs to the intrigue against Mr. Van Buren.

136. Democratic Convention For The Nomination Of Presidential Candidates

The Convention met—a motley assemblage, called democratic—many self-appointed, or appointed upon management or solicitation—many alternative substitutes—many members of Congress, in violation of the principle which condemned the Congress presidential caucuses in 1824—some nullifiers; and an immense outside concourse. Texas land and scrip speculators were largely in it, and more largely on the outside. A considerable number were in favor of no particular candidate, but in pursuit of office for themselves—inflexible against any one from whom they thought they would not get it, and ready to go for any one from whom they thought they could. Almost all were under instructions for Mr. Van Buren, and could not have been appointed where such instructions were given, except in the belief that they would be obeyed. The business of undoing instructions had been attended with but poor success—in no instance having been done by the instructing body, or its equivalent. Two hundred and sixty-six delegates were present—South Carolina absent; and it was immediately seen that after all the packing and intriguing, the majority was still for Mr. Van Buren. It was seen that he would be nominated on the first ballot, if the majority was to govern. To prevent that, a movement was necessary, and was made. In the morning of the first day, before the verification of the authority of the delegates—before organization—before prayers—and with only a temporary chairman—a motion was made to adopt the two-thirds rule, that is to say, the rule which required a concurrence of two-thirds to effect a nomination. That rule had been used in the two previous nominating conventions—not to thwart a majority, but to strengthen it; the argument being that the result would be the same, the convention being nearly unanimous; that the two-thirds would be cumulative, and give more weight to the nomination. The precedent was claimed, though the reason had failed; and the effect might now be to defeat the majority instead of adding to its voice.

Men of reflection and foresight objected to this rule when previously used, as being in violation of a fundamental principle—opening the door for the minority to rule—encouraging intrigue and combination—and leading to corrupt practices whenever there should be a design to defeat the popular will. These objections were urged in 1832 and in 1836, and answered by the reply that the rule was only adopted by each convention for itself, and made no odds in the result: and now they were answered with “precedents.” A strenuous contest took place over the adoption of this rule—all seeing that the fate of the nomination depended upon it. Mr. Romulus M. Saunders of North Carolina, was its mover. Messrs. Robert J. Walker, and Hopkins of Virginia, its most active supporters: and precedent the stress of their argument. Messrs. Morton of Massachusetts, Clifford of Maine, Dickinson and Butler of New York, Medary of Ohio, and Alexander Kayser of Missouri, were its principal opponents: their arguments were those of principle, and the inapplicability of precedents founded on cases where the two-thirds vote did not defeat, but strengthened the majority. Mr. Morton of Massachusetts, spoke the democratic sentiment when he said:

“He was in the habit of advancing his opinions in strong and plain language, and he hoped that no exception would be taken to any thing that he might say. He thought the majority principle was the true one of the democratic party. The views which had been advanced on the other side of the question were mainly based upon precedent. He did not think that they properly applied here. We were in danger of relying too much upon precedent—let us go upon principle. He had endeavored, when at school, to understand the true principles of republicanism. He well recollected the nominations of Jefferson and others, and the majority

principle had always ruled. In fact it was recognized in all the different ramifications of society. The State, county and township conventions were all governed by this rule."

Mr. Benjamin F. Butler, of New York, enforced the majority principle as the one which lay at the foundation of our government—which prevailed at the adoption of every clause in the Declaration of Independence—every clause in the constitution—all the legislation, and all the elections, both State and federal; and he totally denied the applicability of the precedents cited. He then went on to expose the tricks of a caucus within a caucus—a sub and secret caucus—plotting and combining to betray their instructions through the instrumentality and under the cover of the two-thirds rule. Thus:

"He made allusion to certain caucusing and contriving, by which it was hoped to avert the well-ascertained disposition of the majority of the democracy. He had been appointed a delegate to the convention, and accepted his credentials, as did his colleagues, with instructions to support and do all in their power to secure the nomination of a certain person (V.B.). By consenting to the adoption of the two-thirds rule, he, with them, would prove unfaithful to their trust and their honor. He knew well that in voting by simple majority, the friend he was pledged to support would receive ten to fifteen majority, and, consequently, the nomination. If two-thirds should be required to make a choice, that friend must inevitably be defeated, and that defeat caused by the action of States which could not be claimed as democratic."

This last remark of Mr. Butler should sink deep into the mind of every friend to the elective system. These conventions admitted delegations from anti-democratic States—States which could not give a democratic vote in the election, and yet could control the nomination. This is one of the most unfair features in the convention system.

The rule was adopted, and by the help of delegates instructed to vote for Mr. Van Buren, and who took that method of betraying their trust while affecting to fulfil it. The body then organized and the balloting commenced, all the States present except South Carolina, who stood off, although she had come into it at the preceding convention, and cast her vote for Mr. Van Buren. Two hundred and sixty-six electoral votes were represented, of which 134 would be the majority, and 177 the two-thirds. Mr. Van Buren received 151 on the first ballot, gradually decreasing at each successive vote until the seventh, when it stood at 99; probably about the true number that remained faithful to their constituents and their pledges. Of those who fell off it was seen that they chiefly consisted of those professing friends who had supported the two-thirds rule, and who now got an excuse for their intended desertion and premeditated violation of instructions in being able to allege the impossibility of electing the man to whom they were pledged.

At this stage of the voting, a member from Ohio (Mr. Miller) moved a resolve, *that Mr. Van Buren, having received a majority of the votes on the first ballot, was duly nominated, and should be so declared*. This motion was an unexpected step, and put delegates under the necessity of voting direct on the majority principle, which lies at the foundation of all popular elections, and at the foundation of the presidential election itself, as prescribed by the constitution. That instrument only requires a majority of the electoral votes to make an election of President; this intriguing rule requires him to get two-thirds before he is competent to receive that majority. The motion raised a storm. It gave rise to a violent, disorderly, furious and tumultuary discussion—a faint idea of which may be formed from some brief extracts from the speeches:

Mr. Brewster, of Pennsylvania.—"They (the delegation from this State) had then been solemnly instructed to vote for Martin Van Buren first, and to remain firm to that vote as long

as there was any hope of his success. He had been asked by gentlemen of the convention why the delegation of Pennsylvania were so divided in their vote. He would answer that it was because some gentlemen of the delegation did not think proper to abide by the solemn instructions given them, but rather chose to violate those instructions. Pennsylvania had come there to vote for Martin Van Buren, and she would not desert him until New York had abandoned him. The delegation had entered into a solemn pledge to do so; and he warned gentlemen that if they persisted in violating that pledge, they would be held to a strict account by their constituency, before whom, on their return home, they would have to hang their heads with shame. Sorry would he be to see them return, after having violated their pledge."

Mr. Hickman, of Pennsylvania.—"He charged that the delegation from the 'Keystone State' had violated the solemn pledge taken before they were entitled to seats on the floor. He asserted on the floor of this convention, and would assert it every where, that the delegation from Pennsylvania came to the convention instructed to vote for, and to use every means to obtain the nomination of Martin Van Buren for President, and Richard M. Johnson for Vice President; and yet a portion of the delegation, among whom was his colleague who had just preceded him, had voted against the very proposition upon which the fate of Martin Van Buren hung. He continued his remarks in favor of the inviolability of instructions and in rebuke of those of the Pennsylvania delegation, who had voted for the two-thirds rule, knowing, as they did, that it would defeat Mr. Van Buren's nomination."

Mr. Bredon, of Pennsylvania.—"He had voted against the two-thirds rule. He had been instructed, he said, and he believed had fulfilled those instructions, although he differed from some of his colleagues. His opinion was, that they were bound by instructions only so long as they were likely to be available, and then every member was at liberty to consult his own judgment. He had stood by Mr. Van Buren, and would continue to do so until the New York and Ohio delegates flew the track."

Mr. Frazer, of Pennsylvania, "replied to the remarks of his colleagues, and amidst much and constantly increasing confusion, explained his motives for having deserted Mr. Van Buren. On the last ballot he had voted for James K. Polk, and would do so on the next, despite the threat that had been thrown out, that those who had not voted for Mr. Van Buren would be ashamed to show their faces before their constituents. He threw back the imputation with indignation. He denied that he had violated his pledge; that he had voted for Mr. Van Buren on three ballots, but finding that Mr. Van Buren was not the choice of the convention, he had voted for Mr. Buchanan. Finding that Mr. Buchanan could not succeed, he had cast his vote for James K. Polk, the bosom friend of General Jackson, and a pure, whole-hogged democrat, the known enemy of banks, distribution, &c. He had carried out his instructions as he understood them, and others would do the same."

Mr. Young, of New York, "said it had been intimated that New York desired pertinaciously to force a candidate upon the convention. This he denied. Mr. Van Buren had been recommended by sixteen States to this convention for their suffrages before New York had spoken on the subject, and when she did speak it was with a unanimous voice, and, if an expression of opinion on the part of these people could now be had, it would be found that they had not changed. (As Mr. Y proceeded the noise and confusion increased.) It was true, he said, that a firebrand had been thrown into their camp by the 'Mongrel administration at Washington,' and this was the motive seized upon as a pretext for a change on the part of some gentlemen. That firebrand was the abominable Texas question, but that question, like a fever, would wear itself out or kill the patient. It was one that should have no effect; and some of those who were now laboring to get up an excitement on a subject foreign to the political contest before them, would be surprised, six months hence, that they had permitted

their equanimity to be disturbed by it. Nero had fiddled while Rome was burning, and he believed that this question had been put in agitation for the especial purpose of advancing the aspiring ambition of a man, who, he doubted not, like Nero, 'was probably fiddling while Rome was falling.'"

The crimination and recrimination in the Pennsylvania delegation, arose from division among the delegates: in some other delegations the disregard of instructions was unanimous, and there was no one to censure another, as in Mississippi. The Pennsylvania delegation, may be said to have decided the nomination. They were instructed to vote for Mr. Van Buren, and did so, but they divided on the two-thirds rule, and gave a majority of their votes for it, that is to say, 13 votes; but as 13 was not a majority of 26, one delegate was got to stand aside: and then the vote stood 13 to 12. The Virginia delegation, headed by the most respectable William H. Roane (with a few exceptions), remained faithful—disregarding the attempt to release them at Shockoe Hill, and voting steadily for Mr. Van Buren, as well on all the ballotings as on the two-thirds question—which was the real one. Some members of the Capitol nocturnal committee were in the convention, and among its most active managers—and the most zealous against Mr. Van Buren. In that profusion of letters with which they covered the country to undermine him, they placed the objection on the ground of the impossibility of electing him: now it was seen that the impossibility was on the other side—that it was impossible to defeat him, except by betraying trusts, violating instructions, combining the odds and ends of all factions; and then getting a rule adopted by which a minority was to govern.

The motion of Mr. Miller was not voted upon. It was summarily disposed of, without the responsibility of a direct vote. The enemies of Mr. Van Buren having secured the presiding officer at the start, all motions were decided against them; and after a long session of storm and rage, intermitted during the night for sleep and intrigue, and resumed in the morning, an eighth ballot was taken: and without hope for Mr. Van Buren. As his vote went down, that for Messrs. Cass, Buchanan, and R. M. Johnson rose; but without ever carrying either of them to a majority, much less two-thirds. Seeing the combination against him, the friends of Mr. Van Buren withdrew his name, and the party was then without a candidate known to the people. Having killed off the one chosen by the people, the convention remained masters of the field, and ready to supply one of its own. The intrigue, commenced in 1842, in the Gilmer letter, had succeeded one-half. It had put down one man, but another was to be put up; and there were enough of Mr. Van Buren's friends to defeat that part of the scheme. They determined to render their country that service, and therefore withdrew Mr. Van Buren, that they might go in a body for a new man. Among the candidates for the vice-presidency was Mr. James K. Polk, of Tennessee. His interest as a vice-presidential candidate lay with Mr. Van Buren, and they had been much associated in the minds of each other's friends. It was an easy step for them to support for the first office, on the loss of their first choice, the citizen whom they intended for the second. Without public announcements, he was slightly developed as a presidential candidate on the eighth ballot; on the ninth he was unanimously nominated, all the president-makers who had been voting for others—for Cass, Buchanan, Johnson—taking the current the instant they saw which way it was going, in order that they might claim the merit of conducting it. "You bring but seven captives to my tent, but thousands of you took them," was the sarcastic remark of a king of antiquity at seeing the multitude that came to claim honors and rewards for taking a few prisoners. Mr. Polk might have made the same exclamation in relation to the multitude that assumed to have nominated him. Their name was legion: for, besides the unanimous convention, there was a host of outside operators, each of whom claimed the merit of having governed the vote of some delegate. Never was such a

multitude seen claiming the merit, and demanding the reward, for having done what had been done before they heard of it.

The nomination was a surprise and a marvel to the country. No voice in favor of it had been heard; no visible sign in the political horizon had announced it. Two small symptoms—small in themselves and equivocal in their import, and which would never have been remembered except for the event—doubtfully foreshadowed it. One was a paragraph in a Nashville newspaper, hypothetically suggesting that Mr. Polk should be taken up if Mr. Van Buren should be abandoned; the other, the ominous circumstance that the Tennessee State nominating convention made a recommendation (Mr. Polk) for the second office, and none for the first; and Tennessee being considered a Van Buren State, this omission was significant, seeming to leave open the door for his ejection, and for the admission of some other person. And so the delegates from that State seemed to understand it, voting steadily against him, until he was withdrawn.

The ostensible objection to the last against Mr. Van Buren, was his opposition to immediate annexation. The shallowness of that objection was immediately shown in the unanimous nomination of his bosom friend, Mr. Silas Wright, identified with him in all that related to the Texas negotiation, for Vice-President. He was nominated upon the proposition of Mr. Robert J. Walker—a main-spring in all the movements against Mr. Van Buren, whose most indefatigable opponents sympathized with the Texas scrip and land speculators. Mr. Wright instantly declined the nomination; and Mr. George M. Dallas, of Pennsylvania, was taken in his place.

The Calhoun New York convention expired in the conception. It never met. The Tyler Baltimore convention was carried the length of an actual meeting, and went through the forms of a nomination, without the distraction of a rival candidate. It met the same day and place with the democratic convention, as if to officiate with it, and to be ready to offer a *pis aller*, but to no purpose. It made its own nomination—received an elaborate letter of thanks and acceptance from Mr. Tyler, who took it quite seriously; and two months afterwards joined the democracy for Polk and Dallas, against Clay and Frelinghuysen—his old whig friends. He had co-operated in all the schemes against Mr. Van Buren, in the hope of being taken up in his place; and there was an interest, calling itself democratic, which was willing to oblige him. But all the sound heart of the democracy recoiled from the idea of touching a man who, after having been raised high by the democracy, had gone over to the whigs, to be raised still higher, and now came back to the democracy to obtain the highest office they could give.

And here ends the history of this long intrigue—one of the most elaborate, complex and daring, ever practised in an intelligent country; and with too much success in putting down some, and just disappointment in putting up others: for no one of those who engaged in this intrigue ever reached the office for which they strived. My opinion of it was expressed, warmly but sincerely, from the first moment it was broached to me on the steps of the Capitol, when accosted by Mr. Brown, down to the rejection of the treaty in the Senate, and the defeat of Mr. Van Buren in the convention. Of this latter event, the author of this View thus wrote in a public letter to Missouri:

“Neither Mr. Polk nor Mr. Dallas has any thing to do with the intrigue which has nullified the choice of the people, and the rights of the people, and the principles of our government, in the person of Mr. Van Buren; and neither of them should be injured or prejudiced by it. Those who hatched that intrigue, have become its victims. They who dug a pit for the innocent have fallen into it; and there let them lie, for the present, while all hands attend to the election, and give us our full majority of ten thousand in Missouri. For the rest, the time will come; and

people now, as twenty years ago (when their choice was nullified in the person of General Jackson), will teach the Congress intriguers to attend to law-making and let President-making and un-making alone in future. The Texas treaty, which consummated this intrigue, was nothing but the final act in a long conspiracy, in which the sacrifice of Mr. Van Buren had been previously agreed upon; and the nomination of Mr. Wright for Vice-President proves it; for his opinions and those of Mr. Van Buren, on the Texas question, were identical, and if fatal to one should have been fatal to the other. Besides, Mr. Van Buren was right, and whenever Texas is admitted, it will have to be done in the way pointed out by him. Having mentioned Mr. Wright, I will say that recent events have made him known to the public, as he has long been to his friends, *the Cato of America, and a star of the first magnitude in our political firmament*."

And now, why tell these things which may be quoted to the prejudice of democratic institutions? I answer: To prevent that prejudice! and to prevent the repetition of such practices. Democracy is not to be prejudiced by it, for it was the work of politicians; and as far as depended upon the people, they rebuked it. The intrigue did not succeed in elevating any of its authors to the presidency; and the annexation treaty, the fruit of so much machination, was rejected by the Senate; and the annexation afterwards effected by the legislative concurrence of the two powers. From the first inception, with the Gilmer letter, down to the Baltimore conclusion in the convention, the intrigue was carried on; and was only successful in the convention by the help of the rule which made the minority its master. That convention is an era in our political history, to be looked back upon as the starting point in a course of usurpation which has taken the choice of President out of the hands of the people, and vested it in the hands of a self-constituted and irresponsible assemblage. The wrong to Mr. Van Buren was personal and temporary, and died with the occasion, and constitutes no part of the object in writing this chapter: the wrong to the people, and the injury to republican institutions, and to our frame of government, was deep and abiding, and calls for the grave and correctional judgment of history. It was the first instance in which a body of men, unknown to the laws and the constitution, and many of them (as being members of Congress, or holding offices of honor or profit) constitutionally disqualified to serve even as electors, assumed to treat the American presidency as their private property, to be disposed at their own will and pleasure; and, it may be added, for their own profit: for many of them demanded, and received reward. It was the first instance of such a disposal of the presidency—for these nominations are the election, so far as the party is concerned; but not the last. It has become the rule since, and has been improved upon. These assemblages now perpetuate themselves, through a committee of their own, ramified into each State, sitting permanently from four years to four years; and working incessantly to govern the election that is to come, after having governed the one that is past. The man they choose must always be a character of no force, that they may rule him: and they rule always for their own advantage—"constituting a power behind the throne greater than the throne." The reader of English history is familiar with the term, "cabal," and its origin—taking its spelling from the initial letters of the names of the five combined intriguing ministers of Charles II.—and taking its meaning from the conduct and characters of these five ministers. What that meaning was, one of the five wrote to another for his better instruction, not suspecting that the indefatigable curiosity of a subsequent generation would ever ferret out the little missive. Thus: "*The principal spring of our actions was to have the government in our own hands; that our principal views were the conservation of this power—great employments to ourselves—and great opportunities of rewarding those who have helped to raise us, and of harming those who stood in opposition to us.*" Such was the government which the "cabal" gave England; and such is the one which the convention system gives us: and until this system is abolished, and the people resume their rights, the elective principle of our

government is suppressed: and the people have no more control over the selection of the man who is to be their President, than the subjects of kings have over the birth of the child who is to be their ruler.

137. Presidential: Democratic National Convention: Mr. Calhoun's Refusal To Submit His Name To It: His Reasons

Before the meeting of this convention Mr. Calhoun, in a public address to his political friends, made known his determination not to suffer his name to go before that assemblage as a candidate for the presidency, and stated his reasons for that determination. Many of those reasons were of a nature to rise above personal considerations—to look deep into the nature and working of our government—and to show objections to the convention system (as practised), which have grown stronger with time. His first objection was as to the mode of choosing delegates, and the manner of their giving in their votes—he contending for district elections, and the delegates to vote individually, and condemning all other modes of electing and voting:

"I hold, then, that the convention should be so constituted, as to utter fully and clearly the voice of the people, and not that of political managers, or office holders and office seekers, and for that purpose, I hold it indispensable that the delegates should be appointed directly by the people, or to use the language of General Jackson, should be 'fresh from the people.' I also hold, that the only possible mode to effect this, is for the people to choose the delegates by districts, and that they should vote *per capita*. Every other mode of appointing would be controlled by political machinery, and place the appointments in the hands of the few, who work it."

This was written ten years ago: there have been three of these conventions since that time by each political party: and each have verified the character here given of them. Veteran office holders, and undaunted office seekers, collusively or furtively appointed, have had the control of these nominations—the office holders all being forbid by the constitution to be even electors, and the office seekers forbid by shame and honor (if amenable to such sensations), to take part in nominating a President from whom they would demand pay for their vote. Mr. Calhoun continues:

"I object, then, to the proposed convention, because it will not be constituted in conformity with the fundamental articles of the republican creed. The delegates to it will be appointed from some of the States, not by the people in districts, but, as has been stated, by State conventions en masse, composed of delegates appointed in all cases, as far as I am informed, by county or district conventions, and in some cases, if not misinformed, these again composed of delegates appointed by still smaller divisions, or a few interested individuals. Instead then of being directly, or fresh from the people, the delegates to the Baltimore convention will be the delegates of delegates; and of course removed, in all cases, at least three, if not four degrees from the people. At each successive remove, the voice of the people will become less full and distinct, until, at last, it will be so faint and imperfect, as not to be audible. To drop metaphor, I hold it impossible to form a scheme more perfectly calculated to annihilate the control of the people over the presidential election, and vest it in those who make politics a trade, and who live or expect to live on the government."

Mr. Calhoun proceeds to take a view of the working of the constitution in a fair election by the people and by the States, and considered the plan adopted as a compromise between the large and the small States. In the popular election through electors, the large States had the advantage, as presenting masses of population which would govern the choice: in the election

by States in the House of Representatives, the small States had the advantage, as the whole voted equally. This, then, was considered a compromise. The large States making the election when they were united: when not united, making the nomination of three (five as the constitution first stood), out of which the States chose one. This was a compromise; and all compromises should be kept when founded in the structure of the government, and made by its founders. Total defeat of the will of the people, and total frustration of the intent of the constitution, both in the electoral nomination and the House choice of a President, was seen in the exercise of this power over presidential nominations by Congress caucuses, before their corruption required a resort to conventions, intended to be the absolute reflex of the popular will. Of this Mr. Calhoun says:

"The danger was early foreseen, and to avoid it, some of the wisest and most experienced statesmen of former days so strongly objected to congressional caucuses to nominate candidates for the presidency, that they never could be induced to attend them; among these it will be sufficient to name Mr. Macon and Mr. Lowndes. Others, believing that this provision of the constitution was too refined for practice, were solicitous to amend it, but without impairing the influence of the smaller States in the election. Among these, I rank myself. With that object, resolutions were introduced, in 1828, in the Senate by Colonel Benton, and in the House by Mr. McDuffie, providing for districting the State, and for referring the election back to the people, in case there should be no choice, to elect one from the two highest candidates. The principle which governed in the amendment proposed, was to give a fair compensation to the smaller States for the surrender of their advantage in the eventual choice, by the House, and at the same time to make the mode of electing the President more strictly in conformity with the principles of our popular institutions, and to be less liable to corruption, than the existing. They (the resolutions of McDuffie and Benton) received the general support of the party, but were objected to by a few, as not being a full equivalent to the smaller States."

The Congress presidential caucuses were put down by the will of the people, and in both parties at the same time. They were put down for not conforming to the will of the people, for incompatibility between the legislative and the elective functions, for being in office at the same time, for following their own will, instead of representing that of their constituents. Mr. Calhoun concurred in putting them down, but preferred them a hundred times over to the intriguing, juggling, corrupt and packed machinery into which the conventions had so rapidly degenerated.

"And here let me add, that as objectionable as I think a congressional caucus for nominating a President, it is, in my opinion, far less so than a convention constituted as is proposed. The former had indeed many things to recommend it. Its members consisting of senators and representatives, were the immediate organs of the State legislatures, or the people; were responsible to them, respectively, and were for the most part, of higher character, standing, and talents. They voted per capita, and what is very important, they represented fairly the relative strength of the party in their respective States. In all these important particulars, it was all that could be desired for a nominating body, and formed a striking contrast to the proposed convention; and yet, it could not be borne by the people in the then purer days of the republic. I, acting with General Jackson and most of the leaders of the party at that time, contributed to put it down, because we believed it to be liable to be acted on and influenced by the patronage of the government—an objection far more applicable to a convention constituted as the one proposed, than to a congressional caucus. Far however was it from my intention, in aiding to put that down, to substitute in its place what I regard as a hundred times more objectionable in every point of view. Indeed, if there must be an intermediate body

between the people and the election, unknown to the constitution, it may be well questioned whether a better than the old plan of a congressional caucus can be devised."

Mr. Calhoun considered the convention system, degenerated to the point it was in 1844, to have been a hundred times more objectionable than the Congress caucuses which had been repudiated by the people: measured by the same scale, and they are a thousand times worse at present—having succeeded to every objection that was made against the Congress caucuses, and superadded a multitude of others going directly to scandalous corruption, open intrigue, direct bargain and sale, and flagrant disregard of the popular will. One respect in which they had degenerated from the Congress caucus was in admitting a State to give its full vote in nominating a President, which could either give no vote at all, or a divided one, to the nominated candidate. In the Congress caucus that anomaly could not happen. The members of the party only voted: and if there were no members of a party from a State, there was no vote from that State in the caucus: if a divided representation, then a vote according to the division. This was fair, and prevented a nomination being made by those who could do nothing in the election. This objection to the convention system, and a grievous one it is as practised, he sets forth in a clear and forcible point of view. He says:

"I have laid down the principle, on which I rest the objection in question, with the limitation, that the relative weight of the States should be maintained, making due allowance for their relative party strength. The propriety of the limitation is so apparent, that but a few words, in illustration, will be required. The convention is a party convention, and professedly intended to take the sense of the party, which cannot be done fairly, if States having but little party strength, are put on equality with those which have much. If that were done, the result might be, that a small portion of the party from States the least sound, politically, and which could give but little support in Congress, might select the candidate, and make the President, against a great majority of the soundest, and on which the President and his administration would have to rely for support. All this is clearly too unfair and improper to be denied. There may be a great difficulty in applying a remedy in a convention, but I do not feel myself called upon to say how it can be done, or by what standard the relative party strength of the respective States should be determined; perhaps the best would be their relative strength in Congress at the time. In laying down the principle, I added the limitation for the sake of accuracy, and to show how imperfectly the party must be represented, when it is overlooked. I see no provision in the proposed convention to meet it."

The objection is clearly and irresistibly shown: the remedy is not so clear. The Congress representation for the time being is suggested for the rule of the convention: it is not always the true rule. A safer one is, the general character of the State—its general party vote—and its probable present party strength. Even that rule may not attain exact precision; but, between a rule which may admit of a slight error, and no rule at all to keep out notorious unfounded votes—votes representing no constituency, unable to choose an elector, having no existence when the election comes on, yet potential at the nomination, and perhaps governing it: between these two extremes there is no room for hesitation, or choice: the adoption of some rule which would exclude notoriously impotent votes, becomes essential to the rights and safety of the party, and is peremptorily demanded by the principle of popular representation. The danger of centralizing the nomination—(which, so far as the party is concerned, is the election)—in the hands of a few States, by the present convention mode of nomination, is next shown by Mr. Calhoun.

"But, in order to realize how the convention will operate, it will be necessary to view the combined effects of the objections which I have made. Thus viewed, it will be found, that a convention so constituted, tends irresistibly to centralization—centralization of the control

over the presidential election in the hands of a few of the central, large States, at first, and finally, in political managers, office-holders, and office-seekers; or to express it differently, in that portion of the community, who live, or expect to live on the government, in contradistinction to the great mass, who expect to live on their own means or their honest industry; and who maintain the government; and politically speaking, emphatically the people. That such would be the case, may be inferred from the fact, that it would afford the means to some six or seven States lying contiguous and not far from the centre of the Union, to control the nomination, and through that the election, by concentrating their united votes in the convention. Give them the power of doing so, and it would not long lie dormant. What may be done by combination, where the temptation is so great, will be sure ere long to be done. To combine and conquer, is not less true as a maxim, where power is concerned, than 'divide and conquer.' Nothing is better established, than that the desire for power can bring together and unite the most discordant materials."

After showing the danger of centralizing the nomination in the hands of a few great contiguous States, Mr. Calhoun goes on to show the danger of a still more fatal and corrupt centralization—that of throwing the nomination into the meshes of a train-band of office-holders and office-seekers—professional President-makers, who live by the trade, having no object but their own reward, preferring a weak to a strong man because they can manage him easiest: and accomplishing their purposes by corrupt combinations, fraudulent contrivances, and direct bribery. Of these train-bands, Mr. Calhoun says:

"But the tendency to centralization will not stop there. The appointment of delegates en masse by State convention, would tend at the same time, and even with great force, to neutralize the control in the hands of the few, who make politics a trade. The farther the convention is removed from the people, the more certainly the control over it will be placed in the hands of the interested few, and when removed three or four degrees, as has been shown it will be, where the appointment is by State conventions, the power of the people will cease, and the seekers of Executive favor will become supreme. At that stage, an active, trained and combined corps will be formed in the party, whose whole time and attention will be directed to politics. Into their hands the appointments of delegates in all the stages will fall, and they will take special care that none but themselves or their humble and obedient dependents shall be appointed. The central and State conventions will be filled by the most experienced and cunning, and after nominating the President, they will take good care to divide the patronage and offices, both of the general and State governments, among themselves and their dependents. But why say *will*? Is it not *already the case*? Have there not been many instances of State conventions being filled by office holders and office seekers, who, after making the nomination, have divided the offices in the State among themselves and their partisans, and joined in recommending to the candidate whom they have just nominated to appoint them to the offices to which they have been respectively allotted? If such be the case in the infancy of the system, it must end, if such conventions should become the established usage, in the President nominating his successor. When it comes to that, it will not be long before the sword will take the place of the constitution."

And it has come to that. Mr. Tyler set the example in 1844—immediately after this address of Mr. Calhoun was written—and had a presidential convention of his own, composed of office holders and office seekers. Since then the example has been pretty well followed; and now any President that pleases may nominate his successor by having the convention filled with the mercenaries in office, or trying to get in. The evil has now reached a pass that must be corrected, or the elective franchise abandoned. Conventions must be reformed—that is to say, purged of office holders and office seekers—purged of impotent votes—purged of all delegates forbid by the constitution to be electors—purged of intrigue, corruption and

jugglery—and brought to reflect the will of the people; or, they must suffer the fate of the Congress caucuses, and be put down. Far better—a thousand times better—to let the constitution work its course; as many candidates offer for President as please; and if no one gets a majority of the whole, then the House of Representatives to choose one from the three highest on the list. In that event, the people would be the nominating body: they would present the three, out of which their representatives would be obliged to take one. This would be a nomination by the *People*, and an election by the States.

One other objection to these degenerate conventions Mr. Calhoun did not mention, but it became since he made his address a prominent one, and an abuse in itself, which insures success to the train-band mercenaries whose profligate practices he so well describes. This is the two-thirds rule, as it is called; the rule that requires a vote of two-thirds of the convention to make a nomination. This puts it in the power of the minority to govern the majority, and enables a few veteran intriguers to manage as they please. And when it is remembered that many are allowed—even the delegates of whole States—to vote in the convention, which can give no vote to the party at the election, it might actually happen that the whole nomination might be contrived and made by straw-delegates, whose constituency could not give a single electoral vote.

138. Annexation Of Texas: Secret Negotiation Presidential Intrigue: Schemes Of Speculation And Disunion

The President's annual message at the commencement of the session 1843-'44, contained an elaborated paragraph on the subject of Texas and Mexico, which, to those not in the secret, was a complete mystification: to others, and especially to those who had been observant of signs, it foreshadowed a design to interfere in the war between those parties, and to take Texas under the protection of the Union, and to make her cause our own. A scheme of annexation was visible in the studied picture presented of homogeniality between that country and the United States, geographically and otherwise; and which homogeniality was now sufficient to risk a war with Great Britain and Mexico (for the message squinted at war with both), to get Texas back, although it had not been sufficient when the country was ceded to Spain to prevent Mr. Tyler from sanctioning the cession—as he did as a member of the House in 1820 in voting against Mr. Clay's resolution, disapproving and condemning that cession. This enigmatical paragraph was, in fact, intended to break the way for the production of a treaty of annexation, covertly conceived and carried on with all the features of an intrigue, and in flagrant violation of the principles and usages of the government. Acquisitions of territory had previously been made by legislation, and by treaty, as in the case of Louisiana in 1803, and of Florida in 1819; but these treaties were founded upon legislative acts—upon the consent of Congress previously obtained—and in which the treaty-making power was but the instrument of the legislative will. This previous consent and authorization of Congress had not been obtained—on the contrary, had been eschewed and ignored by the secrecy with which the negotiation had been conducted; and was intended to be kept secret until the treaty was concluded, and then to force its adoption for the purpose of increasing the area of slave territory, or to make its rejection a cause for the secession of the Southern States; and in either event, and in all cases, to make the question of annexation a controlling one in the nomination of presidential candidates, and also in the election itself.

The complication of this vast scheme, leading to a consummation so direful as foreign war and domestic disunion, and having its root in personal ambition, and in scrip and land speculation, and spoliation claims—the way it was carried on, and the way it was defeated—altogether present one of the most instructive lessons which the working of our government exhibits; and the more so as the two prominent actors in the scheme had reversed their positions since Texas had been retroceded to Spain. Mr. Calhoun was then in favor of curtailing the area of slave territory, and as a member of Mr. Monroe's cabinet, counselled the establishment of the Missouri compromise line, which abolished slavery in all the upper half of the great province of Louisiana; and, as a member of the same cabinet, counselled the retrocession of Texas to Spain, which extinguished all the slave territory south of the compromise line. Mr. Calhoun was then against slavery extension, and so much in favor of extinguishing slave territory as to be a favorite in the free States, and beat Mr. Adams himself in those States in the presidential election of 1824—receiving more of their votes for Vice-President than Mr. Adams did for President. After the failure in 1833 to unite the slave States against the free ones on the Tariff agitation, he took up the slavery agitation—pursuing it during his life, and leaving it at his death as a legacy to the disciples in his political school. Mr. Tyler was a follower in these amputations and extinction of slave territory in 1819-'20: he was now a follower in the slavery agitation to get back the province which was then given

away, or to make it the means of a presidential election, or of Southern dismemberment. This scheme had been going on for two years before it appeared above the political horizon; and the right understanding of the Texas annexation movement in 1844, requires the hidden scheme to be uncovered from its source, and laid open through its long and crooked course: which will be the subject of the next chapter, as shown at the time in a speech from Senator Benton.

139. Texas Annexation Treaty: First Speech Of Mr. Benton Against It: Extracts

Mr. Benton. The President, upon our call, sends us a map and a memoir from the Topographical bureau to show the Senate the boundaries of the country he proposes to annex. This memoir is explicit in presenting the Rio Grande del Norte in its whole extent as a boundary of the republic of Texas, and that in conformity to the law of the Texian Congress establishing its boundaries. The boundaries on the map conform to those in the memoir: each takes for the western limit the Rio Grande from head to mouth; and a law of the Texian Congress is copied into the margin of the map, to show the legal, and the actual, boundaries at the same time. From all this it results that the treaty before us, besides the incorporation of Texas proper, also incorporates into our Union the left bank of the Rio Grande, in its whole extent from its head spring in the *Sierra Verde* (Green Mountain), near the South Pass in the Rocky Mountains, to its mouth in the Gulf of Mexico, four degrees south of New Orleans, in latitude 26°. It is a "*grand and solitary river*," almost without affluents or tributaries. Its source is in the region of eternal snow; its outlet in the clime of eternal flowers. Its direct course is 1,200 miles; its actual run about 2,000. This immense river, second on our continent to the Mississippi only, and but little inferior to it in length, is proposed to be added in the whole extent of its left bank to the American Union! and that by virtue of a treaty for the *re*-annexation of Texas! Now, the real Texas which we acquired by the treaty of 1803, and flung away by the treaty of 1819, never approached the Rio Grande except near its mouth! while the whole upper part was settled by the Spaniards, and great part of it in the year 1694—just one hundred years before La Salle first saw Texas!—all this upper part was then formed into provinces, on both sides of the river, and has remained under Spanish, or Mexican authority ever since. These former provinces of the Mexican viceroyalty, now departments of the Mexican republic, lying on both sides of the Rio Grande from its head to its mouth, we now propose to incorporate, so far as they lie on the left bank of the river, into our Union, by virtue of a treaty of *re*-annexation with Texas. Let us pause and look at our new and important proposed acquisitions in this quarter. First: there is the department, formerly the province of New Mexico, lying on both sides of the river from its head spring to near the Paso del Norte—that is to say, half down the river. This department is studded with towns and villages—is populated—well cultivated—and covered with flocks and herds. On its left bank (for I only speak of the part which we propose to *re*-annex) is, first, the frontier village Taos, 3,000 souls, and where the custom-house is kept at which the Missouri caravans enter their goods. Then comes Santa Fé, the capital, 4,000 souls—then Albuquerque, 6,000 souls—then some scores of other towns and villages—all more or less populated, and surrounded by flocks and fields. Then come the departments of Chihuahua, Coahuila, and Tamaulipas, without settlements on the left bank of the river, but occupying the right bank, and commanding the left. All this—being parts of four Mexican departments—now under Mexican governors and governments—is permanently reannexed to this Union, if this treaty is ratified; and is actually reannexed from the moment of the signature of the treaty, according to the President's last message, to remain so until the acquisition is rejected by rejecting the treaty! The one-half of the department of New Mexico, with its capital, becomes a territory of the United States: an angle of Chihuahua, at the Paso del Norte, famous for its wine, also becomes ours: a part of the department of Coahuila, not populated on the left bank, which we take, but commanded from the right bank by Mexican authorities: the same of Tamaulipas, the ancient Nuevo San Tander (New St. Andrew), and which covers both sides

of the river from its mouth for some hundred miles up, and all the left bank of which is in the power and possession of Mexico. These, in addition to the old Texas; these parts of four States—these towns and villages—these people and territory—these flocks and herds—this *slice* of the republic of Mexico, two thousand miles long, and some hundred broad—all this our President has cut off from its mother empire, and presents to us, and declares it is ours till the Senate rejects it! He calls it Texas! and the cutting off he calls *re*-annexation! Humboldt calls it New Mexico, Chihuahua, Coahuila, and Nuevo San Tander (now Tamaulipas); and the civilized world may qualify this *re*-annexation by the application of some odious and terrible epithet. Demosthenes advised the people of Athens not to take, but to *re*-take a certain city; and in that *re* laid the virtue which saved the act from the character of spoliation and robbery. Will it be equally potent with us? and will the *re*, prefixed to the annexation, legitimate the seizure of two thousand miles of a neighbor's dominion, with whom we have treaties of peace, and friendship, and commerce? Will it legitimate this seizure, made by virtue of a treaty with Texas, when no Texian force—witness the disastrous expeditions to Mier and to Santa Fé—have been seen near it without being killed or taken, to the last man?

The treaty, in all that relates to the boundary of the Rio Grande, is an act of unparalleled outrage on Mexico. It is the seizure of two thousand miles of her territory without a word of explanation with her, and by virtue of a treaty with Texas, to which she is no party. Our Secretary of State (Mr. Calhoun) in his letter to the United States chargé in Mexico, and seven days after the treaty was signed, and after the Mexican minister had withdrawn from our seat of government, shows full well that he was conscious of the enormity of this outrage; knew it was war; and proffered volunteer apologies to avert the consequences which he knew he had provoked.

The President, in his special message of Wednesday last, informs us that we have acquired a title to the ceded territories by his signature to the treaty, wanting only the action of the Senate to perfect it; and that, in the mean time, he will protect it from invasion, and for that purpose has detached all the disposable portions of the army and navy to the scene of action. This is a caper about equal to the mad freaks with which the unfortunate emperor Paul, of Russia, was accustomed to astonish Europe about forty years ago. By this declaration the thirty thousand Mexicans in the left half of the valley of the Rio del Norte are our citizens, and standing, in the language of the President's message, in a hostile attitude towards us, and subject to be repelled as invaders. Taos, the seat of the custom-house, where our caravans enter their goods, is ours: Santa Fé, the capital of New Mexico, is ours: Governor Armijo is our governor, and subject to be tried for treason if he does not submit to us: twenty Mexican towns and villages are ours; and their peaceful inhabitants, cultivating their fields and tending their flocks, are suddenly converted, by a stroke of the President's pen, into American citizens, or American rebels. This is too bad: and, instead of making themselves party to its enormities, as the President invites them to do, I think rather that it is the duty of the Senate to wash its hands of all this part of the transaction by a special disapprobation. The Senate is the constitutional adviser of the President, and has the right, if not the duty, to give him advice when the occasion requires it. I therefore propose, as an additional resolution, appliable to the Rio del Norte boundary only—the one which I will read and send to the Secretary's table—stamping as a spoliation this seizure of Mexican territory—and on which, at the proper time, I shall ask the vote of the Senate.

I now proceed a step further, and rise a step higher, Mr. President, in unveiling the designs and developing the conduct of our administration in this hot and secret pursuit after Texas. It is my business now to show that war with Mexico is a design and an object with it from the beginning, and that the treaty-making power was to be used for that purpose. I know the

responsibility of a senator—I mean his responsibility to the moral sense of his country and the world—in attributing so grave a culpability to this administration. I know the whole extent of this responsibility, and shall therefore be careful to proceed upon safe and solid ground. I shall say nothing but upon proof—upon the proof furnished by the President himself—and ask for my opinions no credence beyond the strict letter of these proofs. For this purpose I have recourse to the messages and correspondence which the President has sent us, and begin with the message of the 22d of April—the one which communicated the treaty to the Senate. That message, after a strange and ominous declaration that no sinister means have been used—no intrigue set on foot—to procure the consent of Texas to the annexation, goes on to show exactly the contrary, and to betray the President's design to protect Texas by receiving her into our Union and adopting her war with Mexico.

I proceed to another piece of evidence to the same effect—namely, the letter of the present Secretary of State to Mr. Benjamin Green, our chargé at Mexico, under date of the 19th of April past. The letter has been already referred to, and will be only read now in the sentence which declares that the treaty has been made in the full view of war! for that alone can be the meaning of this sentence:

"It has taken the step (to wit, the step of making the treaty) in full view of all possible consequences, but not without a desire and a hope that a full and fair disclosure of the causes which induced it to do so, would prevent the disturbance of the harmony subsisting between the two countries, which the United States is anxious to preserve."

This is part of the despatch which communicates to Mexico the fact of the conclusion of the treaty of annexation—that treaty, the conclusion of which the formal and reiterated declarations of the Mexican government informed our administration, during its negotiation, would be war. I will quote one of these declarations, the last one made by General Almonte, the Mexican minister, and in reply to the letter of our Secretary who considered the previous declarations as *threats*. General Almonte disclaims the idea of a *threat*—repeats his asseveration that it is a *notice* only, and that in a case in which it was the right and the duty of Mexico to give the *notice* which would apprise us of the consequences of carrying the treaty of annexation to a conclusion.

After receiving this notification from the Mexican minister, the letter of our present Secretary, of the 19th instant, just quoted, directing our chargé to inform the Mexican government of the conclusion of the treaty of annexation, must be considered as an official notification to Mexico that the war has begun! and so indeed it has! and as much to our astonishment as to that of the Mexicans! Who among us can ever forget the sensations produced in this chamber, on Wednesday last, when the marching and the sailing orders were read! and still more, when the message was read which had set the army and navy in motion!

These orders and the message, after having been read in this chamber, were sent to the printer, and have not yet returned: I can only refer to them as I heard them read, and from a brief extract which I took of the message; and must refer to others to do them justice. From all that I could hear, the war is begun; and begun by orders issued by the President before the treaty was communicated to the Senate! We are informed of a squadron, and an army of "*observation*," sent to the Mexican ports, and Mexican frontier, with orders to watch, remonstrate, and report; and to communicate with President Houston! Now, what is an army of *observation*, but an army in the field for war? It is an army whose name is known, and whose character is defined, and which is incident to war alone. It is to watch the ENEMY! and can never be made to watch a FRIEND! Friends cannot be watched by armed men, either individually or nationally, without open enmity. Let an armed man take a position before your door, show himself to your family, watch your movements, and remonstrate with you,

and report upon you, if he judged your movements equivocal: let him do this, and what is it but an act of hostility and of outrage which every feeling of the heart, and every law of God and man, require you to resent and repulse? This would be the case with the mere individual; still more with nations, and when squadrons and armies are the watchers and remonstrants. Let Great Britain send an army and navy *to lie in wait* upon our frontiers, and before our cities, and then see what a cry of war would be raised in our country. The same of Mexico. She must feel herself outraged and attacked; she must feel our treaties broken; all our citizens within her dominions alien enemies; their commerce to be instantly ruined, and themselves expelled from the country. This must be our condition, unless the Senate (or Congress) saves the country. We are at war with Mexico now; and the message which covers the marching and sailing orders is still more extraordinary than they. The message assumes the republic of Texas to be part of the American Union by the mere signature of the treaty, and to remain so until the treaty is rejected, if rejected at all; and, in the mean time, the President is to use the army and the navy to protect the acquired country from invasion, like any part of the existing Union, and to treat as hostile all adverse possessors or intruders. According to this, besides what may happen at Vera Cruz, Tampico, Matamoros, and other ports, and besides what may happen on the frontiers of Texas proper, the Mexican population in New Mexico, and Governor Armijo, or in his absence the governor *ad interim*, Don Mariano Chaves, may find themselves pursued as rebels and traitors to the United States.

The war with Mexico, and its unconstitutionality, is fully shown: its injustice remains to be exhibited, and that is an easy task. What is done in violation of treaties, in violation of neutrality, in violation of an armistice, must be unjust. All this occurs in this case, and a great deal more. Mexico is our neighbor. We are at peace with her. Social, commercial, and diplomatic relations subsist between us, and the interest of the two nations requires these relations to continue. We want a country which was once ours, but which, by treaty, we have acknowledged to be hers. That country has revolted. Thus far it has made good its revolt, and not a doubt rests upon my mind that she will make it good for ever. But the contest is not over. An armistice, duly proclaimed, and not revoked, strictly observed by each in not firing a gun, though inoperative thus far in the appointment of commissioners to treat for peace: this armistice, only determinable upon notice, suspends the war. Two thousand miles of Texian frontier is held in the hands of Mexico, and all attempts to conquer that frontier have signally failed: witness the disastrous expeditions to Mier and to Santa Fé. We acknowledge the right—the moral and political right—of Mexico to resubjugate this province, if she can. We declare our neutrality: we profess friendship: we proclaim our respect for Mexico. In the midst of all this, we make a treaty with Texas for transferring herself to the United States, and that without saying a word to Mexico, while receiving notice from her that such transfer would be war. Mexico is treated as a nullity; and the province she is endeavoring to reconquer is suddenly, by the magic of a treaty signature, changed into United States domain. We want the country; but instead of applying to Mexico, and obtaining her consent to the purchase, or waiting a few months for the events which would supersede the necessity of Mexican consent—instead of this plain and direct course, a secret negotiation was entered into with Texas, in total contempt of the acknowledged rights of Mexico, and without saying a word to her until all was over. Then a messenger is despatched in furious haste to this same Mexico, the bearer of volunteer apologies, of deprecatory excuses, and of an offer of ten millions of dollars for Mexican acquiescence in what Texas has done. Forty days are allowed for the return of the messenger; and the question is, will he bring back the consent? That question is answered in the Mexican official notice of war, if the treaty of annexation was made! and it is answered in the fact of not applying to her for her consent before the treaty was made. The wrong to Mexico is confessed in the fact of sending this messenger, and in the terms of the letter of which he was the bearer. That letter of Mr.

Secretary Calhoun, of the 19th of April, to Mr. Benjamin Green, the United States chargé in Mexico, is the most unfortunate in the annals of human diplomacy! By the fairest implications, it admits insult and injury to Mexico, and violation of her territorial boundaries! it admits that we should have had her previous consent—should have had her concurrence—that we have injured her as little as possible—and that we did all this in full view of all possible consequences! that is to say, in full view of war! in plain English, that we have wronged her, and will fight her for it. As an excuse for all this, the imaginary designs of a third power, which designs are four times solemnly disavowed, are brought forward as a justification of our conduct; and an incomprehensible terror of immediate destruction is alleged as the cause of not applying to her for her "*previous consent*" during the eight months that the negotiation continued, and during the whole of which time we had a minister in Mexico, and Mexico had a minister in Washington. This letter is surely the most unfortunate in the history of human diplomacy. It admits the wrong, and tenders war. It is a confession throughout, by the fairest implication, of injustice to Mexico. It is a confession that her "*concurrence*" and "*her previous consent*" were necessary.

It is now my purpose, Mr. President, to show that all this movement, which is involving such great and serious consequences, and drawing upon us the eyes of the civilized world, is bottomed upon a weak and groundless pretext, discreditable to our government, and insulting and injurious to Great Britain. We want Texas—that is to say, the Texas of La Salle; and we want it for great national reasons, obvious as day, and permanent as nature. We want it because it is geographically appurtenant to our division of North America, essential to our political, commercial, and social system, and because it would be detrimental and injurious to us to have it fall into the hands or to sink under the domination of any foreign power. For these reasons, I was against sacrificing the country when it was thrown away—and thrown away by those who are now so suddenly possessed of a fury to get it back. For these reasons, I am for getting it back whenever it can be done with peace and honor, or even at the price of just war against any intrusive European power: but I am against all disguise and artifice—against all pretexts—and especially against weak and groundless pretexts, discreditable to ourselves, offensive to others, too thin and shallow not to be seen through by every beholder, and merely invented to cover unworthy purposes. I am against the inventions which have been brought forward to justify the secret concoction of this treaty, and its sudden explosion upon us, like a ripened plot, and a charged bomb, forty days before the conventional nomination of a presidential candidate. In looking into this pretext, I shall be governed by the evidence alone which I find upon the face of the papers, regretting that the resolution which I have laid upon the table for the examination of persons at the bar of the Senate, has not yet been adopted. That resolution is in these words:

"*Resolved*, That the AUTHOR of the '*private letter*' from London, in the summer of 1843 (believed to be Mr. Duff Green), addressed to the American Secretary of State (Mr. Upshur), and giving him the first intelligence of the (imputed) British anti-slavery designs upon Texas, and the contents of which '*private letter*' were made the basis of the Secretary's leading despatch of the 8th of August following, to our chargé in Texas, for procuring the annexation of Texas to the United States, be SUMMONED to appear at the bar of the Senate, to answer on oath to all questions in relation to the contents of said '*private letter*,' and of any others in relation to the same subject: and also to answer all questions, so far as he shall be able, in relation to the origin and objects of the treaty for the annexation of Texas, and of all the designs, influences, and interests which led to the formation thereof.

"*Resolved, also*, That the Senate will examine at its bar, or through a committee, such other persons as shall be deemed proper in relation to their knowledge of any, or all, of the foregoing points of inquiry."

I hope, Mr. President, this resolution will be adopted. It is due to the gravity of the occasion that we should have facts and good evidence before us. We are engaged in a transaction which concerns the peace and the honor of the country; and extracts from private letters, and letters themselves, with or without name, and, it may be, from mistaken or interested persons, are not the evidence on which we should proceed. Dr. Franklin was examined at the bar of the British House of Commons before the American war, and I see no reason why those who wish to inform the Senate, and others from whom the Senate could obtain information, should not be examined at our bar, or at that of the House, before the Senate or Congress engages in the Mexican war. It would be a curious incident in the Texas drama if it should turn out to be a fact that the whole annexation scheme was organized before the reason for it was discovered in London! and if, from the beginning, the abolition plot was to be burst upon us, under a sudden and overwhelming sense of national destruction, exactly forty days before the national convention at Baltimore! I know nothing about these secrets; but, being called upon to act, and to give a vote which may be big with momentous consequences, I have a right to know the truth; and shall continue to ask for it, until fully obtained, or finally denied. I know not what the proof will be, if the examination is had. I pretend to no private knowledge; but I have my impressions; and if they are erroneous, let them be effaced—if correct, let them be confirmed.

In the absence of the evidence which this responsible and satisfactory examination might furnish, I limit myself to the information which appears upon the face of the papers—imperfect, defective, disjointed, and fixed up for the occasion, as those papers evidently are. And here I must remark upon the absence of all the customary information which sheds light upon the origin, progress, and conclusion of treaties. No minutes of conferences—no protocols—no propositions, or counter-propositions—no inside view of the nascent and progressive negotiation. To supply all this omission, the Senate is driven to the tedious process of calling on the President, day by day, for some new piece of information; and the endless necessity for these calls—the manner in which they are answered—and the often delay in getting any answer at all—become new reasons for the adoption of my resolution, and for the examination of persons at the bar of the Senate.

The first piece of testimony I shall use in making good the position I have assumed, is the letter of Mr. Upshur, our Secretary of State, to Mr. Murphy, our chargé in Texas dated the 8th day of August, in the year 1843. It is the first one, so far as we are permitted to see, that begins the business of the Texas annexation; and has all the appearance of beginning it in the middle, so far as the United States are concerned, and upon grounds previously well considered: for this letter of the 8th of August, 1843, contains every reason on which the whole annexation movement has been defended, or justified. And, here, I must repeat what I have already said: in quoting these letters of the secretaries, I use the name of the writer to discriminate the writer, but not to impute it to him. The President is the author: the secretary only his head clerk, writing by his command, and having no authority to write any thing but as he commands. This important letter, the basis of all Texian "*immediate*" annexation, opens thus:

"Sir: A private letter from a citizen of Maryland, then in London, contains the following passage:

"'I learn from a source entitled to the fullest confidence, that there is now here a Mr. Andrews, deputed by the abolitionists of Texas to negotiate with the British government. That he has seen Lord Aberdeen, and submitted his project for the abolition of slavery in Texas, which is, that there shall be organized a company in England, who shall advance a sum sufficient to pay for the slaves now in Texas, and receive in payment Texas lands; that

the sum thus advanced shall be paid over as an indemnity for the abolition of slavery; and I am authorized by the Texian minister to say to you, that Lord Aberdeen has agreed that the British government will guarantee the payment of the interest on this loan, upon condition that the Texian government will abolish slavery.'

"The writer professes to feel entire confidence in the accuracy of this information. He is a man of great intelligence, and well versed in public affairs. Hence I have every reason to confide in the correctness of his conclusions."

The name of the writer is not given, but he is believed to be Mr. Duff Green—a name which suggests a vicarious relation to our Secretary of State—which is a synonym for intrigue—and a voucher for finding in London whatever he was sent to bring back—who is the putative recipient of the Gilmer letter to a friend in Maryland, destined for General Jackson—and whose complicity with this Texas plot is a fixed fact. Truly this "inhabitant of Maryland," who lived in Washington, and whose existence was as ubiquitous as his *rôle* was vicarious, was a very indispensable agent in all this Texas plot.

The letter then goes on, through a dozen elaborate paragraphs, to give every reason for the annexation of Texas, founded on the apprehension of British views there and the consequent danger to the slave property of the South, and other injuries to the United States, which have been so incontinently reproduced, and so tenaciously adhered to ever since.

Thus commenced the plan for the immediate annexation of Texas to the United States, as the only means of saving that country from British domination, and from the anti-slavery schemes attributed to her by Mr. Duff Green. Unfortunately, it was not deemed necessary to inquire into the truth of this gentleman's information; and it was not until four months afterwards, and until after the most extraordinary efforts to secure annexation had been made by our government, that it was discovered that the information given by Mr. Green was entirely mistaken and unfounded! The British minister (the Earl of Aberdeen) and the Texian chargé in London (Mr. Ashbel Smith), both of whom were referred to by Mr. Green, being informed in the month of November of the use which had been made of their names, availed themselves of the first opportunity to contradict the whole story to our minister, Mr. Everett. This minister immediately communicated these important contradictions to his own government, and we find them in the official correspondence transmitted to us by Mr. Everett, under dates of the 3d and 16th of November, 1843. I quote first from that of the 3d of November:

(Here was read Mr. Everett's account of his first conversation with the Earl of Aberdeen on this subject.)

I quote copiously, and with pleasure, Mr. President, from this report of Lord Aberdeen's conversation with Mr. Everett; it is frank and friendly, equally honorable to the minister as a man and a statesman, and worthy of the noble spirit of the great William Pitt. Nothing could dissipate more completely, and extinguish more utterly, the insidious designs imputed to Great Britain; nothing could be more satisfactory and complete; nothing more was wanting to acquit the British government of all the alarming designs imputed to her. It was enough; but the Earl of Aberdeen, in the fulness of his desire to leave the American government no ground for suspicion or complaint on this head, voluntarily returned to the topic a few days afterwards; and, on the 6th of November, again disclaims in the strongest terms the offensive designs imputed to his government. Mr. Everett thus relates, in his letter of the 16th of November, the substance of these renewed declarations:

(Here the letter giving an account of the second interview was read.)

Thus, twice, in three days, the British minister fully, formally, and in the broadest manner contradicted the whole story upon the faith of which our President had commenced (so far as the papers show the commencement of it) his immediate annexation project, as the only means of counteracting the dangerous designs of Great Britain! But this was not all. There was another witness in London who had been referred to by Mr. Duff Green; and it remained for this witness to confirm or contradict his story. This was the Texian chargé (Mr. Ashbel Smith): and the same letter from Mr. Everett, of the 16th of November, brought his contradiction in unequivocal terms. Mr. Everett thus recites it:

(The passage was read.)

Such was the statement of Mr. Ashbel Smith! and the story of Mr. Duff Green, which had been made the basis of the whole scheme for *immediate* annexation, being now contradicted by two witnesses—the two which he himself had named—it might have been expected that some halt or pause would have taken place, to give an opportunity for consideration and reflection, and for consulting the American people, and endeavoring to procure the consent of Mexico. This might have been expected: but not so the fact. On the contrary, the *immediate* annexation was pressed more warmly than ever, and the administration papers became more clamorous and incessant in their accusations of Great Britain. Seeing this, and being anxious (to use his own words) to put a stop to these misrepresentations, and to correct the errors of the American government, the Earl of Aberdeen, in a formal despatch to Mr. Pakenham, the new British minister at Washington, took the trouble of a third contradiction, and a most formal and impressive one, to all the evil designs in relation to Texas, and, through Texas, upon the United States, which were thus perseveringly attributed to his government. This paper, destined to become a great landmark in this controversy, from the frankness and fulness of its disavowals, and from the manner in which detached phrases, picked out of it, have been used by our Secretary of State [Mr. Calhoun] since the treaty was signed, to justify its signature, deserves to be read in full, and to be made a corner-stone in the debate on this subject. I therefore, quote it in full, and shall read it at length in the body of my speech. This is it:

(The whole letter read.)

This was intended to stop the misrepresentations which were circulated, and to correct the errors of the government in relation to Great Britain and Texas. It was a reiteration, and that for the third time, and voluntarily, of denial of all the alarming designs attributed to Great Britain, and by means of which a Texas agitation was getting up in the United States. Besides the full declaration made to our federal government, as head of the Union, a special assurance was given to the slaveholding States, to quiet their apprehensions, the truth and sufficiency of which must be admitted by every person who cannot furnish proof to the contrary. I read this special assurance a second time, that its importance may be more distinctly and deeply felt by every senator:

"*And the governments of the slaveholding States may be assured, that, although we shall not desist from those open and honest efforts which we have constantly made for procuring the abolition of slavery throughout the world, we shall neither openly nor secretly resort to any measures which can tend to disturb their internal tranquillity, or thereby to affect the prosperity of the American Union.*"

It was on the 26th day of February that this noble despatch was communicated to the (then) American Secretary of State. That gentleman lost his life by an awful catastrophe on the 28th, and it seems to be understood, and admitted all around, that the treaty of annexation was agreed upon, and virtually concluded before his death. Nothing, then, in Lord Aberdeen's

declaration, could have had any effect upon its formation or conclusion. Yet, six days after the actual signature of the treaty by the present Secretary of State—namely, on the 18th day of April—this identical despatch of Lord Aberdeen is seized upon, in a letter to Mr. Pakenham, to justify the formation of the treaty, and to prove the necessity for the *immediate* annexation of Texas to the United States, as a measure of self-defence, and as the only means of saving our Union! Listen to the two or three first paragraphs of that letter: it is the long one filled with those negro statistics of which Mr. Pakenham declines the controversy. The secretary says:

(Here the paragraphs were read, and the Senate heard with as much amazement as Mr. Pakenham could have done, that comparative statement of the lame, blind, halt, idiotic, pauper and jail tenants of the free and the slave blacks, which the letter to the British minister contained, with a view to prove that slavery was their best condition.)

It is evident, Mr. President, that the treaty was commenced, carried on, formed, and agreed upon, so far as the documents show its origin, in virtue of the information given in the private letter of Mr. Duff Green, contradicted as that was by the Texian and British ministers, to whom it referred. It is evident from all the papers that this was the case. The attempt to find in Lord Aberdeen's letter a subsequent pretext for what had previously been done, is evidently an afterthought, put to paper, for the first time, just six days after the treaty had been signed! The treaty was signed on the 12th of April: the afterthought was committed to paper, in the form of a letter to Mr. Pakenham, on the 18th! and on the 19th the treaty was sent to the Senate! having been delayed seven days to admit of drawing up, and sending in along with it, this *ex post facto* discovery of reasons to justify it. The letter of Mr. Calhoun was sent in with the treaty: the reply of Mr. Pakenham to it, though brief and prompt, being written on the same day (the 19th of April), was not received by the Senate until ten days thereafter—to wit: on the 29th of April; and when received, it turns out to be a fourth disavowal, in the most clear and unequivocal terms, of this new discovery of the old designs imputed to Great Britain, and which had been three times disavowed before. Here is the letter of Mr. Pakenham, giving this fourth contradiction to the old story, and appealing to the judgment of the civilized world for its opinion on the whole transaction. I read an extract from this letter; the last one, it is presumed, that Mr. Pakenham can write till he hears from his government, to which he had immediately transmitted Mr. Calhoun's *ex post facto* letter of the 18th.

(It was read.)

Now what will the civilized world, to whose good opinion we must all look: what will Christendom, now so averse to war, and pretexted war: what will the laws of reason and honor, so just in their application to the conduct of nations and individuals: what will this civilized world, this Christian world, these just laws—what will they all say that our government ought to have done, under this accumulation of peremptory denials of all the causes which we had undertaken to find in the conduct of Great Britain for our "*immediate*" annexation of Texas, and war with Mexico? Surely these tribunals will say: *First*, That the disavowals should have been received as sufficient; *or Secondly*, They should be disproved, if not admitted to be true; *or Thirdly*, That reasonable time should be allowed for looking further into their truth.

One of these things should have been done: our President does neither. He concludes the treaty—retains it a week—sends it to the Senate—and his Secretary of State obtains a promise from the chairman of the Committee on Foreign Relations [Mr. Archer] to delay all action upon it—not to take it up for forty days—the exact time that would cover the sitting of the Baltimore democratic convention for the nomination of presidential candidates! This

promise was obtained under the assurance that a special messenger had been despatched to Mexico for her consent to the treaty; and the forty days was the time claimed for the execution of his errand, and at the end of which he was expected to return with the required consent. Bad luck again! This despatch of the messenger, and delay for his return, and the *reasons* he was understood to be able to have offered for the consent of Mexico, were felt by all as an admission that the consent of Mexico must be obtained, cost what millions it might. This admission was fatal! and it became necessary to take another tack, and do it away! This was attempted in a subsequent message of the President, admitting, to be sure, that the messenger was sent, and sent to operate upon Mexico in relation to the treaty; but taking a fine distinction between obtaining her consent to it, and preventing her from being angry at it! This message will receive justice at the hands of others; I only heard it as read, and cannot quote it in its own words. But the substance of it was, that the messenger was sent to prevent Mexico from going to war with us on account of the treaty! as if there was any difference between getting her to consent to the treaty, and getting her not to dissent! But, here again, more bad luck. Besides the declarations of the chairman of Foreign Relations, showing what this messenger was sent for, there is a copy of the letter furnished to us of which he was the bearer, and which shows that the "*concurrence*" of Mexico was wanted, and that apologies are offered for not obtaining her "*previous consent*." But, of this hereafter. I go on with the current of events. The treaty was sent in, and forty days' silence upon it was demanded of the Senate. Now why send it in, if the Senate was not to touch it for forty days? Why not retain it in the Department of State until the lapse of these forty days, when the answer from Mexico would have been received, and a fifth disavowal arrived from Great Britain! if, indeed, it is possible for her to reiterate a disavowal already four times made, and not received? Why not retain the treaty during these forty days of required silence upon it in the Senate, and when that precious time might have been turned to such valuable account in interchanging friendly explanations with Great Britain and Mexico? Why not keep the treaty in the Secretary of State's office, as well as in the Secretary of the Senate's office, during these forty days? Precisely because the Baltimore convention was to sit in thirty-eight days from that time! and forty days would give time for the "*Texas bomb*" to burst and scatter its fragments all over the Union, blowing up candidates for the presidency, blowing up the *tongue-tied* Senate itself for not ratifying the treaty, and furnishing a new Texas candidate, anointed with gunpowder, for the presidential chair. This was the reason, and as obvious as if written at the head of every public document. In the mean time, all these movements give fresh reason for an examination of persons at the bar of the Senate. The determination of the President to conclude the treaty, before the Earl of Aberdeen's despatch was known to him—that is to say, before the 26th of February, 1844: the true nature of the messenger's errand to Mexico, and many other points, now involved in obscurity, may be cleared up in these examinations, to the benefit and well being of the Union. Perhaps it may chance to turn out in proof, that the secretary, who found his reasons for making the treaty and hastening the immediate annexation, had determined upon all that long before he heard of Lord Aberdeen's letter.

But to go on. Instead of admitting, disproving, or taking time to consider the reiterated disavowals of the British government, the messenger to Mexico is charged with our manifesto of war against that government, on account of the imputed designs of Great Britain, and in which they are all assumed to be true! and not only true, but fraught with such sudden, irresistible, and irretrievable ruin to the United States, that there was no time for an instant of delay, nor any way to save the Union from destruction but by the "*immediate*" annexation of Texas. Here is the letter. It is too important to be abridged; and though referred to several times, will now be read in full. Hear it:

(The letter read.)

This letter was addressed to Mr. Benjamin Green, the son of Mr. Duff Green; so that the beginning and the ending of this "*immediate*" annexation scheme, so far as the invention of the pretext, and the inculpation of Great Britain is concerned, is in the hands of father and son—a couple, of whom it may be said, in the language of Gil Blas, "These two make a pair." The letter itself is one of the most unfortunate that the annals of diplomacy ever exhibited. It admits the wrong to Mexico, and offers to fight her for that wrong; and not for any thing that she has done to the United States, but because of some supposed operation of Great Britain upon Texas. Was there ever such a comedy of errors, or, it may be, tragedy of crimes! Let us analyze this important letter; let us examine it, paragraph by paragraph.

The first paragraph enjoins the strongest assurances to be given to Mexico of our indisposition to wound the dignity or honor of Mexico in making this treaty, and of our regret if she should consider it otherwise. This admits that we have done something to outrage Mexico, and that we owe her a volunteer apology, to soften her anticipated resentment.

The same paragraph states that we have been driven to this step in self-defence, and to counteract the "*policy adopted*," and the "*efforts made*" by Great Britain to abolish slavery in Texas. This is an admission that we have done what may be offensive and injurious to Mexico, not on account of any thing she has done to us, but for what we fear Great Britain may do to Texas. And as for this plea of self-defence, it is an invasion of the homicidal criminal's prerogative, to plead it. All the murders committed in our country, are done in self-defence—a few through insanity. The choice of the defence lies between them, and it is often a nice guess for counsel to say which to take. And so it might have been in this case; and insanity would have been an advantage in the plea, being more honorable, and not more false.

The same paragraph admits that the United States has made this treaty in full view of war with Mexico; for the words "*all possible consequences*," taken in connection with the remaining words of the sentence, and with General Almonte's notice filed by order of his government at the commencement of this negotiation, can mean nothing else but war! and that to be made by the treaty-making power.

The second paragraph directs the despatch of Lord Aberdeen to be read to the Mexican Secretary of State, to show him our cause of complaint against Great Britain. This despatch is to be read—not delivered, not even a copy of it—to the Mexican minister. He may take notes of it during the reading, but not receive a copy, because it is a document to be sent to the Senate! Surely the Senate would have pardoned a departure from *etiquette* in a case where war was impending, and where the object was to convince the nation we were going to fight! that we had a right to fight her for fear of something which a third power might do to a fourth. To crown this scene, the reading is to be of a document in the English language, to a minister whose language is Spanish; and who may not know what is read, except through an interpreter.

The third paragraph of this pregnant letter admits that questions are to grow out of this treaty, for the settlement of which a minister will be sent by us to Mexico. This is a most grave admission. It is a confession that we commit such wrong upon Mexico by this treaty, that it will take another treaty to redress it; and that, as the wrong doer, we will volunteer an embassy to atone for our misconduct. Boundary is named as one of these things to be settled, and with reason; for we violate 2,000 miles of Mexican boundary which is to become ours by the ratification of this treaty, and to remain ours till restored to its proper owner by another treaty. Is this right? Is it sound in morals? Is it safe in policy? Would we take 2,000 miles of the Canadas in the same way? I presume not. And why not? why not treat Great Britain and

Mexico alike? why not march up to “Fifty-Four Forty” as courageously as we march upon the Rio Grande? Because Great Britain is powerful, and Mexico weak—a reason which may fail in policy as much as in morals. Yes, sir! Boundary will have to be adjusted, and that of the Rio Grande; and until adjusted, we shall be aggressors, by our own admission, on the undisputed Mexican territory on the Rio Grande.

The last paragraph is the most significant of the whole. It is a confession, by the clearest inferences, that our whole conduct to Mexico has been tortuous and wrongful, and that she has “*rights*,” to the settlement of which Mexico must be a party. The great admissions are, the want of the concurrence of Mexico; the want of her previous consent to this treaty; its objectionableness to her; the violation of her boundary; the “*rights*” of each, and of course the right of Mexico to settle questions of security and interest which are unsettled by the present treaty. The result of the whole is, that the war, in full view of which the treaty was made, was an unjust war upon Mexico.

Thus admitting our wrong in injuring Mexico, in not obtaining her concurrence; in not securing her previous consent; in violating her boundary; in proceeding without her in a case where her rights, security, and interests are concerned; admitting all this, what is the reason given to Mexico for treating her with the contempt of a total neglect in all this affair? And here strange scenes rise up before us. This negotiation began, upon the record, in August last. We had a minister in Mexico with whom we could communicate every twenty days. Mexico had a minister here, with whom we could communicate every hour in the day. Then why not consult Mexico before the treaty? Why not speak to her during these eight months, when in such hot haste to consult her afterwards, and so anxious to stop our action on the treaty till she was heard from, and so ready to volunteer millions to propitiate her wrath, or to conciliate her consent? Why this haste after the treaty, when there was so much time before? It was because the plan required the “*bomb*” to be kept back till forty days before the Baltimore convention, and then a storm to be excited.

The reason given for this great haste after so long delay, is that the safety of the United States was at stake: that the British would abolish slavery in Texas, and then in the United States, and so destroy the Union. Giving to this imputed design, for the sake of the argument, all the credit due to an uncontradicted scheme, and still it is a preposterous excuse for not obtaining the previous consent of Mexico. It turns upon the idea that this abolition of slavery in Texas is to be sudden, irresistible, irretrievable! and that not a minute was to be lost in averting the impending ruin! But this is not the case. Admitting what is charged—that Great Britain has adopted a policy, and made efforts to abolish slavery in Texas, with a view to its abolition in the United States—yet this is not to be done by force, or magic. The Duke of Wellington is not to land at the head of some 100,000 men to set the slaves free. No gunpowder plot, like that intended by Guy Fawkes, is to blow the slaves out of the country. No magic wand is to be waved over the land, and to convert it into the home of the free. No slips of magic carpet in the Arabian Nights is to be slipped under the feet of the negroes to send them all whizzing, by a wish, ten thousand miles through the air. None of these sudden, irresistible, irretrievable modes of operating is to be followed by Great Britain. She wishes to see slavery abolished in Texas, as elsewhere; but this wish, like all other human wishes, is wholly inoperative without works to back it: and these Great Britain denies. She denies that she will operate by works, only by words where acceptable. But admit it. Admit that she has now done what she never did before—*denied her design!* admit all this, and you still have to confess that she is a human power and has to work by human means, and in this case to operate upon the minds of people and of nations—upon Mexico, Texas, the United States, and slaves within the boundaries of these two latter countries. She has to work by moral means; that is to say, by operating on the mind and will. All this is a work of time—a work of years—the work of a

generation! Slavery is in the constitution of Texas, and in the hearts, customs, and interests of the people; and cannot be got out in many years, if at all. And are we to be told that there was no time to consult Mexico? or, in the vague language of the letter, that *circumstances* did not permit the consultation, and that without disclosing what these circumstances were? It was last August that the negotiation began. Was there fear that Mexico would liberate Texian slaves if she found out the treaty before it was made? Alas! sir, she refused to have any thing to do with the scheme! Great Britain proposed to her to make emancipation of slaves the condition of acknowledging Texian independence. She utterly refused it; and of this our government was officially informed by the Earl of Aberdeen. No, sir, no! There is no reason in the excuse. I profess to be a man that can understand reason, and could comprehend the force of the circumstances which would show that the danger of delay was so imminent that nothing but *immediate* annexation could save the United States from destruction. But none such are named, or can be named; and the true reason is, that the Baltimore convention was to sit on the 27th of May.

Great Britain avows all she intends, and that is—a wish—TO SEE—slavery abolished in Texas; and she declares all the means which she means to use, and that is, advice where it is acceptable.

It will be a strange spectacle, in the nineteenth century, to behold the United States at war with Mexico, because Great Britain wishes—TO SEE—the abolition of slavery in Texas.

So far from being a just cause of war, I hold that the expression of such a wish is not even censurable by us, since our naval alliance with Great Britain for the suppression of the slave trade—since our diplomatic alliance with her to close the markets of the world against the slave trade—and since the large effusion of mawkish sentimentality on the subject of slavery, in which our advocates of the aforesaid diplomatic and naval alliance indulged themselves at the time of its negotiation and conclusion. Since that time, I think we have lost the right (if we ever possessed it) of fighting Mexico, because Great Britain says she wishes—TO SEE—slavery abolished in Texas, as elsewhere throughout the world.

The civilized world judges the causes of war, and discriminates between motives and pretexts: the former are respected when true and valid—the latter are always despised and exposed. Every Christian nation owes it to itself, as well as to the family of Christian nations, to examine well its grounds of war, before it begins one, and to hold itself in a condition to justify its act in the eyes of God and man. Not satisfied of either the truth or validity of the cause for our war with Mexico, in the alleged interference of Great Britain in Texian affairs, I feel myself bound to oppose it, and not the less because it is deemed a small war. Our constitution knows no difference between wars. The declaration of all wars is given to Congress—not to the President and Senate—much less to the President alone. Besides, a war is an ungovernable monster, and there is no knowing into what proportions even a small one may expand! especially when the interference of one large power may lead to the interference of another.

Great Britain disavows (and that four times over) all the designs upon Texas attributed to her. She disavows every thing. I believe I am as jealous of the encroaching and domineering spirit of that power, as any reasonable man ought to be; but these disavowals are enough for me. That government is too proud to lie! too wise to criminate its future conduct by admitting the culpability which the disavowal implies. Its fault is on the other side of the account—in its arrogance in avowing, and even overstating, its pretensions. Copenhagen is her style! I repeat it, then, the disavowal of all design to interfere with Texian Independence, or with the existence of slavery in Texas, is enough for me. I shall believe in it until I see it disproved by evidence, or otherwise falsified. Would to God that our administration could get the same

disavowal in all the questions of real difference between the two countries! that we could get it in the case of the Oregon—the claim of search—the claim of visitation—the claim of impressment—the practice of liberating our fugitive and criminal slaves—the repetition of the Schlosser invasion of our territory and murder of our citizens—the outrage of the Comet, Encomium, Enterprise, and Hermosa cases!

And here, without regard to the truth or falsehood of this imputed design of British intentions to abolish slavery in Texas, a very awkward circumstance crosses our path in relation to its validity, if true: for, it so happens that we did that very thing ourselves! By the Louisiana treaty of 1803, Texas, and all the country, between the Red River and Arkansas, became ours, and was subject to slavery: by the treaty of 1819, made, as Mr. Adams assures us, by the majority of Mr. Monroe's cabinet, who were Southern men, this Texas, and a hundred thousand square miles of other territory between the Red River and Arkansas, were dismembered from our Union, and added to Mexico, a non-slaveholding empire. By that treaty of 1819, slavery was actually abolished in all that region in which we now only fear, contrary to the evidence, that there is a design to abolish it! and the confines of a non-slaveholding empire were then actually brought to the boundaries of Louisiana, Arkansas, and Missouri! the exact places which we now so greatly fear to expose to the contact of a non-slaveholding dominion. All this I exposed at the time the treaty of 1819 was made, and pointed out as one of the follies or crimes, of that unaccountable treaty; and now recur to it in my place here to absolve Mr. Adams, the negotiator of the treaty of 1819, from the blame which I then cast upon him. His responsible statement on the floor of the House of Representatives has absolved him from that blame, and transferred it to the shoulders of the majority of Mr. Monroe's cabinet. On seeing the report of his speech in the papers, I deemed it right to communicate with Mr. Adams, through a senator from his State, now in my eye, and who hears what I say (looking at Mr. Bates, of Massachusetts), and through him received the confirmation of the reported speech, that he (Mr. Adams) was the last of Mr. Monroe's cabinet to yield our true boundaries in that quarter. [Here Mr. Bates nodded assent.] Southern men deprived us of Texas, and made it non-slaveholding in 1819. Our present Secretary of State was a member of that cabinet, and counselled that treaty: our present President was a member of the House, and sanctioned it in voting against Mr. Clay's condemnatory resolution. They did a great mischief then: they should be cautious not to err again in the *manner* of getting it back.

I have shown you, Mr. President, that the ratification of this treaty would be war with Mexico—that it would be unjust war, unconstitutionally made—and made upon a weak and groundless pretext. It is not my purpose to show for what object this war is made—why these marching and sailing orders have been given—and why our troops and ships, as squadrons and corps of observation, are now in the Gulf of Mexico, watching Mexican cities; or on the Red River, watching Mexican soldiers. I have not told the reasons for this war, and warlike movements, nor is it necessary to do so. The purpose of the whole is plain and obvious. It is in every body's mouth. It is in the air, and we can see and feel it. Mr. Tyler wants to be President; and, different from the perfumed fop of Shakspeare, to whom the smell of gunpowder was so offensive, he not only wants to smell that compound, but also to smell of it. He wants an odor of the "*villanous compound*" upon him. He has become infected with the modern notion that gunpowder popularity is the passport to the presidency; and he wants that passport. He wants to play Jackson; but let him have a care. From the sublime to the ridiculous there is but a step; and, in heroic imitations, there is no middle ground. The hero missed, the harlequin appears; and hisses salute the ears which were itching for applause. Jackson was no candidate for the presidency when he acted the real, not the mock hero. He staked himself for his country—did nothing but what was just—and eschewed intrigue. His

elevation to the presidency was the act of his fellow-citizens—not the machination of himself.

140. Texas Or Disunion: Southern Convention: Mr. Benton's Speech: Extracts

The senator from South Carolina (Mr. McDuffie) assumes it for certain, that the great meeting projected for Nashville is to take place: and wishes to know who are to be my bedfellows in that great gathering: and I on my part, would wish to know who are to be his! Misery, says the proverb, makes strange bedfellows: and political combinations sometimes make them equally strange. The fertile imagination of Burke has presented us with a view of one of these strange sights; and the South Carolina procession at Nashville (if nothing occurs to balk it) may present another. Burke has exhibited to us the picture of a cluster of old political antagonists (it was after the formation of Lord North's broad bottomed administration, and after the country's good and love of office had smothered old animosities)—all sleeping together in one truckle-bed: to use his own language, all pigging together (that is, lying like pigs, heads and tails, and as many together) in the same truckle-bed: and a queer picture he made of it! But if things go on as projected here, never did misery, or political combination, or the imagination of Burke, present such a medley of bedfellows as will be seen at Nashville. All South Carolina is to be there: of course General Jackson will be there, and will be good and hospitable to all. But let the travellers take care who goes to bed to him. If he should happen to find old tariff disunion, disguised as Texas disunion, lying by his side! then woe to the hapless wight that has sought such a lodging. Preservation of the Federal Union is as strong in the old Roman's heart now as ever: and while, as a Christian, he forgives all that is past (if it were past!), yet, no old tricks under new names. Texas disunion will be to him the same as tariff disunion: and if he detects a Texas disunionist nestling into his bed, I say again, woe to the luckless wight! Sheets and blankets will be no salvation. The tiger will not be toothless—the senator understands the allusion—nor clawless either. Teeth and claws he will have, and sharp use he will make of them! Not only skin and fur, but blood and bowels may fly, and double-quick time scampering may clear that bed! I shall not be there: even if the scheme goes on (which I doubt after this day's occurrences); if it should go on, and any thing should induce me to go so far out of my line, it would be to have a view of the senator from South Carolina, and the friends for whom he speaks, and their new bedfellows, or fellows in bed, as the case may be, all pigging together in one truckle-bed at Nashville.

But I advise the contrivers to give up this scheme. Polk and Texas are strong, and can carry a great deal, but not every thing. The oriental story informs us that it was the last ounce which broke the camel's back? What if a mountain had been put first on the poor animal's back? Nullification is a mountain! Disunion is a mountain! and what could Polk and Texas do with two mountains on their backs? And here, Mr. President, I must speak out. The time has come for those to speak out who neither fear nor count consequences when their country is in danger. Nullification and disunion are revived, and revived under circumstances which menace more danger than ever, since coupled with a popular question which gives to the plotters the honest sympathies of the patriotic millions. I have often intimated it before, but now proclaim it. Disunion is at the bottom of this long-concealed Texas machination. Intrigue and speculation co-operate; but disunion is at the bottom, and I denounce it to the American people. Under the pretext of getting Texas into the Union, the scheme is to get the South out of it. A separate confederacy, stretching from the Atlantic to the Californias (and hence the secret of the Rio Grande del Norte frontier), is the cherished vision of disappointed ambition; and for this consummation every circumstance has been carefully and artfully contrived. A

secret and intriguing negotiation, concealed from Congress and the people: an abolition quarrel picked with Great Britain to father an abolition quarrel at home: a slavery correspondence to outrage the North: war with Mexico: the clandestine concentration of troops and ships in the southwest: the secret compact with the President of Texas, and the subjection of American forces to his command: the flagrant seizure of the purse and the sword: the contradictory and preposterous reasons on which the detected military and naval movement was defended—all these announce the prepared catastrophe; and the inside view of the treaty betrays its design. The whole annexed country is to be admitted as one territory, with a treaty-promise to be admitted as States, when we all know that Congress alone can admit new States, and that the treaty-promise, without a law of Congress to back it, is void. The whole to be slave States (and with the boundary to the Rio Grande there may be a great many); and the correspondence, which is the key to the treaty, and shows the design of its framers, wholly directed to the extension of slavery and the exasperation of the North. What else could be done to get up Missouri controversies and make sure of the non-admission of these States? Then the plot is consummated: and Texas without the Union, sooner than the Union without Texas (already the premonitory chorus of so many resolves), receives its practical application in the secession of the South, and its adhesion to the rejected Texas. Even without waiting for the non-admission of the States, so carefully provided for in the treaty and correspondence, secession and confederation with the foreign Texas is already the scheme of the subaltern disunionists. The subalterns, charged too high by their chiefs, are ready for this; but the more cunning chiefs, want Texas in as a territory—in by treaty—the supreme law of the land—with a void promise for admission as States. Then non-admission can be called a breach of the treaty. Texas can be assumed to be a part of the Union; and secession and conjunction with her becomes the rightful remedy. This is the design, and I denounce it; and blind is he who, occupying a position at this capitol, does not behold it!

I mention secession as the more cunning method of dissolving the Union. It is disunion, and the more dangerous because less palpable. Nullification begat it, and if allowed there is an end to the Union. For a few States to secede, without other alliances, would only put the rest to the trouble of bringing them back; but with Texas and California to retire upon, the Union would have to go. *Many persons would secede on the non-admission of Texian States who abhor disunion now.* To avoid all these dangers, and to make sure of Texas, pass my bill! which gives the promise of Congress for the admission of the new States—neutralizes the slave question—avoids Missouri controversies—pacifies Mexico—and harmonizes the Union.

The senator from South Carolina complains that I have been arrogant and overbearing in this debate, and dictatorial to those who were opposed to me. So far as this reproach is founded, I have to regret it, and to ask pardon of the Senate and of its members. I may be in some fault. I have, indeed, been laboring under deep feeling; and while much was kept down, something may have escaped. I marked the commencement of this Texas movement long before it was visible to the public eye; and always felt it to be dangerous, because it gave to the plotters the honest sympathies of the millions. I saw men who never cared a straw about Texas—one of whom gave it away—another of whom voted against saving it—and all of whom were silent and indifferent while the true friends of the sacrificed country were laboring to get it back: I saw these men lay their plot in the winter of 1842-’43, and told every person with whom I talked every step they were to take in it. All that has taken place, I foretold: all that is intended, I foresee. The intrigue for the presidency was the first act in the drama; the dissolution of the Union the second. And I, who hate intrigue, and love the Union, can only speak of intriguers and disunionists with warmth and indignation. The oldest advocate for the recovery of Texas, I must be allowed to speak in just terms of the criminal politicians who

prostituted the question of its recovery to their own base purposes, and delayed its success by degrading and disgracing it. A western man, and coming from a State more than any other interested in the recovery of this country so unaccountably thrown away by the treaty of 1819, I must be allowed to feel indignant at seeing Atlantic politicians seizing upon it, and making it a sectional question, for the purposes of ambition and disunion. I have spoken warmly of these plotters and intriguers; but I have not permitted their conduct to alter my own, or to relax my zeal for the recovery of the sacrificed country. I have helped to reject the disunion treaty; and that obstacle being removed, I have brought in the bill which will insure the recovery of Texas (with peace, and honor, and with the Union) as soon as the exasperation has subsided which the outrageous conduct of this administration has excited in every Mexican breast. No earthly power but Mexico has a right to say a word. Civil treatment and consultation beforehand would have conciliated her; but the seizure of two thousand miles of her undisputed territory, an insulting correspondence, breach of the armistice, secret negotiations with Texas, and sending troops and ships to waylay and attack her, have excited feelings of resentment which must be allayed before any thing can be done.

The senator from South Carolina compares the rejected treaty to the slain Cæsar, and gives it a ghost, which is to meet me at some future day, as the spectre met Brutus at Philippi. I accept the comparison, and thank the senator for it. It is both classic and just; for as Cæsar was slain for the good of his country, so has been this treaty; and as the spectre appeared at Philippi on the side of the ambitious Antony and the hypocrite Octavius, and against the patriot Brutus, so would the ghost of this poor treaty, when it comes to meet me, appear on the side of the President and his secretary, and against the man who was struggling to save his country from their lawless designs. But here the comparison must stop; for I can promise the ghost and his backers that if the fight goes against me at this new Philippi, with which I am threatened, and the enemies of the American Union triumph over me as the enemies of Roman liberty triumphed over Brutus and Cassius, I shall not fall upon my sword, as Brutus did, though Cassius be killed, and run it through my own body; but I shall save it, and save myself for another day, and for another use—for the day when the battle of the disunion of these States is to be fought—not with words, but with iron—and for the hearts of the traitors who appear in arms against their country.

The comparison is just. Cæsar was rightfully killed for conspiring against his country; but it was not he that destroyed the liberties of Rome. That work was done by the profligate politicians, without him, and before his time; and his death did not restore the republic. There were no more elections. Rotten politicians had destroyed them; and the nephew of Cæsar, as heir to his uncle, succeeded to the empire on the principle of hereditary succession.

And here, Mr. President, History appears in her grand and instructive character, as Philosophy teaching by example: and let us not be senseless to her warning voice. Superficial readers believe it was the military men who destroyed the Roman republic. No such thing! It was the politicians who did it! factious, corrupt, intriguing, politicians! destroying public virtue in their mad pursuit after office! destroying their rivals by crime! deceiving and debauching the people for votes! and bringing elections into contempt by the frauds and violence with which they were conducted. From the time of the Gracchi there were no elections that could bear the name. Confederate and rotten politicians bought and sold the consulship. Intrigue, and the dagger, disposed of rivals. Fraud, violence, bribes, terror, and the plunder of the public treasury, commanded votes. The people had no choice: and long before the time of Cæsar nothing remained of republican government, but the name, and the abuse. Read Plutarch. In the life of Cæsar, and not three pages before the crossing of the Rubicon, he paints the ruined state of the elections—shows that all elective government was gone—that the hereditary form had become a necessary relief from the contests of the

corrupt—and that in choosing between Pompey and Cæsar, many preferred Pompey, not because they thought him republican, but because they thought he would make the milder king. Even arms were but a small part of Cæsar's reliance when he crossed the Rubicon. Gold, still more than the sword, was his dependence: and he sent forward the accumulated treasures of plundered Gaul, to be poured into the laps of rotten politicians. There was no longer a popular government; and in taking all power to himself, he only took advantage of the state of things which profligate politicians had produced. In this he was culpable, and paid the forfeit with his life; but in contemplating his fate, let us never forget that the politicians had undermined and destroyed the republic, before he came to seize and to master it.

It was the same in our day. We have seen the conqueror of Egypt and Italy overturn the Directory, usurp all power, and receive the sanction of the people. And why? Because the government was rotten, and elections had become a farce. The elections of forty-eight departments, at one time, in the year 1798, were annulled, to give the Directory a majority in the legislative councils. All sorts of fraud and violence were committed at the elections. The people had no confidence in them, and submitted to Bonaparte.

All elective governments have failed in this manner; and, in process of time, must fail here, unless elections can be taken out of the hands of the politicians, and restored to the full control of the people. The plan which I have submitted this day, for dispensing with intermediate bodies, and holding a second election for President when the first fails, is designed to accomplish this great purpose; and will do much good if adopted. Never have politicians, in so young a country, shown such a thirst for office—such disregard of the popular will, such readiness to deceive and betray the people. The Texas treaty (for I must confine myself to the case before us) is an intrigue for the presidency, and a contrivance to get the Southern States out of the Union, instead of getting Texian States into it; and is among the most unscrupulous intrigues which any country every beheld. But we know how to discriminate. We know how to separate the wrong from the right. Texas, which the intriguers prostrated to their ambitious purposes (caring nothing about it, as their past lives show), will be rescued from their designs, and restored to this Union as naturally, and as easily, as the ripened pear falls to the earth. Those who prepared the result at the Baltimore convention, in which the will of the people was overthrown, will be consigned to oblivion; while the nominees of the convention will be accepted and sustained: and as for the plotters of disunion and secession, they will be found out and will receive their reward; and I, for one, shall be ready to meet them at Philippi, sword in hand, whenever they bring their parricidal scheme to the test of arms.

141. Texas Or Disunion: Violent Demonstrations In The South: Southern Convention Proposed

The secret intrigue for the annexation of Texas was framed with a double aspect—one looking to the presidential election, the other to the separation of the Southern States; and as soon as the rejection of the treaty was foreseen, and the nominating convention had acted (Mr. Calhoun and Mr. Tyler standing no chance), the disunion aspect manifested itself over many of the Southern States—beginning of course with South Carolina. Before the end of May a great meeting took place (with the muster of a regiment) at Ashley, in the Barnwell district of that State, to combine the slave States in a convention to unite the Southern States to Texas, if Texas should not be received into the Union; and to invite the President to convene Congress to arrange the terms of the dissolution of the Union if the rejection of the annexation should be persevered in. At this meeting all the speeches and resolves turned upon the original idea in the Gilmer letter—that of British alliance with Texas—the abolition of slavery in Texas in consequence of that alliance, and a San Domingo insurrection of slaves in the Southern States; and the conjunction of the South and Texas in a new republic was presented as the only means of averting these dire calamities. With this view, and as giving the initiative to the movement, these resolutions were adopted:

"*First*: To call upon our delegations in Congress, if in session, or our senators, if they be at the seat of government, to wait on the Texian Minister, and remonstrate with him against any negotiation with other powers, until the Southern States shall have had a reasonable time to decide upon their course.

"*Second*: That object secured, a convention of the people of each State should be promptly called, to deliberate and decide, upon the action to be taken by the slave States on the question of annexation; and to appoint delegates to *a convention of the slave States*, with instructions to carry into effect the behests of the people.

"*Third*: That a convention of the slave States by delegations from each, appointed as aforesaid, should be called, to meet at some central position, to take into consideration the question of annexing Texas to the Union, if *the Union will accept it*; or, if the Union *will not accept it*, then of *annexing Texas to the Southern States*!

"*Fourth*: That the President of the United States be requested by the general convention of the slave States, to call Congress together immediately; when, *the final issue* shall be made up, and the alternative distinctly presented to the free States, either to *admit Texas into the Union*, or to proceed *peaceably and calmly* to *arrange the terms of a dissolution of the Union*!"

About the same time another large meeting was held at Beaufort, in the same State, in which it was

"*Resolved*, That if the Senate of the United States—under the drill of party leaders—should reject the treaty of annexation, we appeal to the citizens of Texas, and urge them not to yield to a just resentment, and turn their eyes to other alliances, but to believe that they have the warm advocacy of a large portion of the American public, who are resolved, that sooner or later, the pledge in the treaty of 1803 shall be redeemed, and Texas be incorporated into our Union. But if—on the other hand—we are not permitted to bring Texas into our Union peacefully and legitimately, as now we may, then we solemnly announce to the world—that we will dissolve this Union, sooner than abandon Texas.

"*Resolved*, That the chair, at his leisure, appoint a committee of vigilance and correspondence, to consist of twenty-one, to aid in carrying forward the cause of Texas annexation."

In the Williamsburg District in the same State another large meeting resolved:

"That in the opinion of this meeting, the honor and integrity of our Union require the immediate annexation of Texas; and we hold it to be better and more to the interest of the Southern and Southwestern portions of this confederacy 'to be out of the Union with Texas than in it without her.'

"That we cordially approve of the recommendation of a Southern convention composed of delegates from the Southern and Southwestern portions of this confederacy, to deliberate together, and adopt such measures as may best promote the great object of annexation; provided such annexation is not previously brought about by joint resolution of Congress, either at its present or an extra session."

Responsive resolutions were adopted in several States, and the 4th day of July furnished an occasion for the display of sentiments in the form of toasts, which showed both the depth of the feeling on this subject, and its diffusion, more or less, through all the Southern States. "Texas, or Disunion," was a common toast, and a Southern convention generally called for. Richmond, Virginia, was one of the places indicated for its meeting, by a meeting in the State of Alabama. Mr. Ritchie, the editor of the Enquirer, repulsed the idea, on the part of the Democracy, of holding the meeting there, saying, "*There is not a democrat in Virginia who will encourage any plot to dissolve the Union.*" The Richmond Whig, on the part of the whigs, equally repulsed it. Nashville, in the State of Tennessee, was proposed in the resolves of many of the public meetings, and the assembling of the convention at that place—the home of General Jackson—was still more formally and energetically repulsed. A meeting of the citizens of the town was called, which protested against "*the desecration of the soil of Tennessee by having any convention held there to hatch treason against the Union*," and convoked a general meeting for the purpose of bringing out a full expression of public opinion on the subject. The meeting took place accordingly, and was most numerously and respectably attended, and adopted resolutions worthy of the State, worthy of the *home* of General Jackson, honorable to every individual engaged in it; and so ample as to stand for an authentic history of that attempt to dissolve the Union. The following were the resolves, presented by Dr. John Shelby:

"Whereas, at several public meetings recently held in the South, resolutions have been adopted urging with more or less directness the assembling of a convention of States friendly to the immediate annexation of Texas, at Nashville, some time in August next; and whereas it is apparent from the resolutions themselves and the speeches of some of its prime movers in those meetings, and the comments of public journals friendly to them, that the convention they propose to hold in this city was contemplated *as a means towards an end*—that end being to present deliberately and formally the issue, 'annexation of Texas or dissolution of this Union.'

"And whereas, further, it is manifested by all the indications given from the most reliable sources of intelligence, that there is a party of men in another quarter of this nation who—in declaring that 'the only true issue before the South should be Texas or disunion,' and in proposing the line of operation indicated by the South Carolinian, their organ published at Columbia, South Carolina, in the following words,

"That the President of the United States be requested by the general convention of the slave States to call Congress together immediately, when the final issue shall be made up, and the

alternative distinctly presented to the free States, either to admit Texas into the Union, or to proceed peaceably and calmly to arrange the terms of a dissolution of the Union'—are influenced by sentiments and opinions directly at issue with the solemn obligation of the citizens of every State to our national Union—sentiments and opinions which, if not repressed and condemned, may lead to the destruction of our tranquillity and happiness, and to the reign of anarchy and confusion. Therefore, we, the citizens of Davidson County, in the State of Tennessee, feel ourselves called upon by these demonstrations to express, in a clear, decided, and unequivocal manner, our deliberate sentiments in regard to them. And upon the momentous question here involved, we are happy to believe there is no material division of sentiment among the people of this State.

"The citizens here assembled are *Tennesseans*; they are Americans. They glory in being citizens of this great confederate republic; and, whether friendly or opposed to the immediate annexation of Texas, they join with decision, firmness, and zeal in avowing their attachment to our glorious, and, we trust, impregnable Union, and in condemning every attempt to bring its preservation into issue, or its value into calculation.

"Under these impressions, and with these feelings, regarding with deep and solemn interest the circumstances under which this new issue may be ere long sprung upon us, and actuated by a sense of the high responsibility to his country imposed on every American citizen, in the language of the immortal Washington, 'to frown upon the first dawnings of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts,' we hereby adopt and make known, as expressing our deliberate sentiments, the following resolutions:

"*Resolved*, That while we never have interfered, and never will interfere with the arrangements of any of the parties divided on the general political questions of the day, and while we absolutely repel the charge of designing any such interference as totally unfounded and unjustifiable, yet when we see men of any party and any quarter of this nation announcing as their motto, 'Texas or Disunion,' and singling out the city of Nashville as a place of general gathering, in order to give formality and solemnity to the presentation of that issue, we feel it to be not only our sacred right, but our solemn duty to protest, as we now do protest, against the desecration of the soil of Tennessee, by any act of men holding within its borders a convention for any such object.

"*Resolved*, That when our fellow-citizens of any State come hither as Americans, loyal to our glorious Union, they will be received and welcomed by us with all the kindness and hospitality which should characterize the intercourse of a band of brothers, whatever may be our differences on political subjects; but when they avow their willingness to break up the Union rather than fail to accomplish a favorite object, we feel bound to tell them this is no fit place to concert their plans.

"*Resolved*, That we entertain for the people of South Carolina, and the other quarters in which this cry of 'Texas or Disunion' has been raised, feelings of fraternal regard and affection; that we sincerely lament the exhibition by any portion of them of disloyalty to the Union, or a disposition to urge its dissolution with a view to annexation with Texas, if not otherwise obtained; and that we hope a returning sense of what is due to themselves, to the other States of the Union, to the American people, and to the cause of American liberty, will prevent them from persevering in urging the issue they have proposed."

The energy with which this proposed convention was repulsed from Nashville and Richmond, and the general revolt against it in most of the States, brought the movement to a stand, paralyzed its leaders, and suppressed the disunion scheme for the time being—only to

lie in wait for future occasions. But it was not before the people only that this scheme for a Southern convention with a view to the secession of the slave States, was matter of discussion: it was the subject of debate in the Senate. Mr. McDuffie mentioned it, and in a way to draw a reply from Mr. Benton—an extract from which has been given in a previous chapter, and which, besides some information on its immediate subject, and besides foreseeing the failure of *that* attempt to get up a disunion convention, also told that the design of the secessionists was to extend the new Southern republic to the Californias: and this was told two years before the declaration of the war by which California was acquired.

142. Rejection Of The Annexation Treaty: Proposal Of Mr. Benton's Plan

The treaty was supported by all the power of the administration; but in vain. It was doomed to defeat, ignominious and entire, and was rejected by a vote of two to one against it, when it would have required a vote of two to one to have ratified it. The yeas were:

Messrs. Atchison, Bagby, Breese, Buchanan, Colquitt, Fulton, Haywood, Henderson, Huger, Lewis, McDuffie, Semple, Sevier, Sturgeon, Walker, Woodbury.—16.

The nays were:

Messrs. Allen, Archer, Atherton, Barrow, Bates, Bayard, Benton, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Fairfield, Foster, Francis, Huntington, Jarnagin, Johnson, Mangum, Merrick, Miller, Morehead, Niles, Pearce, Phelps, Porter, Rives, Simmons, Tallmadge, Tappan, Upham, White, Woodbridge, Wright.—35.

This vote was infinitely honorable to the Senate, and a severe rebuke upon those who had the hardihood to plot the annexation of Texas as an intrigue for the presidency, and to be consummated at the expense of war with Mexico, insults to Great Britain, breach of our own constitution, and the disgrace and shame of committing an outrage upon a feeble neighboring power. But the annexation was desirable in itself, and had been the unceasing effort of statesmen from the time the province had been retroceded to Spain. The treaty was a wrong and criminal way of doing a right thing. That obstacle removed, and the public mind roused and attracted to the subject, disinterested men who had no object but the public good, took charge of the subject, and initiated measures to effect the annexation in an honorable and constitutional manner. With this view Mr. Benton brought into the Senate a bill authorizing and advising the President to open negotiations with Mexico and Texas for the adjustment of boundaries between them, and the annexation of the latter to the United States. In support of his bill, he said:

"The return of Texas to our Union, and all the dismembered territory of 1819 along with it, is as certain as that the Red River and the Arkansas rise within our natural limits, and flow into the Mississippi. I wish to get it back, and to get it with peace and honor—at all events without unjust war, unconstitutionally made, on weak and groundless pretexts. I wish it to come back without sacrificing our trade even with Mexico, so valuable to us on account of the large returns of specie which it gave us, especially before the commencement of the Texian revolution, the events of which have alienated Mexican feeling from us, and reduced our specie imports from eleven millions of dollars per annum to one million and a half. I wish it to come back in a way to give as little dissatisfaction to any part of the Union as possible; and I believe it is very practicable to get it back without a shock to any part. The difficulty now is in the aspect which has been put upon it as a sectional, political, and slave question; as a movement of the South against the North, and of the slaveholding States for political supremacy. This is as unfounded in the true nature of the question, as it is unwise and unfortunate in the design which prompted it. The question is more Western than Southern, and as much free as slave. The territory to be recovered extends to the latitude of 38° in its north-east corner, and to latitude 42° in its north-west corner. One-half of it will lie in the region not adapted to slave labor; and, of course when regained, will be formed into non-slaveholding States. So far as slavery is concerned, then, the question is neutralized: it is as much free as slave; and it is greatly to be regretted—*regretted by all the friends of the*

Union—that a different aspect has been given to it. I am southern by my birth—southern in my affections, interests, and connections—and shall abide the fate of the South in every thing in which she has right upon her side. I am a slaveholder, and shall take the fate of other slaveholders in every aggression upon that species of property, and in every attempt to excite a San Domingo insurrection among us. I have my eyes wide open to that danger, and fixed on the laboratories of insurrection, both in Europe and America; but I must see a real case of danger before I take the alarm. I am against the cry of wolf, when there is no wolf. I will resist the intrusive efforts of those whom it does not concern, to abolish slavery among us; but I shall not engage in schemes for its extension into regions where it was never known—into the valley of the Rio del Norte, for example, and along a river of two thousand miles in extent, where a slave's face was never seen."

The whole body of the people, South and West, a majority of those in the Middle States, and respectable portions of the Northern States, were in favor of getting back Texas; and upon this large mass the intriguers operated, having their feelings in their favor, and exciting them by fears of abolition designs from Great Britain, and the fear of losing Texas for ever, if not then obtained. Mr. Benton deemed it just to discriminate this honest mass from the intriguers who worked only in their own interest, and at any cost of war and dishonor, and even disunion to our own country. Thus:

"A large movement is now going on for the annexation of Texas; and I, who have viewed this movement from the beginning, believe that I have analyzed it with a just and discriminating eye. The great mass of it is disinterested, patriotic, reasonable, and moderate, and wishes to get back our lost territory, as soon as it can be done with peace and honor. This large mass is passive, and had just as lief have Texas next year as this year. A small part of this movement is interested, and is the active part, and is unreasonable, and violent, and must have Texas during the present presidential election, or never. For the former part—the great mass—I feel great respect, and wish to give them reasons for my conduct: to the latter part it would be lost labor in me to offer reasons. Political and interested parties have no ears; they listen only to themselves, and run their course upon their own calculations. All that I shall say is, that the present movement, prostituted as it evidently is, to selfish and sectional purposes, is injurious to the cause of annexation, and must end in delaying its consummation. But it will be delay only. Annexation is the natural and inevitable order of events, and will come! and when it comes, be it sooner or later, it will be for the national reasons stated in Mr. Van Buren's instructions of 1829, and in the rational manner indicated in his letter of 1844. It will come, because the country to be received is geographically appurtenant to our country, and politically, commercially, and socially connected with our people, and with our institutions: and it will come, not in the shape of a secret treaty between two Presidents, but as a *legislative* as well as an *executive* measure—as the act of two nations (the United States and Texas) and with the consent of Mexico, if she is wise, or without her consent, upon the lapse of her rights."

The wantonness of getting up a quarrel with Great Britain on this subject, was thus exposed:

"Our administration, and especially the negotiator of this treaty, has been endeavoring to pick a quarrel with England, and upon the slave question. Senators have observed this, and have remarked upon the improvidence of seeking a quarrel with a great power on a weak point, and in which we should be in the wrong, and have the sympathies of the world against us, and see divided opinions at home; and doing this when we have several great questions of real difficulty with that power, in any war growing out of which we should have right on our side, good wishes from other nations, and unity among ourselves. Senators have remarked this, and set it down to the account of a great improvidence. I look upon it, for my part, as a designed

conclusion, and as calculated to promote an ulterior scheme. The disunion of these States is still desired by many, and the slave question is viewed as the instrument to effect it; and in that point of view, the multiplication of quarrels about slavery, both at home and abroad, becomes a natural part of the disunion policy. Hence the attempt to pick a quarrel with Great Britain for imputed anti-slavery designs in Texas, and among ourselves, and all the miserable correspondence to which that imputation has given birth; and that by persons who, two years ago, were emulating Great Britain in denunciation of the slave trade, and forming a naval and diplomatic alliance with her for closing the markets of the world against the introduction of slaves. Since then the disunion scheme is revived; and this accounts for the change of policy, and for the search after a quarrel upon a weak point, which many thought so improvident."

The closing sentences of this paragraph refer to the article in the Ashburton treaty which stipulated for a joint British and American squadron to guard the coast of Africa from slave-trading vessels: a stipulation which Mr. Calhoun and his friends supported, and which showed him at that time to be against the propagation of slavery, either in the United States or elsewhere. He had then rejoined the democratic party, and expected to be taken up as the successor to Mr. Van Buren; and, in that prospect of becoming President of the whole Union, had suspended his design for a separation, and for a new republic South, and was conciliating instead of irritating the free States; and in which scheme of conciliation he went so far as to give up all claim for reclamation for slaves liberated by the British authorities in their passage from one port of the United States to another, and even relinquished all opposition to the practice. The danger of an alliance offensive and defensive between Great Britain and Texas was still insisted upon by the President, and an attempt made upon the public sensibilities to alarm the country into immediate annexation as the means of avoiding that danger. The folly of such an apprehension was shown by the interest which Great Britain had in the commerce and friendship of Mexico, compared to which that of Texas was nothing:

"The President expresses his continued belief in a declaration previously made to the Senate, that an alliance, offensive and defensive, is to be formed between Texas and Great Britain, if the treaty is rejected. Well, the treaty is rejected! and the formidable alliance is not heard of, and never will be. It happens to take two to make a bargain; and the President would seem to have left out both parties when he expressed his belief, amounting almost to certainty, 'that instructions have already been given by the Texian government to propose to the government of Great Britain forthwith, on the failure (of the treaty) to enter into a treaty of commerce, and an alliance offensive and defensive. Alliance offensive and defensive, between Great Britain and Texas! a true exemplification of that famous alliance between the giant and the dwarf, of which we all read at the age of seven years. But let us see. First, Texas is to apply for this honor: and I, who know the people of Texas, and know them to be American and republican, instead of British and monarchical, know full well that they will apply for no such dependent alliance; and, if they did, would show themselves but little friendly to our country or its institutions. Next, Great Britain is to enter into this alliance; and how stands the account of profit and loss with her in such a contract for common cause against the friends and foes of each other? An alliance offensive and defensive, is a bargain to fight each other's enemies—each in proportion to its strength. In such a contract with Texas, Great Britain might receive a contingent of one Texian soldier for her Afghanistan and Asiatic wars: on the other hand she would lose the friendship of Mexico, and the twenty millions of silver dollars which the government or the merchants of Great Britain now annually draw from Mexico. Such would be the effect of the alliance offensive and defensive which our President so fully believes in—amounting, as he says his belief does, to an almost entire certainty. Incredible and absurd! The Mexican annual supply of silver dollars is worth more to Great Britain than all the Texases in the world. Besides the mercantile supply, the government itself is deeply

interested in this trade of silver dollars. Instead of drawing gold from London to pay her vast establishments by sea and land throughout the New World, and in some parts of the Old—instead of thus depleting herself of her bullion at home, she finds the silver for these payments in the Mexican mines. A commissary of purchases at $6,000 per annum, and a deputy at $4,000, are incessantly employed in these purchases and shipments of silver; and if interrupted, the Bank of England would pay the forfeit. Does any one suppose that Great Britain, for the sake of the Texian alliance, and the profit upon her small trade, would make an enemy of Mexico? would give up twenty millions annually of silver, deprive herself of her fountain of supply, and subject her bank to the drains which the foreign service of her armies and navies would require? The supposition is incredible: and I say no more to this scare-crow alliance, in which the President so fully believes."

The magnitude and importance of our young and growing trade with Mexico—the certainty that her carrying trade would fall into our hands, as her want of ports and ship timber would for ever prevent her from having any marine—were presented as a reason why we should cultivate peace with her.

"The legal state between the United States and Mexico is that of war; and the legal consequence is the abrogation of all treaties between the two powers, and the cessation of all commercial intercourse. This is a trifle in the eyes of the President; not sufficient to impede for an instant his intrigue for the presidency, and the ulterior scheme for the dissolution of the Union. But how is it in the eyes of the country? Is it a trifle in the eyes of those whose eyes are large enough to behold the extent of the Mexican commerce, and whose hearts are patriotic enough to lament its loss? Look at that commerce! The richest stream which the world beholds: for, of exports, silver is its staple article; of imports, it takes something of every thing, changed, to be sure, into the form of fine goods and groceries: of navigation, it requires a constant foreign supply; for Mexico neither has, nor can have, a marine, either commercial or military. The want of ports and timber deny her a marine now and for ever. This country, exporting what we want—(hard money)—taking something of all our exports—using our own ships to fetch and carry—lying at our door—with many inland streams of trade besides the great maritime stream of commerce—pouring the perennial product of her innumerable mines into our paper-money country, and helping us to be able to bear its depredations: this country, whose trade was so important to us under every aspect, is treated as a nullity by the American President, or rather, is treated with systematic outrage; and even the treaty which secures us her trade is disparagingly acknowledged with the contemptuous prefix of mere!—a mere commercial treaty. So styles it the appeal message. Now let us look to this commerce with our nearest neighbor, depreciated and repudiated by our President: let us see its origin, progress, and present state. Before the independence of Mexico, that empire of mines had no foreign trade: the mother country monopolized the whole. It was the Spanish Hesperides, guarded with more than the fabulous dragon's care. Mexican Independence was declared at Iguala, in the year 1821. In that year its trade with the United States began, humbly to be sure, but with a rapid and an immense development. In 1821, our exports to Mexico were about $100,000; our imports about the double of that small sum. In the year 1835, the year before the Texian revolution, our exports to the same country (and that independent of Honduras, Campeachy, and the Mosquito shore) amounted to $1,500,639; and that of direct trade, without counting exportations from other countries. Our imports were, for the same year, in merchandise, $5,614,819; of which the whole, except about $200,000 worth, was carried in American vessels. Our specie imports, for the same year, were $8,343,181. This was the state of our Mexican trade (and that without counting the inland branches of it), the year of the commencement of the Texian revolution—an event which I then viewed, as my speeches prove, under many aspects! And, with every sympathy

alive in favor of the Texians, and with the full view of their return to our Union after a successful revolt, I still wished to conciliate this natural event with the great object of preserving our peaceful relations, and with them our commercial, political, social, and moral position in regard to Mexico, the second power of the New World after ourselves, and the first of the Spanish branch of the great American family."

Political and social considerations, and a regard for the character of republican government, were also urged as solid reasons for effecting the annexation of Texas without an outbreak or collision with Mexico:

"Mr. President, I have presented you considerations, founded in the relations of commerce and good neighborhood, for preserving not merely peace, but good-will with Mexico. We are the first—she the second power of the New World. We stand at the head of the Anglo-Saxon—she at the head of the South-European race—but we all come from the same branch of the human family—the white branch—which, taking its rise in the Caucasian Mountains, and circling Europe by the north and by the south, sent their vanguards to people the two Americas—to redeem them from the savage and the heathen, and to bring them within the pale of the European systems. The independence of these vanguards from their metropolitan ancestors, was in the natural order of human events; and the precedence of the Anglo-Saxon branch in this assertion of a natural right, was the privilege and prerogative of their descent and education. The descendants of the English became independent first; those of the Spaniards followed; and, from the first dawn of their national existences, were greeted with applause, and saluted with the affection of brothers. They, on their part, showed a deference and an affection for us fraternal and affecting. Though speaking a different language, professing a different religion, bred in a different system of laws and of government, and guarded from all communication with us for centuries, yet they instantly took us for their model, framed their constitutions upon ours, and spread the great elements of old English liberty—elections, legislatures, juries, habeas corpus, face-to-face trials, no arrests but on special warrants!—spread all these essentials of liberty from the ancient capital of Montezuma to the end of the South American continent. This was honorable to us, and we felt it; it was beneficial to them, and we wished to cement the friendship they had proffered, and to perpetuate among them the institutions they had adopted. Conciliation, arising from justice and fairness, was our only instrument of persuasion; and it was used by all, and with perfect effect. Every administration—all the people—followed the same course; and, until this day—until the present administration—there has not been one to insult or to injure a new State of the South. Now it is done. Systematic insult has been practised; spoliation of two thousand miles of incontestable territory, over and above Texas, has been attempted; outrage to the perpetration of clandestine war, and lying in wait to attack the innocent by land and water, has been committed: and on whom? The second power of the New World after ourselves—the head of the Spanish branch—and the people in whose treatment at our hands the rest may read their own. Descended from the proud and brave Castilian—as proud and as brave now as in the time of Charles the Fifth, when Spain gave law to nations, and threatened Europe with universal domination—these young nations are not to be outraged with impunity. Broken and dispersed, the Spanish family has lost much of its power, but nothing of its pride, its courage, its chivalry, and its sensitiveness to insult.

"The head of the powers of the New World—deferred to as a model by all—the position of the United States was grand, and its vocation noble. It was called to the high task of uniting the American nations in the bonds of brotherhood, and in the social and political systems which cherish and sustain liberty. They are all republics, and she the elder sister; and it was her business to preserve harmony, friendship, and concord in a family of republics, occupying the whole extent of the New World. Every interest connected with the welfare of the human

race required this duty at our hands. Liberty, religion, commerce, science, the liberal and the useful arts, all required it; and, until now, we had acted up to the grandeur of our position, and the nobleness of our vocation. A sad descent is now made; but the decision of the Senate arrests the plunge, and gives time to the nation to recover its place, and its character, and again to appear as the elder sister, the friendly head, and the model power of the cordon of republics which stretch from the north to the south, throughout the two Americas. The day will come when the rejection of this treaty will stand, uncontestedly, amongst the wisest and most patriotic acts of the American Senate.

"The bill which I have offered, Mr. President, is the true way to obtain Texas. It conciliates every interest at home and abroad, and makes sure of the accomplishment of its object. Offence to Mexico, and consequent loss of her trade and friendship, is provided against. If deaf to reason, the annexation would eventually come without her consent, but not without having conciliated her feelings by showing her a proper respect. The treaty only provided difficulties—difficulties at home and abroad—war and loss of trade with Mexico—slavery controversies, and dissolution of the Union at home. When the time came for admitting new States under the treaty, had it been ratified, then came the tug of war. The correspondence presented it wholly as a slave question. As such it would be canvassed at the elections; and here numerical strength was against us. If the new States were not admitted with slaves, they would not come in at all. Then Southern States might say they would stand out with them: and then came the crisis! So obviously did the treaty mode of acquisition, and the correspondence, lead to this result, that it may be assumed to have been their object; and thus a near period arranged for the dissolution of our Union. Happily, these dire consequences are averted, for the present; and the bill I have brought in provides the way of obviating them for ever, and, at the same time, making sure of the annexation."

This bill, by referring the question of annexation to the legislative and executive authorities combined, gave the right turn to the public mind, and led to the measure which was adopted by Congress at the ensuing session, and marred by Mr. Tyler's assuming to execute it in the expiring moments of his administration, when, forestalling his successor, he rejected the clause for peaceful negotiations, and rushed forward the part of the act which, taken alone, involved war with Mexico.

During the whole continuance of these debates in the Senate, the lobbies of the chamber were crowded with speculators in Texas scrip and lands, and with holders of Mexican claims, all working for the ratification of the treaty, which would bring with it an increase of value to their property, and war with Mexico, to be followed by a treaty providing for their demands. They also infested the Department of State, the presidential mansion, all the public places, and kept the newspapers in their interest filled with abuse and false accusations against the senators who stood between themselves and their prey. They were countenanced by the politicians whose objects were purely political in getting Texas, as well as by those who were in sympathy or complicity with their schemes. Persons employed by the government were known to be in the ranks of these speculators; and, to uncover them to the public, Mr. Benton submitted this resolution:

"*Resolved*, That the Committee on Foreign Affairs be instructed to inquire whether any provisions are necessary in providing for the annexation of Texas, to protect the United States from speculating operations in Texas lands or scrip, and whether any persons employed by the government are connected with such speculations."

The resolve was not adopted, as it was well foreseen would be the case, there being always in every public body, a large infusion of gentle tempered men, averse to any strong measure, and who usually cast the balance between contending parties. The motion, however, had the

effect of fixing public attention the more earnestly upon these operators; and its fate did not prevent the mover from offering other resolves of a kindred character. It had been well known that Mr. Calhoun's letter of slave statistics to Mr. Pakenham, as a cause for making the treaty of annexation, had been written after the treaty had been concluded and signed by the negotiators; and this fact was clearly deducible from the whole proceeding, as well as otherwise known to some. There was enough to satisfy close observers; but the mass want the proof, or an offer to prove; and for their benefit, Mr. Benton moved:

"Also, that said committee be instructed to inquire whether the Texas treaty was commenced or agreed upon before the receipt of Lord Aberdeen's despatch of December 26, 1843, to Mr. Pakenham, communicated to our government in February, 1844."

This motion shared the fate of the former; but did not prevent a similar movement on another point. It will be remembered that this sudden commencement in the summer of 1843, was motived exclusively upon the communication of a British abolition plot in Texas, contained in a private letter from a citizen of Maryland in London, an "*extract*" from which had been sent to the Senate to justify the "*self-defence*" measures in the immediate annexation of Texas. The writer of that letter had been ascertained, and it lent no credit to the information conveyed. It had also been ascertained that he had been paid, and largely, out of the public Treasury, for that voyage to London—which authorized the belief that he had been sent for what had been found. An extract of the letter only had been sent to the Senate: a view of the whole was desired by the Senate in such an important case—and was asked for—but not obtained. Mr. Upshur was dead, and the President, in his answer, had supposed it had been taken away among his private papers—a very violent supposition after the letter had been made the foundation for a most important public proceeding. Even if so carried, it should have been pursued, and reclaimed, and made an archive in the Department: and this, not having been done by the President, was proposed to be done by the Senate; and this motion submitted:

"Also, that it be instructed to obtain, if possible, the '*private letter*' from London, quoted in Mr. Upshur's first despatch on the Texas negotiation, and supposed by the President to have been carried away among his private papers; and to ascertain the name of the writer of said letter."

To facilitate all these inquiries an additional resolve proposed to clothe the committee with authority to send for persons and papers—to take testimony under oath—and to extend their inquiries into all subjects which should connect themselves with selfish, or criminal motives for the acquisition of Texas. And all these inquiries, though repulsed in the Senate, had their effect upon the public mind, already well imbued with suspicions and beliefs of sinister proceedings, marked with an exaggerated demonstration of zeal for the public good.

143. Oregon Territory: Conventions Of 1818 And 1828: Joint Occupation: Attempted Notice To Terminate It

These conventions provided for the joint occupation of the countries respectively claimed by Great Britain and the United States on the north-west coast of America—that of 1818 limiting the joint occupancy to ten years—that of 1828 extending it indefinitely until either of the two powers should give notice to the other of a desire to terminate it. Such agreements are often made when it is found difficult to agree upon the duration of any particular privilege, or duty. They are seductive to the negotiators because they postpone an inconvenient question: they are consolatory to each party, because each says to itself it can get rid of the obligation when it pleases—a consolation always delusive to one of the parties: for the one that has the advantage always resists the notice, and long baffles it, and often through menaces to consider it as an unfriendly proceeding. On the other hand, the party to whom it is disadvantageous often sees danger in change; and if the notice is to be given in a legislative body, there will always be a large per centum of easy temperaments who are desirous of avoiding questions, putting off difficulties, and suffering the evils they have in preference of flying to those they know not: and in this way these temporary agreements, to be terminated on the notice of either party, generally continue longer than either party dreamed of when they were made. So it was with this Oregon joint occupancy. The first was for ten years: not being able to agree upon ten years more, the usual delusive resource was fallen upon: and, under the second joint occupation had already continued in operation fourteen years. Western members of Congress now took up the subject, and moved the Senate to advise the government to give the notice. Mr. Semple, senator from Illinois, proposed the motion: it was debated many days—resisted by many speakers: and finally defeated. It was first resisted as discourteous to Great Britain—then as offensive to her—then as cause of war on her side—finally, as actual war on our side—and even as a conspiracy to make war. This latter accusation was so seriously urged as to call out a serious answer from one of the senators friendly to the notice, not so much in exculpation of himself, as that of a friend at whom the imputation was levelled. In this sense, Mr. Breese, of Illinois, stood up, and said:

“His friend on the left (Mr. Benton) was accused of being at the head of a conspiracy, having no other object than the involving us in a war with Great Britain; and it was said with equal truth that his lever for moving the different elements was the northern boundary question. What foundation was there for so grave an accusation? None other than that he had fearlessly, from the beginning, resisted every encroachment, come from what quarter it might. He had stemmed the tide of British influence, if any such there was—he had rendered great and imperishable services to the West, and the West was grateful to him—he had watched her interests from the cradle; and now, when arrived at maturity, and able to take care of herself, he boldly stood forth her advocate. If devotion to his country, then, made him a conspirator, he was indeed guilty.”

Upon all this talk of war the commercial interest became seriously alarmed, and looked upon the delivery of the notice as the signal for a disastrous depression in our foreign trade. In a word, the general uneasiness became so great that there was no chance for doing what we had a right to do, what the safety of our territory required us to do, and without the right to do which the convention of 1828 could not have been concluded. The motion for the notice was defeated by a vote of 28 against 18. The yeas were:

“Yeas—Messrs. Allen, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Fairfield, Fulton, Hannegan, King, Semple, Sevier, Sturgeon, Walker, Woodbury, and Wright—18.”

“Nays—Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Haywood, Huger, Huntington, Jarnagin, Johnson, McDuffie, Mangum, Merrick, Miller, Morehead, Phelps, Rives, Simmons, Tallmadge, Upham, White, and Woodbridge—28.”

144. Presidential Election

Mr. James Knox Polk, and Mr. George Mifflin Dallas, had been nominated, as shown, for President and Vice-President by the democratic convention: Mr. Calhoun had declined to suffer his name to go before that election for reasons which he published, and an attempt to get up a separate convention for him, entirely failed: Mr. Tyler, who had a separate convention, and received its unanimous nomination, and thankfully accepted it, soon withdrew, and without having had a vice-presidential candidate on his ticket. On the whig side, Mr. Clay and Mr. Theodore Frelinghuysen were the candidates, and the canvass was conducted without those appeals to "hard cider, log-cabins, and coon-skins" which had been so freely used by the whig party during the last canvass, and which were so little complimentary to the popular intelligence. The democratic candidates were elected—and by a large electoral vote—170 to 105. The States which voted the democratic ticket, were: Maine, New Hampshire, New York, Pennsylvania, Virginia, South Carolina, Georgia, Louisiana, Mississippi, Indiana, Illinois, Alabama, Missouri, Arkansas, Michigan. Those which voted the opposite ticket, were: Massachusetts, Rhode Island, Connecticut, Vermont, New Jersey, Delaware, Maryland, North Carolina, Kentucky, Tennessee, Ohio. The popular vote was, for the democratic candidate, 1,536,196: for the opposite ticket, 1,297,912. This was a large increase upon the popular vote of 1840—large as that vote was, and Mr. Clay, though defeated, receiving 22,000 votes more than General Harrison did—affording good evidence that he would have been elected if he had been the candidate at that time. The issue in the election was mainly the party one of whig and democrat, modified by the tariff and Texas questions—Mr. Clay being considered the best representative of the former interest, Mr. Polk of the latter.

The difference in the electoral vote was large—65: in the popular vote, not so considerable: and in some of the States (and in enough of them to have reversed the issue), the difference in favor of Mr. Polk quite small, and dependent upon causes independent of himself and his cause. Of these it is sufficient to mention New York. There the popular vote was about five hundred thousand: the difference in favor of Mr. Polk, about five thousand: and that difference was solely owing to the association of Mr. Silas Wright, with the canvass. Refusing the nomination for the vice-presidency, and seeing a person nominated for the presidency by a long intrigue at the expense of his friend, Mr. Van Buren, he suffered himself to be persuaded to quit the Senate, which he liked, to become the democratic candidate for governor of New York—a place to which he was absolutely averse. The two canvasses went on together, and were in fact one; and the name and popularity of Mr. Wright brought to the presidential ticket more than enough votes to make the majority that gave the electoral vote of the State to Mr. Polk, but without being able to bring it up to his own vote for governor; which was still five thousand more. It was a great sacrifice of feeling and of wishes on his part to quit the Senate to stand this election—a sacrifice purely for the good of the cause, and which became a sacrifice, in a more material sense for himself and his friends. The electoral vote of New York was 36, which, going all together, and being taken from one side and added to the other, would have made a difference of 72—being seven more than enough to have elected Mr. Clay. Mr. Polk was also aided by the withdrawal of Mr. Tyler, and by receiving the South Carolina vote; both of which contingencies depended upon causes independent of his cause, and of his own merits: but of this in another place. I write to show how things were done, more than what was done; and to save, if possible, the working of the government in the hands of the people whose interests and safety depend upon its purity, not upon its corruptions.

145. Amendment Of The Constitution: Election Of President And Vice-President: Mr. Benton's Plan

Mr. Benton asked the leave for which he had given notice on Wednesday, to bring in a joint resolution for the amendment of the Constitution of the United States in relation to the election of President and Vice-President, and prefaced his motion with an exposition of the principle and details of the amendment which he proposed to offer. This exposition, referring to a speech which he had made in the year 1824, and reproducing it for the present occasion, can only be analyzed in this brief notice.

Mr. B. said he found himself in a position to commence most of his speeches with "*twenty years ago!*"—a commencement rather equivocal, and liable to different interpretations in the minds of different persons; for, while he might suppose himself to be displaying sagacity and foresight, in finding a medicine for the cure of the present disorders of the state in the remedies of prevention which he had proposed long since, yet others might understand him in a different character, and consider him as belonging to the category of those who, in that long time, had learned nothing, and had forgot nothing. So it might be now; for he was endeavoring to revive a proposition which he had made exactly twenty years before, and for the revival of which he deemed the present time eminently propitious. The body politic was now sick; and the patient, in his agony, might take the medicine as a cure, which he refused, when well, to take as a prevention.

Mr. B. then proceeded to state the object and principle of his amendment, which was, to dispense with all intermediate bodies in the election of President and Vice-President, and to keep the election wholly in the hands of the people; and to do this by giving them a direct vote for the man of their choice, and holding a second election between the two highest, in the event of a failure in the first election to give a majority to any one. This was to do away with the machinery of all intermediate bodies to guide, control, or defeat the popular choice; whether a Congress caucus, or a national convention, to dictate the selection of candidates; or a body of electors to receive and deliver their votes; or a House of Representatives to sanction or frustrate their choice.

Mr. B. spoke warmly and decidedly in favor of the principle of his proposition, assuming it as a fundamental truth to which there was no exception, *that liberty would be ruined by providing any kind of substitute for popular election!* asserting that all elections would degenerate into fraud and violence, if any intermediate body was established between the voters and the object of their choice, and placed in a condition to be able to control, betray, or defeat that choice. This fundamental truth he supported upon arguments, drawn from the philosophy of government, and the nature of man, and illustrated by examples taken from the history of all elective governments which had ever existed. He showed that it was the law of the few to disregard the will of the many, when they got power into their hands; and that liberty had been destroyed wherever intermediate bodies obtained the direction of the popular will. He quoted a vast number of governments, both ancient and modern, as illustrations of this truth; and referred to the period of direct voting in Greece and in Rome, as the grand and glorious periods of popular government, when the unfettered will of the people annually brought forward the men of their own choice to administer their own affairs, and when those people went on advancing from year to year, and produced every thing great in arts and in arms—in public and in private life—which then exalted them to the skies, and still makes them fixed stars in the firmament of nations. He believed in the capacity of the people for

self-government, but they must have fair play—fair play at the elections, on which all depended; and for that purpose should be free from the control of any intermediate, irresponsible body of men.

At present (he said), the will of the people was liable to be frustrated in the election of their chief officers (and that at no less than three different stages of the canvass), by the intervention of small bodies of men between themselves and the object of their choice. First, at the beginning of the process, in the nomination or selection of candidates. A Congress caucus formerly, and a national convention now govern and control that nomination; and never fail, when they choose, to find pretexts for substituting their own will for that of the people. Then a body of electors, to receive and hold the electoral votes, and who, it cannot be doubted, will soon be expert enough to find reasons for a similar substitution. Then the House of Representatives may come in at the conclusion, to do as they have done heretofore, and set the will of the people at absolute defiance. The remedy for all this is the direct vote, and a second election between the two highest, if the first one failed. This would operate fairly and rightfully. No matter how many candidates then appeared in the field. If any one obtained a majority of the whole number of votes, the popular principle was satisfied; the majority had prevailed, and acquiescence was the part of the minority. If no one obtained the majority, then the first election answered the purpose of a nomination—a real nomination by the people; and a second election between the two highest would give effect to the real will of the people.

Mr. B. then exposed the details of his proposed amendment, as contained in the joint resolution which he intended to offer. The plan of election contained in that resolution, was the work of eminent men—of Mr. Macon, Mr. Van Buren, Mr. Hugh L. White, Mr. Findlay, of Pennsylvania, Mr. Dickerson, of New Jersey, Mr. Holmes, Mr. Hayne, and Mr. R. M. Johnson, and was received with great favor by the Senate and the country at the time it was reported. Subsequent experience should make it still more acceptable, and entitle its details to a careful and indulgent consideration from the people, whose rights and welfare it is intended to preserve and promote.

The detail of the plan is to divide the States into districts; the people to vote direct in each district for the candidate they prefer; the candidate having the highest vote for President to receive the vote of the district for such office, and to count one. If any candidate receives the majority of the whole number of districts, such person to be elected; if no one receives such majority, the election to be held over again between the two highest. To afford time for these double elections, when they become necessary, the first one is proposed to be held in the month of August—at a time to which many of the State elections now conform, and to which all may be made to conform—and to be held on the same days throughout the Union. To receive the returns of such elections, the Congress is required to be in session, on the years of such elections, in the month of October; and if a second election becomes necessary, it will be held in December. Two days are proposed for the first election, because most of the State elections continue two days: one day alone is allowed for the second election, it being a brief issue between two candidates. To provide for the possibility of remote and most improbable contingencies, that of an equality of votes between the two candidates—a thing which *cannot* occur where the whole number of votes is odd, and is utterly improbable when they are even—and to keep the election from the House of Representatives, while preserving the principle which should prevail in elections by the House of Representatives, it is provided that the candidate, in the case of such equality, having the majority of votes in the majority of the States, shall be the person elected President. To provide against the possibility of another almost impossible contingency (that of more than two candidates having the highest, and, of course, the same number of votes in the first election, by an equality of votes between

several), the proposed amendment is so worded as to let all—that is, all having the two highest number of votes—go before the people at the second election.

Such are the details for the election of President: they are the same for that of Vice-President, with the single exception that, when the first election should have been effective for the election of President, and not so for Vice-President, then, to save the trouble of a second election for the secondary office only, the present provision of the constitution should prevail, and the Senate choose between the two highest.

Having made this exposition of the *principle* and of the *details* of the plan he proposed, Mr. B. went on to speak at large in favor of its efficacy and practicability in preserving the rights of the people, maintaining the purity of elections, preventing intrigue, fraud, and treachery, either in guiding or defeating the choice of the people and securing to our free institutions a chance for a prolonged and virtuous existence.

Mr. B. said he had never attended a nominating caucus or convention, and never intended to attend one. He had seen the last Congress caucus in 1824, and never wished to see another, or hear of another; he had seen the national convention of 1844, and never wished to see another. He should support the nominations of the last convention; but hoped to see such conventions rendered unnecessary, before the recurrence of another presidential election.

Mr. B. after an extended argument, concluded with an appeal to the Senate to favor his proposition, and send it to the country. His only object at present was to lay it before the country: the session was too far advanced to expect action upon it. There were two modes to amend the constitution—one by Congress proposing, and two-thirds of the State legislatures adopting, the amendment; the other by a national convention called by Congress for the purpose. Mr. B. began with the first mode: he might end with the second.

Disclaiming every thing temporary or invidious in this attempt to amend the constitution in an important point—referring to his labors twenty years ago for the elucidation of his motives—despising all pursuit after office, high or low—detesting all circumvention, intrigue, and management—anxious to restore our elections to their pristine purity and dignity—and believing the whole body of the people to be the only safe and pure authority for the selection as well as election of the first officers of the republic,—he confidently submitted his proposition to the Senate and the people, and asked for it the indulgent consideration which was due to the gravity and the magnitude of the subject.

Mr. B. then offered his amendment, which was unanimously received, and ordered to be printed.

The following is the copy of this important proposition:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring*, That the following amendment to the constitution of the United States be proposed to the legislatures of the several States, which, when ratified by the legislatures of three-fourths of the States, shall be valid to all intents and purposes as part of the constitution:

"That, hereafter, the President and Vice-President of the United States shall be chosen by the people of the respective States, in the manner following: Each State shall be divided, by the legislature thereof, into districts, equal in number to the whole number of senators and representatives to which such State may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons, entitled to be represented under the constitution, and to be laid off, for the first time, immediately after the ratification of this amendment, and afterwards, at the

session of the legislature next ensuing the apportionment of representatives by the Congress of the United States; that, on the first Thursday in August, in the year 1848, and on the same day every fourth year thereafter, the citizens of each State who possess the qualifications requisite for electors of the most numerous branch of the State legislatures, shall meet within their respective districts, and vote for a President and Vice-President of the United States, one of whom at least shall not be an inhabitant of the same State with themselves; and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice-President in each district, shall be holden to have received one vote; which fact shall be immediately certified by the governor of the State, to each of the senators in Congress from such State, and to the President of the Senate and the Speaker of the House of Representatives. The Congress of the United States shall be in session on the second Monday in October, in the year 1848, and on the same day on every fourth year thereafter; and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President, shall be President, if such number be equal to a majority of the whole number of votes given; but if no person have such majority, then a second election shall be held on the first Thursday in the month of December then next ensuing, between the persons having the two highest numbers for the office of President; which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first; and the person having the greatest number of votes for President, shall be President. But, if two or more persons shall have received the greatest, and an equal number of votes, at the second election, then the person who shall have received the greatest number of votes in the greatest number of States, shall be President. The person having the greatest number of votes for Vice-President, at the first election, shall be Vice-President, if such number be equal to a majority of the whole number of votes given: and, if no person have such majority, then a second election shall take place between the persons having the two highest numbers on the same day that the second election is held for President; and the person having the highest number of votes for Vice-President, shall be Vice-President. But if there should happen to be an equality of votes between the persons so voted for at the second election, then the person having the greatest number of votes in the greatest number of States, shall be Vice-President. But when a second election shall be necessary in the case of Vice-President, and not necessary in the case of President, then the Senate shall choose a Vice-President from the persons having the two highest numbers in the first election, as is now prescribed in the constitution."

146. The President And The Senate: Want Of Concord: Numerous Rejections Of Nominations

Mr. Tyler was without a party. The party which elected him repudiated him: the democratic party refused to receive him. His only resource was to form a Tyler party, at which he made but little progress. The few who joined him from the other parties were, most of them, importunate for office; and whether successful or not in getting through the Senate (for all seemed to get nominations), they lost the moral force which could aid him. The incessant rejection of these nominations, and the pertinacity with which they were renewed, presents a scene of presidential and senatorial oppugnation which had no parallel up to that time, and of which there has been no example since. Nominations and rejections flew backwards and forwards as in a game of shuttlecock—the same nomination, in several instances, being three times rejected in the same day (as it appears on the journal), but within the same hour, as recollected by actors in the scene. Thus: on the 3d day of March, 1843, Mr. Caleb Cushing having been nominated to the Senate for Secretary of the Treasury, was rejected by a vote of 27 nays to 19 yeas. The nays were: Messrs. Allen, Archer, Bagby, Barrow, Bayard, Benton, Berrien, Thomas Clayton, Conrad, Crafts, Crittenden, Graham, Henderson, Huntingdon, Kerr, Linn, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tappan, White. This vote was taken after dark in the night of the last day of the session. The President, who according to the custom on such occasions, attended in an ante-chamber appropriated to the Vice-President, immediately sent back Mr. Cushing's name, re-nominated for the same office. He was immediately rejected again by the same 27 nays, and with a diminution of nine who had voted for him. Incontinently the private secretary of Mr. Tyler returned with another re-nomination of the same citizen for the same office; which was immediately rejected by a vote of 29 to 2. The two senators who voted for him on this last trial were, Messrs. Robert J. Walker and Cuthbert. The 19 who voted for the nomination on the first trial were: Messrs. Bates, Buchanan, Calhoun, Choate, Cuthbert, Evans, Fulton, King, McDuffie, McRoberts, Sevier, Sturgeon, Tallmadge, Walker, Wilcox, Williams, Woodbury, Wright. The message containing this second re-nomination was written in such haste and flurry that half the name of the nominee was left out. "I nominate *Cushing* as Secretary of the Treasury, in place of Walter Forward, resigned," was the whole message; but the Senate acted upon it as it was, without sending the message back for rectification, as the rule always has been in the case of clerical mistakes. These re-nominations by Mr. Tyler were the more notable because, as chairman of the committee which had the duty of reporting upon the nomination of the United States Bank directors in the time of the "*war*," as it was called of the government upon the bank, he had made the report against President Jackson on the re-nomination of the four government directors (Messrs. Gilpin, Sullivan, Wager and McEldery), who had been rejected for reporting to the President, at his request, the illegal and corrupt proceedings of the bank (such as were more fully established by a committee of the stockholders); and also voted against the whole four re-nominations.

The same night Mr. Henry A. Wise underwent three rejections on a nomination, and two re-nominations as minister plenipotentiary and envoy extraordinary to France. The first rejection was by a vote of 24 to 12—the second, 26 to 8—the third, 29 to 2. The two yeas in this case were the same as on the third rejection of Mr. Cushing. The yeas and nays in the first vote were, yeas: Messrs. Archer, Buchanan, Calhoun, Choate, Cuthbert, Evans, Fulton, King, McDuffie, Sturgeon, Tallmadge, Walker. The nays: Messrs. Bagby, Barrow, Benton, Berrien, Clayton (Thomas), Conrad, Crafts, Crittenden, Dayton, Graham, Henderson, Huntingdon,

John Leeds Kerr, Mangum, Merrick, Miller, Phelps, Porter, Simmons, Smith of Indiana, Sprague, Tappan, White, Woodbridge. Mr. Wise had been nominated in the place of Lewis Cass, Esq., resigned.

At the ensuing session a rapid succession of rejections of nominations took place. Mr. George H. Proffit, of Indiana, late of the House of Representatives, was nominated minister plenipotentiary and envoy extraordinary to the Emperor of Brazil. He had been commissioned in the vacation, and had sailed upon his destination, drawing the usual outfit and quarter's salary, leaving the principal part behind, bet upon the presidential election. He was not received by the Emperor of Brazil, and was rejected by the Senate. Only eight members voted for his confirmation—Messrs. Breese, Colquitt, Fulton, Hannegan, King, Semple, Sevier, Walker. He had been nominated in the place of William Hunter, Esq., ex-senator from Rhode Island, recalled—a gentleman of education, reading, talent, and finished manners; and eminently fit for his place. It was difficult to see in Mr. Proffit, intended to supersede him, any cause for his appointment except his adhesion to Mr. Tyler.

Mr. David Henshaw, of Massachusetts, had been commissioned Secretary of the Navy in the recess, in place of Mr. Upshur, appointed Secretary of State. He was rejected—only eight senators voting for his nomination: they were: Messrs. Colquitt, Fulton, Haywood, King, Semple, Sevier, Walker, Woodbury. The same fate attended Mr. James M. Porter, of Pennsylvania, appointed in the recess Secretary at War, in the place of Mr. John C. Spencer, resigned. No more than three senators voted for his confirmation—Messrs. Haywood, Porter of Michigan, and Tallmadge. Mr. John C. Spencer himself, nominated an associate justice of the Supreme Court of the United States, in the place of Smith Thompson, Esq., deceased, was also rejected—26 to 21 votes. The negatives were: Messrs. Allen, Archer, Atchison, Barrow, Bates, Bayard, Benton, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Haywood, Henderson, Huntingdon, Jarnagin, Mangum, Merrick, Miller, Morehead, Pearce, Simmons, Tappan, Woodbridge.—Mr. Isaac Hill, of New Hampshire, was another subject of senatorial rejection. He was nominated for the place of the chief of the bureau of provisions and clothing of the Navy Department, to fill a vacancy occasioned by the death of Charles W. Goldsborough, Esq., and rejected by a vote of 25 to 11. The negatives were: Messrs. Allen, Archer, Atchison, Bagby, Barrow, Bates, Bayard, Benton, Berrien, Breese, Clayton (Thomas), Crittenden, Dayton, Evans, Foster, Huntingdon, Jarnagin, Mangum, Merrick, Morehead, Pearce, Sturgeon, Tappan, Walker, White.—Mr. Cushing was nominated at the same session for minister plenipotentiary and envoy extraordinary to China, the proceedings on which have not been made public.

147. Mr. Tyler's Last Message To Congress

Texas was the prominent topic of this message, and presented in a way to have the effect, whatever may have been the intent, of inflaming and exasperating, instead of soothing and conciliating Mexico. Mr. Calhoun was now the Secretary of State, and was now officially what he had been all along actually, the master spirit in all that related to Texas annexation. Of the interests concerned in the late attempted negotiation, one large interest, both active and powerful, was for war with Mexico—not for the sake of the war, but of the treaty of peace which would follow it, and by which their Texas scrip and Texas land, now worth but little, would become of great value. Neither Mr. Tyler nor Mr. Calhoun were among these speculators, but their most active supporters were; and these supporters gave the spirit in which the Texas movement was conducted; and in this spirit the message, in all that related to the point, was conceived. The imperious notification given at the last session to cease the war, was repeated with equal arrogance, and with an intimation that the United States would come to the aid of Texas, if it went on. Thus:

"In my last annual message, I felt it to be my duty to make known to Congress, in terms both plain and emphatic, my opinion in regard to the war which has so long existed between Mexico and Texas; and which, since the battle of San Jacinto, has consisted altogether of predatory incursions, attended by circumstances revolting to humanity. I repeat now, what I then said, that, after eight years of feeble and ineffectual efforts to recover Texas, it was time that the war should have ceased."

This was not the language for one nation to hold towards another, nor would such have been held towards Mexico, except from her inability to help herself, and our desire to get a chance to make a treaty of acquisitions with her. The message goes on to say, "*Mexico has no right to jeopard the peace of the world, by urging any longer a useless and fruitless contest.*" Very imperious language that, but entirely unfounded in the facts. Hostilities had ceased between Mexico and Texas upon an armistice under the guarantee of the great powers, and peace with Mexico was immediate and certain when Mr. Tyler's government effected the breach and termination of the armistice by the Texas negotiations, and by lending detachments of the army and navy to President Houston, to assist in the protection of Texas. This interposition, and by the lawless and clandestine loan of troops and ships, to procure a rupture of the armistice, and prevent the peace which Mexico and Texas were on the point of making, was one of the most revolting circumstances in all this Texas intrigue. Thus presenting a defiant aspect to Mexico, the President recommended the admission of Texas into the Union upon an act of Congress, to be passed for that purpose, and under the clause in the constitution which authorizes Congress to admit new States. Thus, a great constitutional point was gained by those who had opposed and defeated the annexation treaty. By that mode of annexation the treaty-making power—the President and Senate—made the acquisition: by the mode now recommended the legislative authority was to do it.

The remainder of the message presents nothing to be noted, except the congratulations of the President upon the restoration of the federal currency to what he called a sound state, but which was, in fact, a solid state—for it had become gold and silver; and his equal felicitations upon the equalization of the exchanges (which had never been unequal between those who had money to exchange), saying that exchange was now only the difference of the expense of transporting gold. That had been the case always with those who had gold; and what had been called inequalities of exchange before, was nothing but the different degrees of the depreciation of different bank notes. But what the President did not note, but which all

others observed, was the obvious fact, that this restoration and equalization were attained without any of the remedies which he had been prescribing for four years! without any of those Fiscal Institutes—Fiscal Corporations—Fiscal Agents—or Fiscal Exchequers, which he had been prescribing for four years. It was the effect of the gold bill, and of the Independent Treasury, and the cessation of all attempts to make a national currency of paper money.

148. Legislative Admission Of Texas Into The Union As A State

A joint resolution was early brought into the House of Representatives for the admission of Texas as a State of the Union. It was in these words:

"That Congress doth consent that the territory properly included within, and rightfully belonging to the republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union. And, that the foregoing consent of Congress is given upon the following conditions, and with the following guarantees:

"First. Said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the 1st day of January, 1846.

"Second. Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind which may belong to, or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said republic of Texas; and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the government of the United States.

"Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union, with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

To understand the third, and last clause of this resolve, it must be recollected that the boundaries of Texas, by the treaty of 1819, which retroceded that province to Spain, were extended north across the Red River, and entirely to the Arkansas River; and following that river up to the 37th, the 38th, and eventually to the 42d degree of north latitude; so that all this part of the territory lying north of 36 degrees 30 minutes, came within the terms of the Missouri compromise line prohibiting slavery north of that line. Here then was an anomaly—slave territory, and free territory within the same State; and it became the duty of Congress to provide for each accordingly: and it was done. The territory lying south of that compromise line might become free or slave States as the inhabitants should decide: the States to be

formed out of the territory north of it were to be bound by the compromise: and lest any question should arise on that point in consequence of Texas having been under a foreign dominion since the line was established, it was expressly re-enacted by this clause of the resolution, and in the precise words of the Missouri compromise act. Thus framed, and made clear in its provisions in respect to slavery, the resolutions, after ample discussion, were passed through the House by a good majority—120 to 97. The affirmatives were

"Archibald H. Arrington, John B. Ashe, Archibald Atkinson, Thomas H. Bayly, James E. Belser, Benjamin A. Bidlack, Edward J. Black, James Black, James A. Black, Julius W. Blackwell, Gustavus M. Bower, James B. Bowlin, Linn Boyd, Richard Brodhead, Aaron V. Brown, Milton Brown, William J. Brown, Edmund Burke, Armistead Burt, George Alfred Caldwell, John Campbell, Shepherd Carey, Reuben Chapman, Augustus A. Chapman, Absalom H. Chappell, Duncan L. Clinch, James G. Clinton, Howell Cobb, Walter Coles, Edward Cross, Alvan Cullom, John R. J. Daniel, John W. Davis, John B. Dawson, Ezra Dean, James Dellet, Stephen A. Douglass, George C. Dromgool, Alexander Duncan, Chesselden Ellis, Isaac G. Farlee, Orlando B. Ficklin, Henry D. Foster, Richard French, George Fuller, William H. Hammett, Hugh A. Haralson, Samuel Hays, Thomas J. Henley, Isaac E. Holmes, Joseph P. Hoge, George W. Hopkins, George S. Houston, Edmund W. Hubard, William S. Hubbell, James M. Hughes, Charles J. Ingersoll, John Jameson, Cave Johnson, Andrew Johnson, George W. Jones. Andrew Kennedy, Littleton Kirkpatrick, Alcée Labranche, Moses G. Leonard, William Lucas, John H. Lumpkin, Lucius Lyon, William C. McCauslen, William B. Maclay, John A. McClernand, Felix G. McConnel, Joseph J. McDowell, James J. McKay, James Mathews, Joseph Morris, Isaac E. Morse, Henry C. Murphy, Willoughby Newton, Moses Norris, jr., Robert Dale Owen, William Parmenter, William W. Payne, John Pettit, Joseph H. Peyton, Emery D. Potter, Zadock Pratt, David S. Reid, James H. Relfe, R. Barnwell Rhett, John Ritter, Robert W. Roberts, Jeremiah Russell, Romulus M. Saunders, William T. Senter, Thomas H. Seymour, Samuel Simons, Richard F. Simpson, John Slidell, John T. Smith, Thomas Smith, Robert Smith, Lewis Steenrod, Alexander H. Stephens, John Stewart, William H. Styles, James W. Stone, Alfred P. Stone, Selah B. Strong, George Sykes, William Taylor, Jacob Thomson, John W. Tibbatts, Tilghman M. Tucker, John B. Weller, John Wentworth, Joseph A. Woodward, Joseph A. Wright, William L. Yancey, Jacob S. Yost."

Members from the slave and free States voted for these resolutions, and thereby asserted the right of Congress to legislate upon slavery in territories, and to prohibit or prevent it as they pleased, and also exercised the right each way—forbidding it one side of a line, and leaving it optional with the State on the other—and not only acknowledging the validity of the Missouri compromise line, but enforcing it by a new enactment; and without this enactment every one saw that the slavery institution would come to the Arkansas River in latitude 37, and 38, and even 42. The vote was, therefore, an abolition of the institution legally existing between these two lines, and done in the formal and sacred manner of a compact with a foreign State, as a condition of its admission into the Union. One hundred and twenty members of the House of Representatives voted in favor of these resolutions, and thereby both asserted, and exercised the power of Congress to legislate upon slavery in territories, and to abolish it therein when it pleased: of the 97 voting against the resolution, not one did so from any objection to that power. The resolutions came down from the Department of State, and corresponded with the recommendation in the President's message.

Sent to the Senate for its concurrence, this joint resolution found a leading friend in the person of Mr. Buchanan, who was delighted with every part of it, and especially the re-enactment of the Missouri compromise line in the part where it might otherwise have been

invalidated by the Texian laws and constitution, and which thus extinguished for ever the slavery question in the United States. In this sense he said:

“He was pleased with it, again, because it settled the question of slavery. These resolutions went to re-establish the Missouri compromise, by fixing a line within which slavery was to be in future confined. That controversy had nearly shaken this Union to its centre in an earlier and better period of our history; but this compromise, should it be now re-established, would prevent the recurrence of similar dangers hereafter. Should this question be now left open for one or two years, the country could be involved in nothing but one perpetual struggle. We should witness a feverish excitement in the public mind; parties would divide on the dangerous and exciting question of abolition; and the irritation might reach such an extreme as to endanger the existence of the Union itself. But close it now, and it would be closed for ever.

“Mr. B. said he anticipated no time when the country would ever desire to stretch its limits beyond the Rio del Norte; and, such being the case, ought any friend of the Union to desire to see this question left open any longer? Was it desirable again to have the Missouri question brought home to the people to goad them to fury? That question between the two great interests in our country had been well discussed and well decided; and from that moment Mr. B. had set down his foot on the solid ground then established, and there he would let the question stand for ever. Who could complain of the terms of that compromise?

“It was then settled that north of 36° 30’ slavery should be for ever prohibited. The same line was fixed upon in the resolutions recently received from the House of Representatives, now before us. The bill from the House for the establishment of a territorial government in Oregon excluded slavery altogether from that vast country. How vain were the fears entertained in some quarters of the country that the slaveholding States would ever be able to control the Union! While, on the other hand, the fears entertained in the south and south-west as to the ultimate success of the abolitionists, were not less unfounded and vain. South of the compromise line of 36° 30’ the States within the limits of Texas applying to come into the Union were left to decide for themselves whether they would permit slavery within their limits or not. And under this free permission, he believed, with Mr. Clay (in his letter on the subject of annexation), that if Texas should be divided into five States, two only of them would be slaveholding, and three free States. The descendants of torrid Africa delighted in the meridian rays of a burning sun; they basked and rejoiced in a degree of heat which enervated and would destroy the white man. The lowlands of Texas, therefore, where they raised cotton, tobacco, and rice, and indigo, was the natural region for the slave. But north of San Antonio, where the soil and climate were adapted to the culture of wheat, rye, corn, and cattle, the climate was exactly adapted to the white man of the North; there he could labor for himself without risk or injury. It was, therefore, to be expected that three out of the five new Texian States would be free States—certainly they would be so, if they but willed it. Mr. B. was willing to leave that question to themselves, as they applied for admission into the Union. He had no apprehensions of the result. With that feature in the bill, as it came from the House, he was perfectly content; and, whatever bill might ultimately pass, he trusted this would be made a condition in it.”

It was in the last days of his senatorial service that Mr. Buchanan crowned his long devotion to the Missouri compromise by celebrating its re-enactment where it had been abrogated, taking a stand upon it as the solid ground on which the Union rested, and invoking a perpetuity of duration for it.

This resolution, thus adopted by the House, would make the admission a legislative act, but in the opinion of many members of the Senate that was only a step in the right direction: another

in their opinion required to be taken: and that was to combine the treaty-making power with it—the Congress taking the initiative in the question, and the President and Senate finishing it by treaty, as done in the case of Louisiana and Florida. With this view Mr. Benton had brought in a bill for commissioners to treat for annexation, and so worded as to authorize negotiations with Mexico at the same time, and get her acquiescence to the alienation in the settlement of boundaries with her. His bill was in these terms:

"That a State, to be formed out of the present republic of Texas, with suitable extent and boundaries, and with two representatives in Congress until the next apportionment of representation, shall be admitted into the Union by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission, and the cession of the remaining Texian territory to the United States shall be agreed upon by the government of Texas and the United States.

"Sec. 2. *And be it further enacted*, That the sum of one hundred thousand dollars be, and the same is hereby appropriated, to defray the expenses of missions and negotiations to agree upon the terms of said admission and cession, either by treaty, to be submitted to the Senate, or by articles to be submitted to the two Houses of Congress, as the President may direct."

In support of this bill, Mr. Benton said:

"It was a copy, substantially, of the bill which he had previously offered, with the omission of all the terms and conditions which that bill contained. He had been induced to omit all these conditions because of the difficulty of agreeing upon them, and because it was now clear that whatever bill was passed upon the subject of Texas, the execution of it must devolve upon the new President, who had been just elected by the people with a view to this object. He had confidence in Mr. Polk, and was willing to trust the question of terms and conditions to his untrammelled discretion, certain that he would do the best that he could for the success of the object, the harmony of the Union, and the peace and honor of the country.

"The occasion is an extraordinary one, and requires an extraordinary mission. The voluntary union of two independent nations is a rare occurrence, and is worthy to be attended by every circumstance which lends it dignity, promotes its success, and makes it satisfactory. When England and Scotland were united, at the commencement of the last century, no less than thirty-one commissioners were employed to agree upon the terms; and the terms they agreed upon received the sanction of the Parliaments of the two kingdoms, and completed a union which had been in vain attempted for one hundred years. Extraordinary missions, nationally constituted, have several times been resorted to in our own country, and always with public approbation, whether successful or not. The first Mr. Adams sent Marshall, Gerry, and Pinckney to the French directory in 1798: Mr. Jefferson sent Ellsworth, Davie, and Murray to the French consular government of 1800: Mr. Madison sent Adams, Bayard, Gallatin, Clay, and Russell to Ghent in 1814. All these missions, and others which might be named, were nationally constituted—composed of eminent citizens taken from each political party, and from different sections of the Union; and, of course, all favorable to the object for which they were employed. An occasion has occurred which, in my opinion, requires a mission similarly constituted—as numerous as the missions to Paris or to Ghent—and composed of citizens from both political parties, and from the non-slaveholding as well as the slaveholding States. Such a commission could hardly fail to be successful, not merely in agreeing upon the terms of the union, but in agreeing upon terms which would be satisfactory to the people and the governments of the two countries. And here, to avoid misapprehension and the appearance of disrespect where the contrary is felt, I would say that the gentleman now in Texas as the chargé of the United States, is, in my opinion, eminently fit and proper to be one of the envoys extraordinary and ministers plenipotentiary which my bill contemplates.

“In withdrawing from my bill the terms and conditions which had been proposed as a basis of negotiation, I do not withdraw them from the consideration of those who may direct the negotiation. I expect them to be considered, and, as far as judged proper, to be acted on. The compromise principle between slave and non-slaveholding territory is sanctioned by the vote of the House of Representatives, and by the general voice of the country. In withdrawing it from the bill, I do not withdraw it from the consideration of the President: I only leave him free and untrammelled to do the best he can for the harmony of the Union on a delicate and embarrassing point.

“The assent of Mexico to the annexation is judged to be unnecessary, but no one judges her assent to a new boundary line to be unnecessary: no one judges it unnecessary to preserve her commerce and good will; and, therefore, every consideration of self-interest and national policy requires a fair effort to be made to settle this boundary and to preserve this trade and friendship; and I shall consider all this as remaining just as fully in the mind of the President as if submitted to him in a bill.

“The bill which I now offer is the same which I have presented heretofore, divested of its conditions, and committing the subject to the discretion of the President to accomplish the object in the best way that he can, and either negotiate a treaty to be submitted to the Senate, or to agree upon articles of union to be submitted to the two Houses of Congress. I deem this the best way of proceeding under every aspect. It is the safest way; for it will settle all questions beforehand, and leave no nest-eggs to hatch future disputes. It is the most speedy way; for commissioners conferring face to face will come to conclusions much sooner than two deliberative bodies sitting in two different countries, at near two thousand miles apart, and interchanging categorical propositions in the shape of law. It is the most satisfactory way; for whatever such a commission should agree upon, would stand the best chance to be satisfactory to all parts of the Union. It is the most respectful way to Texas, and the mode for which she has shown a decided preference. She has twice sent envoys extraordinary and ministers plenipotentiary here to treat with us; and the actual President, Mr. Jones, has authentically declared his willingness to engage in further negotiations. Ministers sent to confer and agree—to consult and to harmonize—is much more respectful than the transmission, by mail or messenger, of an inflexible proposition, in the shape of law, to be accepted or rejected in the precise words in which we send it. In every point of view, the mode which I propose seems to me to be the best; and as its execution will devolve upon a President just elected by the people with a view to this subject, I have no hesitation in trusting it to him, armed with full power, and untrammelled with terms and conditions.”

It was soon ascertained in the Senate, that the joint resolution from the House could not pass—that unless combined with negotiation, it would be rejected. Mr. Walker, of Mississippi, then proposed to join the two together—the bill of Mr. Benton and the resolution from the House—with a clause referring it to the discretion of the President to act under them as he deemed best. It being then the end of the session, and the new President arrived so as to be ready to act immediately; and it being fully believed that the execution of the bill was to be left to him, the conjunction was favored by the author of the bill, and his friends; and the proposal of Mr. Walker was agreed to. The bill was added as an amendment, and then the whole was passed—although by a close vote—27 to 25. The yeas were: Messrs. Allen, Ashley, Atchison, Atherton, Bagby, Benton, Breese, Buchanan, Colquitt, Dickinson, Dix, Fairfield, Hannegan, Haywood, Henderson, Huger, Johnson, Lewis, McDuffie, Merrick, Niles, Semple, Sevier, Sturgeon, Tappan, Walker, Woodbury,—27. The nays were: Messrs. Archer, Barrow, Bates, Bayard, Berrien, Choate, Clayton, Crittenden, Dayton, Evans, Foster, Francis, Huntington, Jarnagin, Mangum, Miller, Morehead, Pearce, Phelps, Porter, Rives, Simmons, Upham, White, Woodbridge—25. The resolve of the House was thus passed in the

Senate, and the validity of the Missouri compromise was asserted, and its re-enactment effected in the Senate, as well as in the House. But the amendment required the bill to go back to the House for its concurrence in that particular, which was found to increase the favor of the measure—an addition of thirty-six being added to the affirmative vote. Carried to Mr. Tyler for his approval, or disapproval, it was immediately approved by him, with the hearty concurrence of his Secretary of State (Mr. Calhoun), who even claimed the passage of the measure as a triumph of his own. And so the executive government, in the persons of the President and his cabinet, added their sanction to the validity of the Missouri compromise line, and the full power of Congress which it exercised, to permit or abolish slavery in territories. This was the month of March, 1845—so that a quarter of a century after the establishment of that compromise line, the dogmas of "squatter sovereignty"—"no power in Congress to legislate upon slavery in the territories"—and "the extension of slavery to the territories by the self-expansion of the constitution," had not been invented. The discovery of these dogmas was reserved for a later period, and a more heated state of the public mind.

The bill providing for the admission of Texas had undergone all its formalities, and became a law on Saturday, the first day of March; the second was Sunday, and a *dies non*. Congress met on Monday for the last day of its existence; and great was the astonishment of members to hear that the actual President had assumed the execution of the act providing for the admission of Texas—had adopted the legislative clause—and sent it off by a special messenger for the adoption of Texas. It was then seen that some senators had been cheated out of their votes, and that the passage of the act through the Senate had been procured by a fraud. At least five of the senators who voted affirmatively would have voted against the resolutions of the House, if Mr. Benton's bill had not been added, and if it had not been believed that the execution of the act would be left to the new President, and that he would adopt Mr. Benton's. The possibility of a contrary course had been considered, and, as it was believed, fully guarded against. Several senators and some citizens conversed with Mr. Polk, then in the city, and received his assurance that he would act on Mr. Benton's proposition, and in carrying it into effect would nominate for the negotiation a national commission, composed of safe and able men of both parties, such as Mr. Benton had suggested. Among those who thus conversed with Mr. Polk were two (senator Tappan, of Ohio, and Francis P. Blair, Esq., of Washington City), who published the result of their conversations, and the importance of which requires to be stated in their own words: which is here done. Mr. Tappan, writing to the editors of the New York Evening Post, says:

"When the joint resolution declaring the terms on which Congress will admit Texas into the Union as a State, was before the Senate, it was soon found that a number of the democratic members who were favorable to the admission of Texas, would vote against that resolution. I was one of them. In this stage of the matter it was proposed, that instead of rejecting the House resolution, we should amend it by adding, as an alternative proposition, the substance of Mr. Benton's bill to obtain Texas by negotiation. Mr. Polk was in the city; it was understood that he was very anxious that Congress should act on the subject before he came into office; it was also understood that the proposition to amend the House resolution originated with Mr. Polk. It had been suggested, that, if we did so amend the resolution, Mr. Calhoun would send off the House resolution to Texas, and so endeavor to forestall the action of Mr. Polk; but Mr. McDuffie, his friend, having met this suggestion by the declaration that he would not have the 'audacity' to do such a thing, it was no more thought of. One difficulty remained, and that was the danger of putting it into the power of Mr. Polk to submit the House resolution to Texas. We understood, indeed, that he intended to submit the Senate proposition to that government; but, without being satisfied that he would do this, I would not vote for the resolution, and it was well ascertained that, without my vote, it could not pass.

Mr. Haywood, who had voted with me, and was opposed to the House resolution, undertook to converse with Mr. Polk on the subject, and did so. He afterwards told me that he was authorized by Mr. Polk to say to myself and other senators, that, if we could pass the resolution with the amendment proposed to be made, he would not use the House resolution, but would submit the Senate amendment as the sole proposition to Texas. Upon this assurance I voted for the amendment moved by Mr. Walker, containing the substance of Mr. Benton's bill, and voted for the resolution as it now stands on the statute book."

Mr. Francis P. Blair, in a letter addressed to Mr. Tappan, and conversing with Mr. Polk at a different time, gives his statement to the same effect:

"When the resolution passed by the House of Representatives for the annexation of Texas reached the Senate, it was ascertained that it would fail in that body. Benton, Bagby, Dix, Haywood, and as I understood, you also, were opposed to this naked proposition of annexation, which necessarily brought with it the war in which Texas was engaged with Mexico. All had determined to adhere to the bill submitted by Col. Benton, for the appointment of a commission to arrange the terms of annexation with Texas, and to make the attempt to render its accession to our Union as palatable as possible to Mexico before its consummation. It was hoped that this point might be effected by giving (as has been done in the late treaty of peace) a pecuniary consideration, fully equivalent in value for the territory desired by the United States, and to which Texas could justly assert any title. The Senate had been polled, and it was ascertained that any two of the democratic senators who were opposed to Brown's resolution, which had passed the House, could defeat it—the whole whig party preferring annexation by negotiation, upon Col. Benton's plan, to that of Brown. While the question was thus pending, I met Mr. Brown (late Governor of Tennessee, then a member or the House), who suggested that the resolution of the House, and the bill of Col. Benton, preferred by the Senate, might be blended, making the latter an alternative, and leaving the President elect (who alone would have time to consummate the measure), to act under one or the other at his discretion. I told Mr. Brown that I did not believe that the democratic senators opposed to the resolution of the House, and who had its fate in their hands, would consent to this arrangement, unless they were satisfied in advance by Mr. Polk that the commission and negotiation contemplated in Col. Benton's plan would be tried, before that of direct legislative annexation was resorted to. He desired me to see Colonel Benton and the friends of his proposition, submit the suggestions he had made, and then confer with Mr. Polk to know whether he would meet their views. I complied; and after several interviews with Messrs. Haywood, Dix, Benton, and others (Mr. Allen, of Ohio, using his influence in the same direction), finding that the two plans could be coupled and carried, if it were understood that the pacific project was first to be tried, I consulted the *President elect on the subject*. In the conference I had with him, *he gave me full assurance that he would appoint a commission, as contemplated in the bill prepared by Col. Benton, if passed in conjunction with the House resolution as an alternative*. In the course of my conversation with Mr. Polk, I told him that the friends of this plan were solicitous that the commission should be filled by distinguished men of both parties, and that Colonel Benton had mentioned to me the names of Crittenden and Wright, as of the class from which it should be formed. *Mr. Polk responded, by declaring with an emphasis, 'that the first men of the country should fill the commission.'* I communicated the result of this interview to Messrs. Benton, Dix, Haywood, &c. The two last met, on appointment, to adapt the phraseology of Benton's bill, to suit as an alternative for the resolution of the House, and it was passed, after a very general understanding of the course which the measure was to take. Both Messrs. Dix and Haywood told me they had interviews with Mr. Polk on the subject of the communication I had reported to them from him, and they were confirmed by his immediate assurance in pursuing the course which they

had resolved on in consequence of my representation of his purpose in regard to the point on which their action depended. After the law was passed, and Mr. Polk inaugurated, he applied to Gen. Dix (as I am informed by the latter), to urge the Senate to act upon one of the suspended cabinet appointments, saying that he wished his administration organized immediately, as he intended the instant recall of the messenger understood to have been despatched by Mr. Tyler, and to revoke his orders given in the last moments of his power, to thwart the design of Congress in affording him (Mr. Polk) the means of instituting a negotiation, with a view of bringing Texas peaceably into the Union."

All this was perfectly satisfactory with respect to the President elect; but there might be some danger from the actual President, or rather, from Mr. Calhoun, his Secretary of State, and who had over Mr. Tyler that ascendant which it is the prerogative of genius to exercise over inferior minds. This danger was suggested in debate in open Senate. It was repulsed as an impossible infamy. Such a cheat upon senators and such an encroachment upon the rights of the new President, were accounted among the impossibilities: and Mr. McDuffie, a close and generous friend of Mr. Calhoun, speaking for the administration, and replying to the suggestion that they might seize upon the act, and execute it without regard to the Senate's amendment, not only denied it for them, but repulsed it in terms which implied criminality if they did. He said they would not have the "*audacity*" to do it. Mr. McDuffie was an honorable man, standing close to Mr. Calhoun; and although he did not assume to speak by authority, yet his indignant repulse of the suggestion was entirely satisfactory, and left the misgiving senators released from apprehension on account of Mr. Tyler's possible conduct. Mr. Robert J. Walker also, who had moved the conjunction of the two measures, and who was confidential both with the coming in and going out President, assisted in allaying apprehension in the reason he gave for opposing an amendment offered by Mr. Ephraim H. Foster, of Tennessee, which, looking to the President's adoption of the negotiating clause, required that he should make a certain "*stipulation*" in relation to slavery, and another in relation to the public debt. Mr. Walker objected to this proposition, saying it was already in the bill, "*and if the President proceeded properly in the negotiation he would act upon it*." This seemed to be authoritative that negotiation was to be the mode, and consequently that Mr. Benton's plan was to be adopted. Thus quieted in their apprehensions, five senators voted for the act of admission, who would not otherwise have done so; and any two of whom voting against it would have defeated it. Mr. Polk did not despatch a messenger to recall Mr. Tyler's envoy; and that omission was the only point of complaint against him. Mr. McDuffie stood exempt from all blame, known to be an honorable man speaking from a generous impulsion.

Thus was Texas incorporated into the Union—by a deception, and by deluding five senators out of their votes. It was not a barren fraud, but one prolific of evil, and pregnant with bloody fruit. It established, so far as the United States was concerned, the state of war with Mexico: it only wanted the acceptance of Texas to make war the complete legal condition of the two countries: and that temptation to Texas was too great to be resisted. She desired annexation any way: and the government of the United States having broken up the armistice, and thwarted the peace prospects, and brought upon her the danger of a new invasion, she leaped at the chance of throwing the burden of the war on the United States. The legislative proposition sent by Mr. Tyler was accepted: Texas became incorporated with the United States: by that incorporation the state of war—*the status belli*—was established between the United States and Mexico: and it only became a question of time and chance, when hostilities were to begin. Mr. Calhoun, though the master spirit over Mr. Tyler, and the active power in sending off the proposition to Texas, was not in favor of war, and still believed, as he did when he made the treaty, that the weakness of Mexico, and a *douceur* of ten millions in money, would make her submit: but there was another interest all along working with him,

and now to supersede him in influence, which was for war, not as an object, but as a means—as a means of getting a treaty providing for claims and indemnities, and territorial acquisitions. This interest, long his adjunct, now became independent of him, and pushed for the war; but it was his conduct that enabled this party to act; and this point became one of earnest debate between himself and Mr. Benton the year afterwards; in which he was charged as being the real author of the war; and in which Mr. Benton's speech being entirely historical, becomes a condensed view of the whole Texas annexation question; and as such is presented in the next chapter.

149. The War With Mexico: Its Cause: Charged On The Conduct Of Mr. Calhoun: Mr. Benton's Speech

Mr. Benton: The senator from South Carolina (Mr. Calhoun) has boldly made the issue as to the authorship of this war, and as boldly thrown the blame of it upon the present administration. On the contrary, I believe himself to be the author of it, and will give a part of my reasons for believing so. In saying this, I do not consider the march to the Rio Grande to have been the cause of the war, any more than I consider the British march upon Concord and Lexington to have been the cause of the American Revolution, or the crossing of the Rubicon by Cæsar to have been the cause of the civil war in Rome. In all these cases, I consider the causes of war as pre-existing, and the marches as only the effect of these causes. I consider the march upon the Rio Grande as being unfortunate, and certainly should have advised against it if I had been consulted, and that without the least fear of diminishing my influence in the settlement of the Oregon question—a fear which the senator from South Carolina says prevented him from interposing to prevent the war which he foresaw. My opinion of Mr. Polk—and experience in that very Oregon case has confirmed it—did not authorize me to conjecture that any one would lose influence with him by giving him honest opinions; so I would have advised against the march to the Rio Grande if I had been consulted. Nor do I see how any opinion adverse to the President's was to have the effect of lessening his influence in the settlement of the Oregon question. That question was settled by us, not by the President. Half the democratic senators went contrary to the President's opinion, and none of them lost influence with him on that account; and so I can see no possible connection between the facts of the case and the senator's reason for not interfering to save his country from the war which, he says, he saw. His reason to me is unintelligible, incomprehensible, unconnectable with the facts of the case. But the march on the Rio Grande was not the cause of the war; but the causes of this event, like the causes of our own revolutionary war, were in progress long before hostilities broke out. The causes of this Mexican war were long anterior to this march; and, in fact, every circumstance of war then existed, except the actual collision of arms. Diplomatic intercourse had ceased; commerce was destroyed; fleets and armies confronted each other; treaties were declared to be broken; the contingency had occurred in which Mexico had denounced the existence of war; the incorporation of Texas, with a Mexican war on her hands, had produced, in legal contemplation, the *status belli* between the two countries: and all this had occurred before the march upon the Rio Grande, and before the commencement of this administration, and had produced a state of things which it was impossible to continue, and which could only receive their solution from arms or negotiation. The march to the Rio Grande brought on the collision of arms; but, so far from being the cause of the war, it was itself the effect of these causes. The senator from South Carolina is the author of those causes, and therefore the author of the war; and this I propose to show, at present, by evidence drawn from himself—from his public official acts—leaving all the evidence derived from other sources, from private and unofficial acts, for future production, if deemed necessary.

The senator from South Carolina, in his effort to throw the blame of the war upon the President, goes no further back in his search for causes than to this march upon the Rio Grande: upon the same principle, if he wrote a history of the American Revolution, he would begin at the march upon Lexington and Concord, leaving out of view the ten years' work of Lord North's administration which caused that march to be made. No, the march upon the Rio Grande was not the cause of the war: had it not been for pre-existing causes, the arrival

of the American army on the Mexican frontier would have been saluted with military courtesy, according to the usage of all civilized nations, and with none so much as with the Spaniards. Complimentary visits, dinners, and fandangos, balls—not cannon balls—would have been the salutation. The causes of the war are long anterior; and I begin with the beginning, and show the senator from South Carolina an actor from the first. In doing this, I am acting in defence of the country, for the President represents the country. The senator from South Carolina charges the war upon the President: the whole opposition follow him: the bill under discussion is forgotten: crimination of the President is now the object: and in that crimination, the country is injured by being made to appear the aggressor in the war. This is my justification for defending the President, and showing the truth that the senator, in his manner of acquiring Texas, is the true cause of the war.

The cession of Texas to Spain in 1819 is the beginning point in the chain of causes which have led to this war; for unless the country had been ceded away, there could have been no quarrel with any power in getting it back. For a long time the negotiator of that treaty of cession (Mr. J. Q. Adams) bore all the blame of the loss of Texas; and his motives for giving it away were set down to hostility to the South and West, and a desire to clip the wings of the slaveholding States. At last the truth of history has vindicated itself, and has shown who was the true author of that mischief to the South and West. Mr. Adams has made a public declaration, which no one controverts, that that cession was made in conformity to the decision of Mr. Monroe's cabinet, a majority of which was slaveholding, and among them the present senator from South Carolina, and now the only survivor of that majority. He does not contradict the statement of Mr. Adams: he, therefore, stands admitted the co-author of that mischief to the South and West which the cession of Texas involved, and to escape from which it became necessary, in the opinion of the senator from South Carolina, to get back Texas at the expense of war with Mexico. This conduct of the senator in giving away Texas when we had her, and then making war to get her back, is an enigma which he has never yet condescended to explain, and which, until explained, leaves him in a state of self-contradiction, which, whether it impairs his own confidence in himself or not, must have the effect of destroying the confidence of others in him, and wholly disqualifies him for the office of champion of the slaveholding States. It was the heaviest blow they had ever received, and put an end, in conjunction with the Missouri compromise, and the permanent location of the Indians west of the Mississippi, to their future growth or extension as slave States beyond the Mississippi. The compromise, which was then in full progress, and established at the next session of Congress, cut off the slave States from all territory north and west of Missouri, and south of thirty-six and a half degrees of north latitude: the treaty of 1819 ceded nearly all south of that degree, comprehending not only all Texas, but a large part of the valley of the Mississippi on the Red River and the Arkansas, to a foreign power, and brought a non-slaveholding empire to the confines of Louisiana and Arkansas: the permanent appropriation of the rest of the territory for the abode of civilized Indians swept the little slaveholding territory west of Arkansas and lying between the compromise line and the cession line; and left the slave States without one inch of ground for their future growth. Nothing was left. Even the then territory of Arkansas was encroached upon. A breadth of forty miles wide, and three hundred long was cut off from her, and given to the Cherokees; and there was not as much slave territory left west of the Mississippi as a dove could have rested the sole of her foot upon. It was not merely a curtailment, but a total extinction of slaveholding territory; and done at a time when the Missouri controversy was raging, and every effort made by Northern abolitionists to stop the growth of slave States.

I come now to the direct proofs of the senator's authorship of the war; and begin with the year 1836, and with the month of May of that year, and with the 27th day of that month, and

with the first rumors of the victory of San Jacinto. The Congress of the United States was then in session: the senator from South Carolina was then a member of this body; and, without even waiting for the official confirmation of that great event, he proposed at once the immediate recognition of the independence of Texas, and her immediate admission into this Union. He put the two propositions together—recognition and admission: and allowed us no further time for the double vote than the few days which were to intervene before the official intelligence of the victory should arrive. Here are some extracts from his speech on that occasion, and which verify what I say, and show that he was then ready to plunge the country into the Texian war with Mexico, without the slightest regard to its treaties, its commerce, its duties, or its character.

(The extracts.)

Here, then, is the proof of the fact that, ten years ago, and without a word of explanation with Mexico, or any request from Texas—without the least notice to the American people, or time for deliberation among ourselves, or any regard to existing commerce—he was for plunging us into instant war with Mexico. I say, instant war; for Mexico and Texas were then in open war; and to incorporate Texas, was to incorporate the war at the same time. All this the senator was then for, immediately after his own gratuitous cession of Texas, and long before the invention of the London abolition plot came so opportunely to his aid. Promptness and unanimity were then his watchwords. Immediate action—action before Congress adjourned—was his demand. No delay. Delays were dangerous. We must vote, and vote unanimously, and promptly. I well remember the senator's look and attitude on that occasion—the fixedness of his look, and the magisteriality of his attitude. It was such as he often favors us with, especially when he is in a "crisis," and brings forward something which ought to be instantly and unanimously rejected—as when he brought in his string of abstractions on Thursday last. So it was in 1836—prompt and unanimous action, and a look to put down opposition. But the Senate was not looked down in 1836. They promptly and unanimously refused the senator's motion! and the crisis and the danger—good-natured souls!—immediately postponed themselves until wanted for another occasion.

The peace of the country was then saved; but it was a respite only; and the speech of the senator from South Carolina, brief as it was, becomes momentous as foreshadowing every thing that has subsequently taken place in relation to the admission of Texas. In this brief speech we have the shadows of all future movements, coming in procession—in advance of the events. In the significant intimation, qualified with the if——"*the Texians prudently managed their affairs, they (the Senate) might soon be called upon to decide the question of admission*." In that pregnant and qualified intimation, there was a visible doubt that the Texians might *not* be prudent enough to manage their own affairs, and might require help; and also a visible feeling of that paternal guardianship which afterward assumed the management of their affairs for them. In the admonitions to unanimity, there was that denunciation of any difference of opinion which afterwards displayed itself in the ferocious hunting down of all who opposed the Texas treaty. In the reference to southern slavery, and annoyance to slave property from Texas, we have the germ of the "*self-defence*" letter, and the first glimpse of the abolition plot of John Andrews, Ashbel Smith, Lord Aberdeen—I beg pardon of Lord Aberdeen for naming him in such a connection—and the World's Convention, with which Mexico, Texas, and the United States were mystified and bamboozled in April, 1844. And, in the interests of the manufacturing and navigating States of the north and east, as connected with Texas admission, we have the text of all the communications to the agent, Murphy, and of all the letters and speeches to which the Texas question, seven years afterwards, gave rise. We have all these subsequent events here shadowed forth. And now, the wonder is, why all these things were not foreseen a little while

before, when Texas was being ceded to a non-slaveholding empire? and why, after being so imminent and deadly in May, 1836, all these dangers suddenly went to sleep, and never waked up again until 1844? These are wonders; but let us not anticipate questions, and let us proceed with the narrative.

The Congress of 1836 would not admit Texas. The senator from South Carolina became patient: the Texas question went to sleep; and for seven good years it made no disturbance. It then woke up, and with a suddenness and violence proportioned to its long repose. Mr. Tyler was then President: the senator from South Carolina was potent under his administration, and soon became his Secretary of State. All the springs of intrigue and diplomacy were immediately set in motion to resuscitate the Texas question, and to re-invest it with all the dangers and alarms which it had worn in 1836. Passing over all the dangers of annoyance from Texas as possibly non-slaveholding, *foreseen* by the senator in 1836, and not foreseen by him in 1819, with all the need for guardianship then foreshadowed, and all the arguments then suggested: all these immediately developed themselves, and intriguing agents traversed earth and sea, from Washington to Texas, and from London to Mexico:—passing over all this, as belonging to a class of evidence, not now to be used, I come at once to the letter of the 17th of January, from the Texian minister to Mr. Upshur, the American Secretary of State; and the answer to that letter by Mr. Calhoun, of April 11th of the same year. They are both vital in this case; and the first is in these words:

(The letter.)

This letter reveals the true state of the Texian question in January, 1844, and the conduct of all parties in relation to it. It presents Texas and Mexico, weary of the war, reposing under an armistice, and treating for peace; Great Britain and France acting the noble part of mediators, and endeavoring to make peace: our own government secretly intriguing for annexation, acting the wicked part of mischief-makers, and trying to renew the war; and the issue of its machinations to be unsuccessful unless the United States should be involved in the renewed hostilities. That was the question; and the letter openly puts it to the American Secretary of State. The answer to that question, in my opinion, should have been, that the President of the United States did not know of the armistice and the peace negotiations at the time that he proposed to Texas to do an act which would be a perfidious violation of those sacred engagements, and bring upon herself the scourge of renewed invasion and the stigma of perfidy—that he would not have made such a proposal for the whole round world, if he had known of the armistice and the peace negotiations—that he wished success to the peace-makers, both for the sake of Mexico and Texas, and because Texas could then come into the Union without the least interruption to our friendly, commercial, and social relations with our sister republic of Mexico; and that, as to secretly lending the army and navy of the United States to Texas to fight Mexico while we were at peace with her, it would be a crime against God, and man, and our own constitution, for which heads might be brought to the block, if presidents and their secretaries, like constitutional kings and ministers, should be held capitally responsible for capital crimes. This, in my opinion, should have been the answer.

Mr. Nelson refused to lend the army and navy, because to do so was to violate our own constitution. This is very constitutional and proper language: and if it had not been reversed, there would have been no war with Mexico. But it was reversed. Soon after it was written, the present senator from South Carolina took the chair of the Department of State. Mr. Pinckney Henderson, whom Mr. Murphy mentions as coming on with full powers, on the faith of the pledge he had given, arrived also, and found that pledge entirely cancelled by Mr. Tyler's answer through Mr. Nelson; and he utterly refused to treat. The new secretary was in a strait; for time was short, and Texas must be had; and Messrs. Henderson and Van Zandt would not

even begin to treat without a renewal of the pledge given by Mr. Murphy. That had been cancelled in writing, and the cancellation had gone to Texas, and had been made on high constitutional ground. The new secretary was profuse of verbal assurances, and even permitted the ministers to take down his words in writing, and read them over to him, as was shown by the senator from Texas (General Houston) when he spoke on this subject on Thursday last. But verbal assurances, or memoranda of conversations, would not do. The instructions under which the ministers acted required the pledge to be in writing, and properly signed. The then President, present senator from Texas, who had been a lawyer in Tennessee before he went to Texas, seemed to look upon it as a case under the statute of frauds and perjuries—a sixth case added to the five enumerated in that statute—in which the promise is not valid, unless reduced to writing, and signed by the person to be charged therewith, or by some other person duly authorized by him to sign for him. The firmness of the Texian ministers, under the instructions of President Houston, prevailed; and at last, and after long delay, the secretary wrote, and signed the pledge which Murphy had given, and in all the amplitude of his original promise.

The promise was clear and explicit to lend the army and navy to the President of Texas, to fight the Mexicans while they were at peace with us. That was the point—at peace with us. Mr. Calhoun's assumpsit was clear and explicit to that point; for the cases in which they were to fight were to be before the ratification of the treaty by the Senate, and consequently before Texas should be in our Union, and could be constitutionally defended as a part of it. And, that no circumstance of contradiction or folly should be wanting to crown this plot of crime and imbecility, it so happened that on the same day that our new secretary here was giving his written assumpsit to lend the army and navy to fight Mexico while we were at peace with her, the agent Murphy was communicating to the Texian government, in Texas, the refusal of Mr. Tyler, through Mr. Nelson, to do so, because of its unconstitutionality.

In conformity with the secretary's letter of April 11th, detachments of the army and navy were immediately sent to the frontiers of Texas, and to the coast of Mexico. The senator from South Carolina, in his colloquy with the senator from Texas (General Houston), on Thursday last, seemed anxious to have it understood that these land and naval forces were not to *repel* invasions, but only to *report* them to our government, for its report to Congress. The paper read by the senator from Texas, consisting of our secretary's words, taken down in his presence, and read over to him for his correction by the Texian ministers, establishes the contrary, and shows that the repulse of the invasion was in the mean time to be made. And in fact, any other course would have been a fraud upon the promise. For, if the invasion had to be made known at Washington, and the sense of Congress taken on the question of repelling it, certainly, in the mean time, the mischief would have been done—the invasion would have been made; and, therefore, to be consistent with himself, the President in the mean time was bound to repel the invasion, without waiting to hear what Congress would say about it. And this is what he himself tells us in his two messages to the Senate, of the 15th and 31st of May, doubtless written by his Secretary of State, and both avowing and justifying his intention to fight Mexico, in case of invasion, while the treaty of annexation was depending, without awaiting the action of Congress.

(The message.)

Here are the avowals of the fact, and the reasons for it—that honor required us to fight for Texas, if we intrigued her into a war. I admit that would be a good reason between individuals, and in a case where a big bully should involve a little fellow in the fight again after he had got himself parted; but not so between nations, and under our constitution. The engagement to fight Mexico for Texas, while we were at peace with Mexico, was to make

war with Mexico!—a piece of business which belonged to the Congress, and which should have been referred to them! and which, on the contrary, was concealed from them, though in session, and present! and the fact only found out after the troops had marched, and then by dint of calls from the Senate.

The proof is complete that the loan of the land and naval forces was to fight Mexico while we were at peace with her! and this becomes a great turning point in the history of this war. Without this pledge given by our Secretary of State—without his reversal of Mr. Tyler's first decision—there could have been no war! Texas and Mexico would have made peace, and then annexation would have followed of itself. The victor of San Jacinto, who had gone forth and recovered by the sword, and erected into a new republic the beautiful domain given away by our secretary in 1819, was at the head of the Texas government, and was successfully and honorably conducting his country to peace and acknowledged independence. If let alone, he would have accomplished his object; for he had already surmounted the great difficulty of the first step—the armistice and the commencement of peace negotiations; and under the powerful mediation of Great Britain and France, the establishment of peace was certain. A heavenly benediction rests upon the labors of the peacemaker; and what is blessed of God must succeed. At all events, it does not lie in the mouth of any man—and least of all, in the mouth of the mischief-maker—to say that the peaceful mediation would not have succeeded. It was the part of all men to have aided, and wished, and hoped for success; and had it not been for our secretary's letter of April 11th, authentic facts warrant the assertion that Texas and Mexico would have made peace in the spring of 1844. Then Texas would have come into this Union as naturally, and as easily, and with as little offence to any body, as Eve went into Adam's bosom in the garden of Eden. There would have been no more need for intriguing politicians to get her in, by plots and tricks, than there was for some old hag of a match-making beldame, with her arts and allurements, her philters and her potions, to get Eve into Adam's bosom. And thus, the breaking up of the peace negotiations becomes the great turning point of the problem of the Mexican war.

The pledge of the 11th of April being *signed*, the treaty was *signed*, and being communicated to the Senate, it was *rejected*: and the great reason for the rejection was that the ratification of the treaty would have been WAR with Mexico! an act which the President and Senate together, no more than President Tyler and his Secretary of State together, had the power to make.

The treaty of annexation was signed, and in signing it the secretary knew that he had made war with Mexico. No less than three formal notices were on file in the Department of State, in which the Mexican government solemnly declared that it would consider annexation as equivalent to a declaration of war; and it was in allusion to these notices that the Secretary of State, in his notification to Mexico of the signature of the treaty, said it had been signed IN FULL VIEW OF ALL POSSIBLE CONSEQUENCES! meaning war as the consequence! At the same time, he suited the action to the word; he sent off detachments of the army and navy, and placed them under the command of President Houston, and made him the judge of the emergencies and exigencies in which they were to fight. This authority to the President of Texas was continued in full force until after the rejection of the treaty, and then only modified by placing the American diplomatic agent in Texas between President Houston and the naval and military commanders, and making him the medium of communication between a foreign President and our forces; but the forces themselves were not withdrawn. They remained on the Texian and Mexican frontier, waiting for the *exigencies* and *emergencies* in which they were to fight. During all that time a foreign President was commander-in-chief of a large detachment of the army and navy of the United States. Without a law of Congress—without a nomination from the President and confirmation by the Senate—without

citizenship—without the knowledge of the American people—he was president-general of our land and sea forces, made so by the senator from South Carolina, with authority to fight them against Mexico with whom we were at peace—an office and authority rather above that of lieutenant-general!—and we are indebted to the forbearance and prudence of President Houston for not incurring the war in 1844, which fell upon us in 1846. This is a point—this secret and lawless appointment of this president-general to make war upon Mexico, while we were at peace with her—on which I should like to hear a constitutional argument from the senator from South Carolina, showing it to be constitutional and proper, and that of the proposed lieutenant-general unconstitutional and improper; and upon which he has erected himself into the *foreman* of the grand-jury of the whole American people, and pronounced a unanimous verdict for them before he had time to hear from the ten-thousandth part of them.

The treaty was rejected by the Senate; but so apprehensive was the senator of immediate war, that, besides keeping the detachments of the army and navy at their posts, a messenger was despatched with a deprecatory letter to Mexico, and the offer of a large sum of money (ten millions of dollars) to purchase peace from her, by inducing her to treat for a boundary which would leave Texas within our limits. This was report: and I would not mention it, if the senator was not present to contradict it, if not correct. Report at the time said from five to ten millions of dollars: from one of Mr. Shannon's letters, we may set it down at ten millions. Be it either sum, it will show that the senator was then secretly willing to pay an immense sum to pacify Mexico, although he now declares that he does not know how he will vote in relation to the three millions responsibly asked by Mr. Polk.

The secretary knew that he had made war with Mexico—that in accepting the gage three times laid down, he had joined an issue which that compound of Celtic and Roman blood, called Spanish, would redeem. I knew it, and said it on this floor, in secret session—for I did not then choose to say it in public—that if there was but one man of that blood in all Mexico, and he no bigger than General Tom Thumb, he would fight. Senators will recollect it. [Mr. Mangum nodded assent.]

I now come to the last act in this tragedy of errors—the alternative resolutions adopted by Congress in the last days of the session of 1844-'45, and in the last moments of Mr. Tyler's administration. A resolve, single and absolute, for the admission of Texas as a State of this Union, had been made by the House of Representatives; it came to this body; and an alternative resolution was added, subject to the choice of the President, authorizing negotiations for the admission, and appropriating one hundred thousand dollars to defray the expenses of these negotiations. A senator from North Carolina, not now a member of this body, but who I have the pleasure to see sitting near me (Mr. Haywood), knows all about that alternative resolution; and his country owes him good thanks for his labors about it. It was considered by every body, that the choice between these resolutions belonged to the new President, who had been elected with a special view to the admission of Texas, and who was already in the city, awaiting the morning of the 4th of March to enter upon the execution of his duties; and upon whose administration all the evils of a mistake in the choice of these resolutions were to fall. We all expected the question to be left open to the new President; and so strong was that expectation, and so strong the feeling against the decency or propriety of interference on the part of the expiring administration, to snatch this choice out of the hands of Mr. Polk, that, on a mere suggestion of the possibility of such a proceeding, in a debate on this floor, a senator standing in the relation personally, and politically, and locally to feel for the honor of the then Secretary of State, declared they would not have the audacity to do it. Audacity was his word: and that was the declaration of a gentleman of honor and patriotism, no longer a member of this body, but who has the respect and best wishes of all who ever knew him. I speak of Mr. McDuffie, and quote his words as heard at the time, and as since

printed and published by others. Mr. McDuffie was mistaken! They did have the audacity! They did do it, or rather, HE did it (looking at Mr. Calhoun); for it is incontestable that Mr. Tyler was nothing, in any thing that related to the Texas question, from the time of the arrival of his last Secretary of State. His last act, in relation to Texas, was the answer which Mr. Nelson gave for him through the agent, Murphy, denying his right to lend our forces to the President of Texas to fight the Mexicans while we were at peace with them: the reversal of that answer by his new secretary was the extinction of his power over the Texas question. He, the then Secretary of State, the present senator from South Carolina, to whom I address myself, did it. On Sunday, the second day of March—that day which preceded the last day of his authority—and on that day, sacred to peace—the council sat that acted on the resolutions—and in the darkness of a night howling with the storm, and battling with the elements, as if Heaven warred upon the audacious act (for well do I remember it), the fatal messenger was sent off which carried the selected resolution to Texas. The exit of the secretary from office, and the start of the messenger from Washington, were coetaneous—twin acts—which come together, and will be remembered together. The act was then done: Texas was admitted: all the consequences of admission were incurred—and especially that consequence which Mr. de Bocanegra had denounced, and which our secretary had accepted—WAR. The state of war was established—the *status belli* was created—and that by the operation of our own constitution, as well as by the final declaration of Mexico: for Texas then being admitted into the Union, the war with her extended to the whole Union; and the duty of protecting her, devolved upon the President of the United States. The selection of the absolute resolution exhausted our action: the alternative resolution for negotiation was defunct: the only mode of admission was the absolute one, and it made war. The war was made to Mr. Polk's hands: his administration came into existence with the war upon its hands, and under the constitutional duty to protect Texas at the expense of war with Mexico: and to that point, all events rapidly tended. The Mexican minister, General Almonte, who had returned to Washington city after the rejection of the treaty of annexation, demanded his passports, and left the United States. The land forces which had been advanced to the Sabine, were further advanced to Corpus Christi; the Mexican troops moved towards the Rio Grande: the fleet which remained at Vera Cruz, continued there: commerce died out: the citizens of each country left the other, as far as they could: angry denunciations filled the press of each country: and when a minister was sent from the United States, his reception was refused. The state of war existed legally: all the circumstances of war, except the single circumstance of bloodshed, existed at the accession of Mr. Polk; and the two countries, Mexico and the United States, stood in a relation to each other impossible to be continued. The march upon the Rio Grande brought on the conflict—made the collision of arms—but not the war. The war was prepared, organized, established by the Secretary of State, before he left the department. It was his legacy to the democracy, and to the Polk administration—his last gift to them, in the moment of taking a long farewell. And now he sets up for a man of peace, and throws all the blame of war upon Mr. Polk, to whom he bequeathed it.

Cicero says that Antony, flying from Rome to the camp of Cæsar in Cisalpine Gaul, was the cause of the civil war which followed—as much so as Helen was of the Trojan war. *Ut Helena Trojanis, sic iste huic reipublica causa belli—causa pestis atque exitii fuit.* He says that that flight put an end to all chance of accommodation; closed the door to all conciliation; broke up the plans of all peaceable men; and by inducing Cæsar to break up his camp in Gaul, and march across the Rubicon, lit up the flames of civil war in Italy. In like manner, I say that the flight of the winged messenger from this capital on the Sunday night before the 3d of March, despatched by the then Secretary of State, in the expiring moment of his power, and bearing his fatal choice to the capital of Texas, was the direct cause of the war with Mexico in which we are now engaged. Like the flight of Antony, it broke up the plans of all

peaceable men, slammed the door upon negotiations, put an end to all chance for accommodation, broke up the camp on the Sabine, sent the troops towards Mexico, and lit up the war. Like Antony and Helen, he made the war; unlike Antony, he does not stand to it; but, copying rather the conduct of the paramour of Helen, he flies from the conflict he has provoked! and, worse than Paris, he endeavors to draw along with him, in his own unhappy flight, the whole American host. Paris fled alone at the sight of Menelaus: the senator from South Carolina urges us all to fly at the sight of Santa Anna. And, it may be, that worse than Paris again, he may refuse to return to the field. Paris went back under the keen reproach of Hector, and tried to fight:

"For thee the soldier bleeds, the matron mourns,
And wasteful war in all its fury burns."

Stung with this just and keen rebuke—this vivid picture of the ruin he had made—Paris returned to the field, and tried to fight: and now, it remains to be seen whether the senator from South Carolina can do the same, on the view of the ruin which he has made: and, if not, whether he cannot, at least, cease to obstruct the arms of others—cease to labor to involve the whole army in his own unmanly retreat.

Upon the evidence now given, drawn from his public official acts alone, he stands the undisputed author and architect of that calamity. History will so write him down. Inexorable History, with her pen of iron and tablets of brass, will so write him down: and two thousand years hence, and three thousand years hence, the boy at his lesson shall learn it in the book, that as Helen was the cause of the Trojan, and Antony the cause of the Roman civil war, and Lord North made the war of the Revolution, just so certainly is John C. Calhoun the author of the present war between the United States and Mexico.

He now sets up for the character of pacificator—with what justice, let the further fact proclaim which I now expose. Three hundred newspapers, in the summer of 1844, in the pay of the administration and Department of State, spoke the sentiments of the Department of State, and pursued as traitors to the United States all who were for the peaceable annexation of Texas by settling the boundary line of Texas with Mexico simultaneously with the annexation. Here is the instruction under which the three hundred acted:

"As the conductor of the official journal here, he has requested me to answer it (your letter), which request I comply with readily. With regard to the course of your paper, you can take the tone of the administration from the * * * *. I think, however, and would recommend that you would confine yourself to attacks upon Benton, showing that he has allied himself with the whigs on the Texas question. Quote Jackson's letter on Texas, where he denounces all those as traitors to the country who oppose the treaty. Apply it to Benton. Proclaim that Benton, by attacking Mr. Tyler and his friends, and driving them from the party, is aiding the election of Mr. Clay; and charge him with doing this to defeat Mr. Polk, and insure himself the succession in 1848; and claim that full justice be done to the acts and motives of John Tyler by the leaders. Harp upon these strings. Do not propose the union; 'it is the business of the democrats to do this, and arrange it to our perfect satisfaction.' *I quote here* from our leading friend at the South. Such is the course which I recommend, and which you can pursue or not, according to your real attachment to the administration. Look out for my leader of to-morrow as an indicator, and regard this letter as of the most strict and inviolate confidence of character."

I make no comment on this letter, nor read the other parts of it: a time will come for that. It is an original, and will keep, and will prove itself. I merely read a paragraph now, to show with what justice the person who was in the Department of State when these three hundred

newspapers in its pay were thus attacking the men of peace, now sets up for the character of pacificator!

Mr. Calhoun. Does he intend to say that I ever wrote such a letter?

Mr. Benton. I read it. I say nothing.

Mr. Calhoun. I never wrote such a letter as that!

Mr. Benton. I have not said so.

Mr. Calhoun. I take this occasion to say that I never exercised the slightest influence over that paper. I never had the slightest connection with it. I never was a subscriber to it, and I very rarely read it.

Mr. Benton. It was the work of one of the organs of the administration, not John Jones, not the *Madisonian*; and the instruction was followed by three hundred newspapers in the pay of the Department of State.

I have now finished what I proposed to say, at this time, in relation to the authorship of this war. I confine myself to the official words and acts of the senator, and rely upon them to show that he, and not Mr. Polk, is the author of this calamity. But, while thus presenting him as the author of the war, I do not believe that war was his object, but only an incident to his object; and that all his conduct in relation to the admission of Texas refers itself to the periods of our presidential elections, and to some connection with those elections, and explains his activity and inactivity on those occasions. Thus, in May, 1836, when he was in such hot and violent haste for immediate admission, the election of that year was impending, and Mr. Van Buren the democratic candidate; and if the Texas question could then have been brought up, he might have been shoved aside just as easily as he was afterwards, in 1844. This may explain his activity in 1836. In 1840, the senator from South Carolina was a sort of a supporter of Mr. Van Buren, and might have thought that one good turn deserves another; and so nothing was said about Texas at that election—dangerous as was the least delay four years before; and this may explain the inactivity of 1840. The election of 1844 was coming on, and the senator from South Carolina was on the turf himself; and then the Texas question, with all its dangers and alarms, which had so accommodatingly postponed themselves for seven good years, suddenly woke up; and with an activity and vigor proportioned to its long repose. Instant admission, at all hazards, and at the expense of renewing hostilities between Mexico and Texas, and involving the United States in them, became indispensable—necessary to our own salvation—a clear case of self-defence; and then commenced all those machinations which ended in the overthrow of Mr. Van Buren and Mr. Clay for the presidency, and in producing the present war with Mexico; but without making the senator President. And this may explain his activity in 1844. Now, another presidential election is approaching; and if there is any truth in the rule which interprets certain gentlemen's declarations by their contraries, he will be a candidate again: and this may explain the reasons of the production of that string of resolutions which the senator laid upon the table last week; and upon which he has required us to vote instantly, as he did in the sudden Texas movement of 1836, and with the same magisterial look and attitude. The Texas slave question has gone by—the Florida slave question has gone by—there is no chance for it now in any of its old haunts: hence the necessity for a new theatre of agitation, even if we have to go as far as California for it, and before we have got California. And thus, all the senator's conduct in relation to Texas, though involving his country in war, may have had no other object than to govern a presidential election.

Our northern friends have exceeded my hopes and expectations in getting themselves and the Union safe through the Texas and Florida slave questions, and are entitled to a little repose.

So far from that, they are now to be plunged into a California slave question, long before it could arise of itself, if ever. The string of resolutions laid on the table by the senator from South Carolina is to raise a new slave question on the borders of the Pacific Ocean, which, upon his own principles, cannot soon occur, if ever. He will not take the country by conquest—only by treaty—and that treaty to be got by sitting out the Mexicans on a line of occupation. At the same time, he shows that he knows that Spanish blood is good at that game, and shows that they sat it out, and fought it out, for 800 years, against the Moors occupying half their country. By-the-by, it was only 700; but that is enough; one hundred years is no object in such a matter. The Spaniards held out 700 years against the Moors, holding half their country, and 300 against the Visigoths, occupying the half of the other half; and, what is more material, whipped them both out at the end of the time. This is a poor chance for California on the senator's principles. His five regiments would be whipped out in a fraction of the time; but no matter; men contend more violently for nothing than for something, and if he can get up a California slave question now, it will answer all the purposes of a reality, even if the question should never arise in point of fact.

The Senator from South Carolina has been wrong in all this business, from beginning to ending—wrong in 1819, in giving away Texas—wrong in 1836, in his sudden and hot haste to get her back—wrong in all his machinations for bringing on the Texas question of 1844—wrong in breaking up the armistice and peace negotiations between Mexico and Texas—wrong in secretly sending the army and navy to fight Mexico while we were at peace with her—wrong in secretly appointing the President of Texas president-general of the army and navy of the United States, with leave to fight them against a power with whom we were at peace—wrong in writing to Mexico that he took Texas in view of all possible consequences, meaning war—wrong in secretly offering Mexico, at the same time, ten millions of dollars to hush up the war which he had created—wrong now in refusing Mr. Polk three millions to aid in getting out of the war which he made—wrong in throwing the blame of this war of his own making upon the shoulders of Mr. Polk—wrong in his retreat and occupation line of policy—wrong in expelling old Father Ritchie from the Senate, who worked so hard for him during the Texas annexation—and more wrong now than ever, in that string of resolutions which he has laid upon the table, and in which, as Sylla saw in the young Cæsar many Mariuses, so do I see in them many nullifications.

In a picture of so many and such dreadful errors, it is hard to specify the worst, or to dwell upon any one to the exclusion of the rest; but there is one feature in this picture of enormities which seems entitled to that distinction: I allude to the pledge upon which the armistice and the peace negotiations between Mexico and Texas were broken up in 1844, and those two countries put back into a state of war, and ourselves involved in the contest. The story is briefly told, and admits of no dispute. The letter of 17th of January is the accusing record, from which there is no escape. Its awful words cannot be read now without freezing up the blood: "It is known to you that an armistice exists between Mexico and Texas, and that negotiations for peace are now going on under the mediation of two powerful sovereigns, mutually friendly. If we yield to your solicitation to be annexed to the United States, under these circumstances, we shall draw upon ourselves a fresh invasion from Mexico, incur the imputation of bad faith, and lose the friendship and respect of the two great mediating powers. Now, will you, in the event of our acceding to your request, step between us and Mexico and take the war off our hands?" This was the letter, and the terrible question with which it concluded. Mr. Upshur, to whom it was addressed, gave it no answer. In the forty days that his life was spared, he gave it no answer. Mr. Nelson, his temporary successor, gave it an answer; and, speaking for the President of the United States, positively refused to take annexation on the awful terms proposed. This answer was sent to Texas, and put an end to all

negotiation for annexation. The senator from South Carolina came into the Department of State, procured the reversal of the President's decision, and gave the pledge to the whole extent that Texas asked it. Without, in the least denying the knowledge of the armistice, and the negotiations for peace, and all the terrible consequences which were to result from their breach, he accepts the whole, and gives the fatal pledge which his predecessors had refused: and follows it up by sending our troops and ships to fight a people with whom we were at peace—the whole veiled by the mantle of secrecy, and pretexted by motives as unfounded as they were absurd. Now, what says morality and Christianity to this conduct? Certainly, if two individuals were engaged in strife, and two others should part them, and put them under an agreement to submit to an amicable settlement: and while the settlement was going on, another man, lying behind a hedge, should secretly instigate one of the parties to break off the agreement and renew the strife, and promise to take the fight off his hands if he did: what would morality and Christianity say to this? Surely the malediction of all good men would fall upon the man who had interfered to renew the strife. And if this would be the voice of all good men in the case of mere individuals, what would it be when the strife was between nations, and when the renewal of it was to involve a third nation in the contest, and such a war as we now have with our sister republic of Mexico? This is the feature which stands out in the awful picture: this is the question which now presents itself to the moral sense of the civilized world, in judging the conduct of the senator from South Carolina in writing that letter of the 11th of April, 1844, aggravated by now throwing upon another the blame of a war for which he then contracted.

150. Mr. Polk's Inaugural Address, And Cabinet

This was the longest address of the kind which had yet been delivered, and although condemned by its nature to declarations of general principles, there were some topics on which it dwelt with more particularity. The blessings of the Union, and the necessity of its preservation were largely enforced, and not without point, considering recent manifestations. Our title to the Oregon Territory was asserted as clear and indisputable, and the determination avowed to protect our settlers there. The sentiments were good, but the necessity or propriety of avowing them so positively, was quite questionable, seeing that this title was then a subject of negotiation with Great Britain, upon the harmony of which a declaration so positive might have an ill effect: and in fact did. The return voice from London was equally positive on the other side; and the inevitability of war became the immediate cry. The passage by Congress of the Texas annexation resolution was dwelt upon with great exultation, and the measure considered as consummated from the real disposition of Texas for the measure, and her great desire to get a partner in the war with Mexico, which would take its expenses and burdens off her hands.

The cabinet ministers were nominated and confirmed the same day—the Senate, as always, being convened on the 4th day of March for that purpose: James Buchanan, of Pennsylvania, Secretary of State; Robert J. Walker, of Mississippi, Secretary of the Treasury; William L. Marcy, of New York, Secretary at War; George Bancroft, of Massachusetts, Secretary of the Navy; Cave Johnson, of Tennessee, Postmaster-general; John Y. Mason, of Virginia, Attorney-general. The last was the only one retained of the late cabinet. Mr. Calhoun expected to be, and desired it, to prosecute, as he said, the Oregon negotiations, which he had commenced; and also to continue a certain diplomatic correspondence with France, on the subject of slavery, which he opened through Wm. R. King—greatly to the puzzle of the King, Louis Phillippe, and his ministers. In place of the State Department he was offered the mission to London, which he refused; and the same being offered to his friend, Mr. Francis W. Pickens, it was refused by him also: and the word became current, and was justified by the event, that neither Mr. Calhoun, nor any of his friends, would take office under this administration. In other respects, there was some balk and change after the cabinet had been agreed upon—which was done in Tennessee. General William O. Butler, the particular friend of General Jackson, had been brought on to receive the place of Secretary at War. He came in company with the President elect, at his special request, from Louisville, Kentucky, and was not spared to stop at his own house to get his wardrobe, though in sight of it: he was thrown out by the effect of a circuitous arrangement of which Mr. Polk was the dupe, and himself the victim. In the original cast of the cabinet, Mr. Silas Wright, the Governor elect of New York, and to whom Mr. Polk was indebted for his election, was to be Secretary of the Treasury. It was offered to him. He refused it, as he did all office: it was then intended for Mr. Azariah Flagg, the able and incorruptible comptroller of New York, the friend of Wright and Van Buren. He was superseded by the same intrigue which displaced General Butler. Mr. Robert J. Walker had been intended for Attorney-general: he brought an influence to bear upon Mr. Polk, which carried him into the Treasury. That displaced Mr. Flagg. But New York was not a State to be left out of the cabinet, and no place could be made for her except in the War Department; and Mr. Van Buren and Governor Wright were notified accordingly, with the intimation that the place belonged to one of their friends; and to name him. They did so upon the instant, and named Mr. Benjamin F. Butler; and, beginning to be a little suspicious, and to guard against all danger of losing, or delaying the name on the road, a special messenger was despatched to Washington, to travel day and night, and go straight to the President, and

deposit the name in his hands. The messenger did so—and was informed that he was fifteen minutes too late! that the place had been assigned to Mr. Wm. L. Marcy. And that was the beginning of the material damage (not in Kossuth's sense of the word), which Mr. Polk's administration did to Mr. Van Buren, Governor Wright, and their friends.

151. Mr. Blair And The Globe Superseded As The Administration Organ: Mr. Thomas Ritchie And The Daily Union Substituted

It was in the month of August, 1844, that a leading citizen of South Carolina, and a close friend of Mr. Calhoun—one who had been at the Baltimore presidential convention, but not in it—arrived at Mr. Polk's residence in Tennessee, had interviews with him, and made known the condition on which the vote of South Carolina for him might be dependent. That condition was to discontinue Mr. Blair as the organ of the administration if he should be elected. The electoral vote of the State being in the hands of the General Assembly, and not in the people, was disposable by the politicians, and had been habitually disposed of by them—and even twice thrown away in the space of a few years. Mr. Polk was certain of the vote of the State if he agreed to the required condition: and he did so. Mr. Blair was agreed to be given up. That was propitiation to Mr. Calhoun, to whom Mr. Blair was obnoxious on account of his inexorable opposition to nullification, and its author. Mr. Blair was also obnoxious to Mr. Tyler because of his determined opposition both to him, and to his administration. The Globe newspaper was a spear in his side, and would continue to be so; and to get it out had been one of the anxieties and labors of his presidential life. He had exhausted all the schemes to quiet, or to gain it, without success. A printing job of twenty thousand dollars had been at one time given to his office, with the evident design to soften him: to avoid that suspicion he struck the harder; and the job was taken away when partly executed. It now became the interest of Mr. Polk to assist Mr. Tyler in silencing, or punishing that paper; and it was done. Mr. Tyler had accepted the nomination of his convention for the presidency, and was in the field with an array of electoral candidates struggling for it. He stood no chance to obtain a single electoral vote: but Mr. Polk was in no condition to be able to lose any part of the popular vote. Mr. Tyler, now fully repudiated by the whigs, and carrying democratic colors, and with the power and patronage of the federal government in his hands, would take off some votes—enough in a closely contested State to turn the scale in favor of Mr. Clay. Hence it became essential to get Mr. Tyler out of the way of Mr. Polk; and to do that, the condition was, to get Mr. Blair out of the way of Mr. Tyler. Mr. Polk was anxious for this. A friend of his, who afterwards became a member of his cabinet, wrote to him in July, that the main obstacle to Mr. Tyler's withdrawal was the course of the Globe towards him and his friends. Another of those most interested in the result urged Mr. Polk to devise some mode of inducing Mr. Tyler to withdraw, and General Jackson was requested "*to ascertain the motives which actuated the course of the Globe towards Mr. Tyler and his friends*." These facts appear in a letter from Mr. Polk to General Jackson, in which he says to him: "*The main object in the way of Mr. Tyler's withdrawal, is the course of the Globe towards himself and his friends.*" These communications took place in the month before the South Carolina gentleman visited Tennessee. Mr. Polk's letter to General Jackson is dated the 23d of July. In about as short time after that visit as information could come from Tennessee to Washington, Mr. Tyler publicly withdrew his presidential pretensions! and his official paper, the Madisonian, and his supporters, passed over to Mr. Polk. The inference is irresistible, that the consideration of receiving the vote of South Carolina, and of getting Mr. Tyler out of the way of Mr. Polk, was the agreement to displace Mr. Blair as government editor if he should be elected.

And now we come to another fact, in this connection, as the phrase is, about which also there is no dispute; and that fact is this: on the fourth day of November, 1844, being after Mr. Tyler had joined Mr. Polk, and when the near approach of the presidential election authorized reliable calculations to be made on its result, the sum of $50,000, by an order from the Treasury in Washington, was taken from a respectable bank in Philadelphia, where it was safe and convenient for public use, and transferred to a village bank in the interior of Pennsylvania, where there was no public use for it, and where its safety was questionable. This appears from the records of the Treasury. Authentic letters written in December following from the person who had control of this village bank (Simon Cameron, Esq., a senator in Congress), went to a gentleman in Tennessee, informing him that $50,000 was in his hands for the purpose of establishing a new government organ in Washington City, proposing to him to be its editor, and urging him to come on to Washington for the purpose. These letters were sent to Andrew Jackson Donelson, Esq., connection and ex-private Secretary of President Jackson, who immediately refused the proffered editorship, and turned over the letters to General Jackson. His (Jackson's) generous and high blood boiled with indignation at what seemed to be a sacrifice of Mr. Blair for some political consideration; for the letters were so written as to imply a cognizance on the part of Mr. Polk, and of two persons who were to be members of his cabinet; and that cognizance was strengthened by a fact unknown to General Jackson, *namely*, that Mr. Polk himself, in due season, proposed to Mr. Blair to yield to Mr. Donelson as actual editor—himself writing *sub rosa*; which Mr. Blair utterly refused. It was a contrivance of Mr. Polk to get rid of Mr. Blair in compliance with his engagement to Mr. Calhoun and Mr. Tyler, without breaking with Mr. Blair and his friends; but he had to deal with a man, and with men, who would have no such hugger-mugger work; and to whom an open breach was preferable to a simulated friendship: General Jackson wrote to Mr. Blair to apprise him of what was going on, and to assure him of his steadfast friendship, and to let him know that Mr. Ritchie, of the Richmond Enquirer, was the person to take place on the refusal of Andrew Jackson Donelson, and to foretell mischiefs to Mr. Polk and his party if he fell into these schemes, of which Mr. Robert J. Walker was believed to be the chief contriver, and others of the cabinet passive instruments. On the 14th of December, 1844, he (General Jackson) wrote to Mr. Blair:

"But there is another project on foot as void of good sense and benefit to the democratic cause as the other, but not as wicked, proceeding from weak and inexperienced minds. It is this: to bring about a partnership between you and Mr. Ritchie, you to continue proprietor, and Ritchie the editor. This, to me, is a most extraordinary conception coming from any well-informed mind or experienced politician. It is true, Mr. Ritchie is an experienced editor, but sometimes goes off at half cock before he sees the whole ground, and does the party great injury before he sees his error, and then has great difficulty to get back into the right track again. Witness his course on my removal of the deposits, and how much injury he did us before he got into the right track again. Another *faux pas* he made when he went off with Rives and the conservatives, and advocated for the safe keeping of the public revenue special deposits in the State banks, as if where the directory were corrupt there could be any more security in special deposits in corrupt banks than in general deposits, and it was some time before this great absurdity could be beat out of his mind.

"These are visionary measures of what I call weak politicians who suggest them, but who wish to become great by foolish changes. Polk, I believe, will stick by you faithfully; should he not, he is lost; but I have no fears but that he will, and being informed confidentially of this movement, may have it in his power to put it *all down*. There will be great intrigue going on at Washington this winter."—(*Dec. 14, 1844.*)

"I fear there are some of our democratic friends who are trying to bring about a partnership of which I wrote you, which shows a want of confidence, or something worse. Be on your guard—no partnership; you have the confidence of the great body of the democrats, and I have no confidence in shifting politicians."—(*December, 21.*)

"Another plan is to get Mr. Ritchie interested as editor of the Globe—all of which I gave you an intimation of, and which I thought had been put down. But that any leading Democrat here had any thought of becoming interested in the Madisonian, to make it the organ of the administration, was such a thing as I could not believe; as common sense at once pointed out, as a consequence that it would divide the democracy, and destroy Polk's administration. Why, it would blow him up. The moment I heard it, I adopted such measures as I trust have put an end to it, as I know nothing could be so injurious to Polk and his administration. The pretext for this movement will be the Globe's support of Mr. Wright. *Let me know if there is any truth in this rumor.* I guarded Colonel Polk against any abandonment of the Globe. If true, it would place Colonel Polk in the shoes of Mr. Tyler."—(*February 28, 1845.*)

"I have written a long, candid, and friendly letter to Mr. Polk, bringing to his view the dilemma into which he has got by some bad advice, and which his good sense ought to have prevented. I have assured him of your uniform declarations to me of your firm support, and of the destruction of the democratic party if he takes any one but you as the executive organ, until you do something to violate that confidence which the democracy reposes in you. I ask in emphatic terms, what cause can he assign for not continuing your paper, the organ that was mine and Mr. Van Buren's, whose administration he, Polk, and you hand to hand supported, and those great fundamental principles you and he have continued to support, and have told him frankly that you will never degrade yourself or your paper by submitting to the terms proposed. I am very sick, exhausted by writing to Polk, and will write you again soon. I can only add, that, although my letter to Mr. Polk is both friendly and frank, I have done justice to you, and I hope he will say at once to you, go on with my organ as you have been the organ of Jackson and Van Buren. Should he not, I have told him his fate—a divided democracy, and all the political cliques looking to the succession, will annoy and crush him—the fairest prospects of successful administration by folly and jealousy lost. I would wish you to inform me which of the heads of the Departments, if any, are hostile to you. If Polk does not look well to his course, the divisions in New York and Pennsylvania will destroy him."—(*April 4, 1845.*)

I wrote you and the President, on the 4th instant, and was in hopes that my views would open his eyes to his own interests and union of the democratic party. But from the letters before me, I suppose my letter to the President will not prevent that evil to him and the democratic party that I have used my voice to prevent. I am too unwell to write much to-day. I have read your letter with care and much interest. I know you would never degrade yourself by dividing the editorial chair with any one for any cause. I well know that you never can or will abandon your democratic principles. You cannot, under existing circumstances, do any thing to save your character and democratic principles, and your high standing with all classes of the democracy, but by selling out your paper. When you sell, have good security for the consideration money. Ritchie is greatly involved, if not finally broke; and you know Cameron, who boasts that he has $50,000 to invest in a newspaper. Under all existing circumstances, I say to you, sell, and when you do, I look to a split in the democratic ranks; which I will sorely regret, and which might have been so easily avoided."—(*April 7.*)

"I have been quite sick for several days. My mind, since ever I heard of the attitude the President had assumed with you as editor of the Globe,—which was the most unexpected thing I ever met with,—my mind has been troubled, and it was not only unexpected by me,

but has shown less good common sense, by the President, than any act of his life, and calculated to divide instead of uniting the democracy; which appears to be his reason for urging this useless and foolish measure at the very threshold of his administration, and when every thing appeared to augur well for, to him, a prosperous administration. The President, here, before he set out for Washington, must have been listening to the secret counsels of some political cliques, such as Calhoun or Tyler cliques (for there are such here); or after he reached Washington, some of the secret friends of some of the aspirants must have gotten hold of his ear, and spoiled his common sense, or he never would have made such a movement, so uncalled for, and well calculated to sever the democracy by calling down upon himself suspicions, by the act of secretly favoring some of the political cliques who are looking to the succession for some favorite. I wrote him a long letter on the 4th, telling him there was but one safe course to pursue—review his course, send for you, and direct you and the *Globe* to proceed as the organ of his administration, give you all his confidence, and all would be well, and end well. *This is the substance*; and I had a hope the receipt of this letter, and some others written by mutual friends, would have restored all things to harmony and confidence again. I rested on this hope until the 7th, when I received yours of the 30th, and two confidential letters from the President, directed to be laid before me, from which it would seem that the purchase of the *Globe*, and to get clear of you, its editor, is the great absorbing question before the President. *Well, who is to be the purchaser?* Mr. Ritchie and Major A. J. Donelson its editors. *Query as to the latter.* The above question I have asked the President. Is that renegade politician, Cameron, who boasts of his $50,000 to set up a new paper, to be one of them? Or is Knox Walker to be the purchaser? Who is to purchase? and where is the money to come from? Is Dr. M. Gwinn, the satellite of Calhoun, the great friend of Robert J. Walker? a perfect bankrupt in property. I would like to know what portion of the cabinet are supporting and advising the President to this course, where nothing but injury can result to him in the end, and division in his cabinet, arising from jealousy. What political clique is to be benefited? My dear friend, let me know all about the cabinet, and their movements on this subject. How loathsome it is to me to see an old friend laid aside, principles of justice and friendship forgotten, and all for the sake of *policy*—and the great democratic party divided or endangered for *policy*—I cannot reflect upon it with any calmness; every point of it, upon scrutiny, turns to harm and disunion, and not one beneficial result can be expected from it. I will be anxious to know the result. If harmony is restored, and the *Globe* the organ, I will rejoice; if sold to whom, and for what. *Have, if you sell, the purchase money well secured.* This may be the last letter I may be able to write you; but live or die, I am your friend (and never deserted one from *policy*), and leave my papers and reputation in your keeping."—(*April 9.*)

From these letters it will be seen that General Jackson, after going through an agony of indignation and amazement at the idea of shoving Mr. Blair from his editorial chair and placing Mr. Ritchie in it (and which would have been greater if he had known the arrangement for the South Carolina vote and the withdrawal of Mr. Tyler), advised Mr. Blair to sell his Globe establishment, cautioning him to get good security; for, knowing nothing of the money taken from the Treasury, and well knowing the insolvency of all who were ostensible payers, he did not at all confide in their promises to make payment. Mr. Blair and his partner, Mr. John C. Rives, were of the same mind. Other friends whom they consulted (Governor Wright and Colonel Benton) were of the same opinion; and the Globe was promptly sold to Mr. Ritchie, and in a way to imply rather an abandonment of it than a sale—the materials of the office being offered at valuation, and the "name and good will" of the paper left out of the transaction. The materials were valued at $35,000, and the metamorphosed paper took the name of the "Daily Union;" and, in fact, some change of name was necessary, as the new paper was the reverse of the old one.—In all these schemes,

from first to last, to get rid of Mr. Blair, the design was to retain Mr. Rives, not as any part editor (for which he was far more fit than either himself or the public knew), but for his extraordinary business qualities, and to manage the machinery and fiscals of the establishment. Accustomed to trafficking and trading politicians, and fortune being sure to the government editor, it was not suspicioned by those who conducted the intrigue that Mr. Rives would refuse to be saved at the expense of his partner. He scorned it! and the two went out together.—The letters from General Jackson show his appreciation of the services of the Globe to the country and the democratic party during the eight eventful years of his presidency: Mr. Van Buren, on learning what was going on, wrote to Mr. Rives to show his opinion of the same services during the four years of his arduous administration; and that letter also belongs to the history of the extinction of the Globe newspaper—that paper which, for twelve years, had fought the battle of the country, and of the democracy, in the spirit of Jackson: that is to say, victoriously and honorably. This letter was written to Mr. Rives, who, in spite of his modest estimate of himself, was classed by General Jackson, Mr. Van Buren, and all their friends, among the wisest, purest, and safest of the party.

"The Globe has run its career at too critical a period in our political history—has borne the democratic flag too steadily in the face of assaults upon popular sovereignty, more violent and powerful than any which had ever preceded them in this or any other country, not to have made impressions upon our history and our institutions, which are destined to be remembered when those who witnessed its discontinuance shall be no more. The manner in which it demeaned itself through those perilous periods, and the repeated triumphs which crowned its labors, will when the passions of the day have spent their force, be matters of just exultation to you and to your children. *None have had better opportunities to witness, nor more interest in observing your course, than General Jackson and myself; and I am very sure that I could not, if I were to attempt it, express myself more strongly in favor of the constancy, fidelity, and ability with which it was conducted, than he would sanction with his whole heart.* He would, I have no doubt, readily admit that it would have been exceedingly difficult, if not impossible, for his administration to have sustained itself in its contest with a money power (a term as well understood as that of democrat, and much better than that of whig at the present day), if the corruptions which were in those days spread broadcast through the length and breadth of the land, had been able to subvert the integrity of the Globe; and I am very certain that the one over which I had the honor to preside, could never, in such an event, have succeeded in obtaining the institution of an independent treasury, without the establishment of which, the advantages to be derived from the overthrow of the Bank of the United States will very soon prove to be wholly illusory. The Bank of the United States first, and afterwards those of the States, succeeded in obtaining majorities in both branches of the national legislature favorable to their views; but they could never move the Globe from the course which has since been so extensively sanctioned by the democracy of the nation. You gave to the country (and when I say you, I desire to be understood as alluding to Mr. Blair and yourself) at those momentous periods, the invaluable advantages of a press at the seat of the general government, not only devoted, root and branch, to the support of democratic principles, but independent in fact and in feeling, as well of bank influences as of corrupting pecuniary influences of any description. The vital importance of such an establishment to the success of our cause is incapable of exaggeration. Experience will show, if an opportunity is ever afforded to test the opinion, that, without it, the principles of our party can never be upheld in their purity in the administration of the federal government. Administrations professedly their supporters may be formed, but they will prove to be but whited sepulchres, appearing beautiful outward, but within full of dead men's bones, and all uncleanness—Administrations which, instead of directing their best efforts to advance the welfare and

promote the happiness of the toiling millions, will be ever ready to lend a favorable ear to the advancement of the selfish few."

The Globe was sold, and was paid for, and how? becomes a question of public concern to answer; for it was paid for out of public money—those same $50,000 which were removed to the village bank in the interior of Pennsylvania by a Treasury order on the fourth day of November, 1844. Three annual instalments made the payment, and the Treasury did not reclaim the money for these three years; and, though travelling through tortuous channels, the sharpsighted Mr. Rives traced the money back to its starting point from that deposit. Besides, Mr. Cameron admitted before a committee of Congress, that he had furnished money for the payments—an admission which the obliging committee, on request, left out of their report. Mr. Robert J. Walker was Secretary of the Treasury during these three years, and the conviction was absolute, among the close observers of the course of things, that he was the prime contriver and zealous manager of the arrangements which displaced Mr. Blair and installed Mr. Ritchie.

In the opinions which he expressed of the consequences of that change of editors, General Jackson was prophetic. The new paper brought division and distraction into the party—filled it with dissensions, which eventually induced the withdrawal of Mr. Ritchie; but not until he had produced the mischiefs which abler men cannot repair.

152. Twenty-Ninth Congress: List Of Members: First Session: Organization Of The House

Senators.

Maine.—George Evans, John Fairfield.

New Hampshire.—Benjamin W. Jenness, Charles G. Atherton.

Vermont.—William Upham, Samuel S. Phelps.

Massachusetts.—Daniel Webster, John Davis.

Rhode Island.—James F. Simmons, Albert C. Green.

Connecticut.—John M. Niles, Jabez W. Huntington.

New York.—John A. Dix, Daniel S. Dickinson.

New Jersey.—Jacob W. Miller, John L. Dayton.

Pennsylvania.—Simon Cameron, Daniel Sturgeon.

Delaware.—Thomas Clayton, John M. Clayton.

Maryland.—James A. Pearce, Reverdy Johnson.

Virginia.—William S. Archer, Isaac S. Pennybacker.

North Carolina.—Willie P. Mangum, William H. Haywood, jr.

South Carolina.—John C. Calhoun, George McDuffie.

Georgia.—John McP. Berrien, Walter T. Colquitt.

Alabama.—Dixon H. Lewis, Arthur P. Bagby.

Mississippi.—Joseph W. Chalmers, Jesse Speight.

Louisiana.—Alexander Barrow, Henry Johnson.

Tennessee.—Spencer Jarnagin, Hopkins L. Turney.

Kentucky.—James T. Morehead, John J. Crittenden.

Ohio.—William Allen, Thomas Corwin.

Indiana.—Ed. A. Hannegan, Jesse D. Bright.

Illinois.—James Semple, Sidney Breese.

Missouri.—David R. Atchison, Thomas H. Benton.

Arkansas.—Chester Ashley, Ambrose H. Sevier.

Michigan.—William Woodbridge, Lewis Cass.

Florida.—David Levy, James D. Westcott.

In this list will be seen the names of several new senators, not members of the body before, and whose senatorial exertions soon made them eminent;—Dix and Dickinson of New York, Reverdy Johnson of Maryland, Jesse D. Bright of Indiana, Lewis Cass of Michigan; and to these were soon to be added two others from the newly incorporated State of Texas, Messrs.

General Sam Houston and Thomas F. Rusk, Esq., and of whom, and their State, it may be said they present a remarkable instance of mutual confidence and concord, neither having been changed to this day (1856).

House of Representatives.

Maine.—John F. Scammon, Robert P. Dunlap, Luther Severance, John D. McCrate, Cullen Sawtelle, Hannibal Hamlin, Hezekiah Williams.

New Hampshire.—Moses Norris, jr., Mace Moulton, James H. Johnson.

Vermont.—Solomon Foot, Jacob Collamer, George P. Marsh, Paul Dillingham, jr.

Massachusetts.—Robert C. Winthrop, Daniel P. King, Amos Abbot, Benjamin Thompson, Charles Hudson, George Ashmun, Julius Rockwell, John Quincy Adams, Joseph Grinnell.

Rhode Island.—Henry Y. Cranston, Lemuel H. Arnold.

Connecticut.—James Dixon, Samuel D. Hubbard, John A. Rockwell, Truman Smith.

New York.—John W. Lawrence, Henry I. Seaman, William S. Miller, William B. Maclay, Thomas M. Woodruff, William W. Campbell, Joseph H. Anderson, William W. Woodworth, Archibald C. Niven, Samuel Gordon, John F. Collin, Richard P. Herrick, Bradford R. Wood, Erastus D. Culver, Joseph Russell, Hugh White, Charles S. Benton, Preston King, Orville Hungerford, Timothy Jenkins, Charles Goodyear, Stephen Strong, William J. Hough, Horace Wheaton, George Rathbun, Samuel S. Ellsworth, John De Mott, Elias B. Holmes, Charles H. Carcoll, Martin Grover, Abner Lewis, William A. Mosely, Albert Smith, Washington Hunt.

New Jersey.—James G. Hampton, George Sykes, John Runk, John Edsall, William Wright.

Pennsylvania.—Lewis C. Levin, Joseph R. Ingersoll, John H. Campbell, Charles J. Ingersoll, Jacob S. Yost, Jacob Erdman, Abraham R. McIlvaine, John Strohm, John Ritter, Richard Brodhead, jr., Owen D. Leib, David Wilmot, James Pollock, Alexander Ramsay, Moses McLean, James Black, James Blanchard, Andrew Stewart, Henry D. Foster, John H. Ewing, Cornelius Darragh, William S. Garvin, James Thompson, Joseph Buffington.

Delaware.—John W. Houston.

Maryland.—John G. Chapman, Thomas Perry, Thomas W. Ligon, William F. Giles, Albert Constable, Edward Long.

Virginia.—Archibald Atkinson, George C. Dromgoole, William M. Treadway, Edward W. Hubard, Shelton F. Leake, James A. Seddon, Thomas H. Bayly, Robert M. T. Hunter, John S. Pendleton, Henry Redinger, William Taylor, Augustus A. Chapman, George W. Hopkins, Joseph Johnson, William G. Brown.

North Carolina.—James Graham, Daniel M. Barringer, David S. Reid, Alfred Dockery, James C. Dobbin, James J. McKay, John R. J. Daniels, Henry S. Clarke, Asa Biggs.

South Carolina.—James A. Black, Richard F. Simpson, Joseph A. Woodward, A. D. Sims, Armistead Burt, Isaac E. Holmes, R. Barnwell Rhett.

Georgia.—Thomas Butler King, Seaborn Jones, Hugh A. Haralson, John H. Lumpkin, Howell Cobb, Alex. H. Stephens, Robt. Toombs.

Alabama.—Samuel D. Dargin, Henry W. Hilliard, William L. Yancey, Winter W. Payne, George S. Houston, Reuben Chapman, Felix G. McConnell.

Mississippi.—Jacob Thompson, Stephen Adams, Robert N. Roberts, Jefferson Davis.

Louisiana.—John Slidell, Bannon G. Thibodeaux, J. H. Harmonson, Isaac E. Morse.

Ohio.—James J. Faran, F. A. Cunningham, Robert C. Schenck, Joseph Vance, William Sawyer, Henry St. John, Joseph J. McDowell, Allen G. Thurman, Augustus L. Perrill, Columbus Delano, Jacob Brinkerhoff, Samuel F. Vinton, Isaac Parish, Alexander Harper, Joseph Morris, John D. Cummins, George Fries, D. A. Starkweather, Daniel R. Tilden, Joshua R. Giddings, Joseph M. Root.

Kentucky.—Linn Boyd, John H. McHenry, Henry Grider, Joshua F. Bell, Bryan R. Young, John P. Martin, William P. Thomasson, Garrett Davis, Andrew Trumbo, John W. Tibbatts.

Tennessee.—Andrew Johnson, William M. Cocke, John Crozier, Alvan Cullom, George W. Jones, Barclay Martin, Meridith, P. Gentry, Lorenzo B. Chase, Frederick P. Stanton, Milton Brown.

Indiana.—Robert Dale Owen, Thomas J. Henley, Thomas Smith, Caleb B. Smith, William W. Wick, John W. Davis, Edward W. McGaughey, John Petit, Charles W. Cathcart, Andrew Kennedy.

Illinois.—Robert Smith, John A. McClernand, Orlando B. Ficklin, John Wentworth, Stephen A. Douglass, Joseph P. Hoge, Edward D. Baker.

Missouri.—James B. Bowlin, James H. Relf, Sterling Price, John S. Phelps, Leonard H. Simms.

Arkansas.—Archibald Yell.

Michigan.—Robert McClelland, John S. Chapman, James B. Hunt.

The delegates from territories were:

Florida.—Edward C. Cabell.

Iowa.—Augustus C. Dodge.

Wisconsin.—Morgan L. Martin.

The election of Speaker was readily effected, there being a large majority on the democratic side. Mr. John W. Davis, of Indiana, being presented as the democratic candidate, received 120 votes; Mr. Samuel F. Vinton, of Ohio, received the whig vote, 72. Mr. Benjamin B. French, of New Hampshire, was appointed clerk (without the formality of an election), by a resolve of the House, adopted by a general vote. He was of course democratic. The House being organized, a motion was made by Mr. Hamlin, of Maine, to except the hour rule (as it was called) from the rules to be adopted for the government of the House—which was lost, 62 to 143.

153. Mr. Polk's First Annual Message To Congress

The leading topic in the message was, naturally, the incorporation of Texas, then accomplished, and the consequent dissatisfaction of Mexico—a dissatisfaction manifested every way short of actual hostilities, and reason to believe they were intended. On our side, strong detachments of the army and navy had been despatched to Texas and the Gulf of Mexico, to be ready for whatever might happen. The Mexican minister, General Almonte, had left the United States: an American minister sent to Mexico had been refused to be received, and had returned home. All this was the natural result of the *status belli* between the United States and Mexico which the incorporation of Texas had established; and, that there were not actual hostilities was only owing to the weakness of one of the parties. These things were thus stated by the President:

"Since that time Mexico has, until recently, occupied an attitude of hostility towards the United States—has been marshalling and organizing armies, issuing proclamations, and avowing the intention to make war on the United States, either by an open declaration, or by invading Texas. Both the Congress and convention of the people of Texas invited this government to send an army into that territory, to protect and defend them against the menaced attack. The moment the terms of annexation, offered by the United States, were accepted by Texas, the latter became so far a part of our own country, as to make it our duty to afford such protection and defence. I therefore deemed it proper, as a precautionary measure, to order a strong squadron to the coast of Mexico, and to concentrate an efficient military force on the western frontier of Texas. Our army was ordered to take position in the country between the Nueces and the Del Norte, and to repel any invasion of the Texian territory which might be attempted by the Mexican forces. Our squadron in the Gulf was ordered to co-operate with the army. But though our army and navy were placed in a position to defend our own, and the rights of Texas, they were ordered to commit no act of hostility against Mexico, unless she declared war, or was herself the aggressor by striking the first blow. The result has been, that Mexico has made no aggressive movement, and our military and naval commanders have executed their orders with such discretion, that the peace of the two republics has not been disturbed."

Thus the armed forces of the two countries were brought into presence, and the legal state of war existing between them was brought to the point of actual war. Of this the President complained, assuming that Texas and the United States had a *right* to unite, which was true as to the right; but asserting that Mexico had no right to oppose it, which was a wrong assumption. For, in taking Texas into the Union, she was taken with her circumstances, one of which was a state of war with Mexico. Denying her right to take offence at what had been done, the message went on to enumerate causes of complaint against her, and for many years back, and to make out cause of war against her on account of injuries done by her to our citizens. In this sense the message said:

"But though Mexico cannot complain of the United States on account of the annexation of Texas, it is to be regretted that serious causes of misunderstanding between the two countries continue to exist, growing out of unredressed injuries inflicted by the Mexican authorities and people on the persons and property of citizens of the United States, through a long series of years. Mexico has admitted these injuries, but has neglected and refused to repair them. Such was the character of the wrongs, and such the insults repeatedly offered to American citizens and the American flag by Mexico, in palpable violation of the laws of nations and the treaty between the two countries of the 5th April, 1831, that they have been repeatedly brought to

the notice of Congress by my predecessors. As early as the 8th February, 1837, the President of the United States declared, in a message to Congress, that 'the length of time since some of the injuries have been committed, the repeated and unavailing application for redress, the wanton character of some of the outrages upon the persons and property of our citizens, upon the officers and flag of the United States, independent of recent insults to this government and people by the late extraordinary Mexican minister, would justify, in the eyes of all nations, immediate war.' He did not, however, recommend an immediate resort to this extreme measure, which he declared 'should not be used by just and generous nations, confiding in their strength, for injuries committed, if it can be honorably avoided;' but, in a spirit of forbearance, proposed that another demand be made on Mexico for that redress which had been so long and unjustly withheld. In these views, committees of the two Houses of Congress, in reports made in their respective bodies, concurred. Since these proceedings more than eight years have elapsed, during which, in addition to the wrongs then complained of, others of an aggravated character have been committed on the persons and property of our citizens. A special agent was sent to Mexico in the summer of 1838, with full authority to make another and final demand for redress. The demand was made; the Mexican government promised to repair the wrongs of which we complained; and after much delay, a treaty of indemnity with that view was concluded between the two powers on the 11th of April, 1839, and was duly ratified by both governments."

This treaty of indemnity, the message went on to show, had never yet been complied with, and its non-fulfilment, added to the other causes of complaint, the President considered as just cause for declaring war against her—saying:

"In the mean time, our citizens, who suffered great losses, and some of whom have been reduced from affluence to bankruptcy, are without remedy, unless their rights be enforced by their government. Such a continued and unprovoked series of wrongs could never have been tolerated by the United States, had they been committed by one of the principal nations of Europe. Mexico was, however, a neighboring sister republic, which, following our example, had achieved her independence, and for whose success and prosperity, all our sympathies were early enlisted. The United States were the first to recognize her independence, and to receive her into the family of nations, and have ever been desirous of cultivating with her a good understanding. We have, therefore, borne the repeated wrongs she has committed, with great patience, in the hope that a returning sense of justice would ultimately guide her councils, and that we might, if possible, honorably avoid any hostile collision with her."

Torn by domestic dissension, in a state of revolution at home, and ready to be crushed by the power of the United States, the Mexican government had temporized, and after dismissing one United States minister, had consented to receive another, who was then on his way to the City of Mexico. Of this mission, and the consequences of its failure, the President thus expressed himself:

"The minister appointed has set out on his mission, and is probably by this time near the Mexican capital. He has been instructed to bring the negotiation with which he is charged to a conclusion at the earliest practicable period; which, it is expected, will be in time to enable me to communicate the result to Congress during the present session. Until that result is known, I forbear to recommend to Congress such ulterior measures of redress for the wrongs and injuries we have so long borne, as it would have been proper to make had no such negotiation been instituted."

From this communication it was clear that a recommendation of a declaration of war was only deferred for the issue of this mission, which failing to be favorable, would immediately call forth the deferred recommendation. The Oregon question was next in importance to that

of Texas and Mexico, and like it seemed to be tending to a warlike solution. The negotiations between the two governments, which had commenced under Mr. Tyler's administration, and continued for some months under his own, had come to a dead stand. The government of the United States had revoked its proposition to make the parallel of 49 degrees the dividing line between the two countries, and asserted the unquestionable title of the United States to the whole, up to the Russian boundary in 54 degrees 40 minutes; and the message recommended Congress to authorize the notice which was to terminate the joint occupancy, to extend our laws to the territory, to encourage its population and settlement; and cast upon Great Britain the responsibility of any belligerent solution of the difficulty which might arise. Thus, the issue of peace or war with Great Britain was thrown into the hands of Congress.

The finances, and the public debt, required a notice, which was briefly and satisfactorily given. The receipts into the Treasury for the past year had been $29,770,000: the payments from it $29,968,000; and the balance in the Treasury at the end of the year five millions—leaving a balance of $7,658,000 on hand. The nature of these balances, always equal to about one-fourth of the revenue even where the receipts and expenditures are even, or the latter even in some excess, has been explained in the first volume of this View, as resulting from the nature of great government transactions and payments, large part of which necessarily go into the beginning of the succeeding year, when they would be met by the accruing revenue, even if there was nothing in the Treasury; so that, in fact, the government may be carried on upon an income about one-fourth less than the expenditure. This is a paradox—a seeming absurdity, but true, which every annual statement of the Treasury will prove; and which the legislative, as well as the executive government, should understand. The sentiments in relation to the public debt (of which there would have been none had it not been for the distribution of the land revenue, and the surplus fund, among the States, and the absurd plunges in the descent of the duties on imports in the last two years of the compromise act of 1833), were just and wise, such as had been always held by the democratic school, and which cannot be too often repeated. They were these:

"The amount of the public debt remaining unpaid on the first of October last, was seventeen millions, seventy-five thousand, four hundred and forty-five dollars and fifty-two cents. Further payments of the public debt would have been made, in anticipation of the period of its reimbursement under the authority conferred upon the Secretary of the Treasury, by the acts of July twenty-first, 1841, and of April fifteenth, and of March third, 1843, had not the unsettled state of our relations with Mexico menaced hostile collision with that power. In view of such a contingency, it was deemed prudent to retain in the Treasury an amount unusually large for ordinary purposes. A few years ago, our whole national debt growing out of the revolution and the war of 1812 with Great Britain, was extinguished, and we presented to the world the rare and noble spectacle of a great and growing people who had fully discharged every obligation. Since that time the existing debt has been contracted; and small as it is, in comparison with the similar burdens of most other nations, it should be extinguished at the earliest practicable period. Should the state of the country permit, and especially if our foreign relations interpose no obstacle, it is contemplated to apply all the moneys in the Treasury as they accrue beyond what is required for the appropriations by Congress, to its liquidation. I cherish the hope of soon being able to congratulate the country on its recovering once more the lofty position which it so recently occupied. Our country, which exhibits to the world the benefits of self-government, in developing all the sources of national prosperity, owes to mankind the permanent example of a nation free from the blighting influence of a public debt."

The revision of the tariff was recommended, with a view to revenue as the object, with protection to home industry as the incident.

154. Death Of John Forsyth

Like Mr. Crawford, he was a Virginian by birth Georgian by citizenship, republican in politics, and eminent in his day. He ran the career of federal honors—a member of the House and of the Senate, and a front rank debater in each: minister in Spain, and Secretary of State under Presidents Jackson and Van Buren; successor to Crawford in his State, and the federal councils; and the fast political and personal friend of that eminent citizen in all the trials and fortunes of his life. A member of the House when Mr. Crawford, restrained by his office, and disabled by his calamity, was unable to do any thing for himself, and assailed by the impersonation of the execrable A. B. plot, it devolved upon him to stand up for his friend; and nobly did he do it. The examination through which he led the accuser exterminated him in public opinion—showed every accusation to be false and malicious; detected the master spirit which lay behind the ostensible assailants, and greatly exalted the character of Mr. Crawford.

Mr. Forsyth was a fine specimen of that kind of speaking which constitutes a debater, and which, in fact, is the effective speaking in legislative assemblies. He combined the requisites for keen debate—a ready, copious, and easy elocution; ample knowledge of the subject; argument and wit; great power to point a sarcasm, and to sting courteously; perfect self-possession, and a quickness and clearness of perception to take advantage of every misstep of his adversary. He served in trying times, during the great contests with the Bank of the United States, with the heresy of nullification, and the dawning commencement of the slavery agitation. In social life he was a high exemplification of refined and courteous manners, of polite conversation, and of affability, decorum and dignity.

155. Admission Of Florida And Iowa

At this time were admitted into the Union, and by a single bill, two States, which seem to have but few things in common to put them together—one the oldest, the other the newest territory—one in the extreme northwest of the Union, the other in the extreme southeast—one the land of evergreens and perpetual flowers, the other the climate of long and rigorous winter—one maintaining, the other repulsing slavery. It would seem strange that two territories so different in age, so distant from each other, so antagonistic in natural features and political institutions, should ripen into States at the same time, and come into the Union by a single act; but these antagonisms—that is, the antagonistic provisions on the subject of slavery—made the conjunction, and gave to the two young States an inseparable admission. It happened that the slave and free States had long before become equal in number, and a feeling of jealousy, or a calculation of policy operated to keep them so; and for that purpose to admit one of each character at the same time. Thus balancing and neutralizing each other, the bill for their admission was passed without a struggle, and furnished but little beyond the yeas and nays—these latter a scant minority in either House—to show the disposition of members. In the Senate the negatives were 9 to 36 yeas: in the House 48 to 144. Numerically the free and the slave States were thus kept even: in political power a vast inequality was going on—the increase of population being so much greater in the northern than in the southern region.

156. Oregon Treaty: Negotiations Commenced, And Broken Off

This was a pretermitted subject in the general negotiations which led to the Ashburton treaty: it was now taken up as a question for separate settlement. The British government moved in it, Mr. Henry S. Fox, the British minister in Washington, being instructed to propose the negotiation. This was done in November, 1842, and Mr. Webster, then Secretary of State under Mr. Tyler, immediately replied, accepting the proposal, and declaring it to be the desire of his government to have this territorial question immediately settled. But the movement stopped there. Nothing further took place between Mr. Webster and Fox, and the question slumbered till 1844, when Mr. (since Sir) Richard Pakenham, arrived in the United States as British minister, and renewed the proposition for opening the negotiation to Mr. Upshur, then Secretary of State. This was February 24th, 1844. Mr. Upshur replied promptly, that is to say, on the 26th of the same month, accepting the proposal, and naming an early day for receiving Mr. Pakenham to begin the negotiation. Before that day came he had perished in the disastrous explosion of the great gun on board the Princeton man-of-war. The subject again slumbered six months, and at the end of that time, July 22d, was again brought to the notice of the American government by a note from the British minister to Mr. Calhoun, successor to Mr. Upshur in the Department of State. Referring to the note received from Mr. Upshur the day before his death, he said:

“The lamented death of Mr. Upshur, which occurred within a few days after the date of that note, the interval which took place between that event and the appointment of a successor, and the urgency and importance of various matters which offered themselves to your attention immediately after your accession to office, sufficiently explain why it has not hitherto been in the power of your government, sir, to attend to the important matters to which I refer. But, the session of Congress having been brought to a close, and the present being the season of the year when the least possible business is usually transacted, it occurs to me that you may now feel at leisure to proceed to the consideration of that subject. At all events it becomes my duty to recall it to your recollection, and to repeat the earnest desire of her majesty’s government, that a question, on which so much interest is felt in both countries, should be disposed of at the earliest moment consistent with the convenience of the government of the United States.”

Mr. Calhoun answered the 22d of August declaring his readiness to begin the negotiation and fixing the next day for taking up the subject. It was taken up accordingly, and conducted in the approved and safe way of conducting such negotiations, that is to say, a protocol of every conference signed by the two negotiators before they separated, and the propositions submitted by each always reduced to writing. This was the proper and satisfactory mode of proceeding, the neglect and total omission of which had constituted so just and so loud a complaint against the manner in which Mr. Webster and Lord Ashburton had conducted their conferences. Mr. Calhoun and Mr. Pakenham met seven times, exchanged arguments and propositions, and came to a balk, which suspended their labors. Mr. Calhoun, rejecting the usual arts of diplomacy, which holds in reserve the ultimate and true offer while putting forward fictitious ones for experiment, went at once to his ultimatum, and proposed the continuation of the parallel of the 49th degree of north latitude, which, after the acquisition of Louisiana, had been adopted by Great Britain and the United States as the dividing line between their possessions, from the Lake of the Woods (fixed as a land-mark under the treaty of Utrecht), to the summit of the Rocky Mountains—the United States insisting at the same

time to continue that line to the Pacific Ocean under the terms of the same treaty. Mr. Pakenham declined this proposition in the part that carried the line to the ocean, but offered to continue it from the summit of the mountains, to the Columbia River, a distance of some three hundred miles; and then follow the river to the ocean. This was refused by Mr. Calhoun; and the ultimatum having been delivered on one hand, and no instructions being possessed on the other to yield any thing, the negotiations, after continuing through the month of September, came to a stand. At the end of four months (January 1845) Mr. Pakenham, by the direction of his government, proposed to leave the question to arbitration, which was declined by the American secretary, and very properly; for, while arbitrament is the commendable mode of settling minor questions, and especially those which arise from the construction of existing treaties, yet the boundaries of a country are of too much gravity to be so submitted.

Mr. Calhoun showed a manly spirit in proposing the line of 49, as the dominant party in the United States, and the one to which he belonged, were then in a high state of exultation for the boundary of 54 degrees 40 minutes, and the presidential canvass, on the democratic side, was raging upon that cry. The Baltimore presidential convention had followed a pernicious practice, of recent invention, in laying down a platform of principles on which the canvass was to be conducted, and 54-40 for the northern boundary of Oregon, had been made a canon of political faith, from which there was to be no departure except upon the penalty of political damnation. Mr. Calhoun had braved this penalty, and in doing so had acted up to his public and responsible duty.

The new President, Mr. Polk, elected under that cry, came into office on the 4th of March, and acting upon it, put into his inaugural address a declaration that our title to the whole of Oregon (meaning up to 54-40), was clear and indisputable; and a further declaration that he meant to maintain that title. It was certainly an unusual thing—perhaps unprecedented in diplomacy—that, while negotiations were depending (which was still the case in this instance, for the last note of Mr. Calhoun in January, declining the arbitration, gave as a reason for it that he expected the question to be settled by negotiation), one of the parties should authoritatively declare its right to the whole matter in dispute, and show itself ready to maintain it by arms. The declaration in the inaugural had its natural effect in Great Britain. It roused the British spirit as high as that of the American. Their excited voice came thundering back, to be received with indignation by the great democracy; and war—"*inevitable war*"—was the cry through the land. The new administration felt itself to be in a dilemma. To stand upon 54-40 was to have war in reality: to recede from it, might be to incur the penalty laid down in the Baltimore platform. Mr. Buchanan, the new Secretary of State, did me the honor to consult me. I answered him promptly and frankly, that I held 49 to be the right line, and that, if the administration made a treaty upon that line, I should support it. This was early in April. The secretary seemed to expect some further proposition from the British government; but none came. The rebuff in the inaugural address had been too public, and too violent, to admit that government to take the initiative again. It said nothing: the war cry continued to rage: and at the end of four months our government found itself under the necessity to take the initiative, and recommence negotiations as the means of avoiding war. Accordingly, on the 22d of July, Mr. Buchanan (the direction of the President being always understood) addressed a note to Mr. Pakenham, resuming the negotiation at the point at which it had been left by Mr. Calhoun; and, conforming to the offer that he had made, and because he had made it, again proposed the line of 49 to the ocean. The British minister again refused that line, and inviting a "fairer" proposition. In the mean time the offer of 49 got wind. The democracy was in commotion. A storm was got up (foremost in raising which was the new administration organ, Mr. Ritchie's Daily Union), before which the administration quailed—recoiled—and withdrew its offer of 49. There was a dead pause in the negotiation again; and so the affair

remained at the meeting of Congress, which came together under the loud cry of war, in which Mr. Cass was the leader, but followed by the body of the democracy, and backed and cheered on by the democratic press—some hundreds of papers. Of course the Oregon question occupied a place, and a prominent one, in the President's message—(which has been noticed)—and, on communicating the failure of the negotiation to Congress, he recommended strong measures for the security and assertion of our title. The delivery of the notice which was to abrogate the joint occupation of the country by the citizens of the two powers, was one of these recommendations, and the debate upon that question brought out the full expression of the opinions of Congress upon the whole subject, and took the management of the questions into the hands of the Senate and House of Representatives.

157. Oregon Question: Notice To Abrogate The Article In The Treaty For A Joint Occupation: The President Denounced In The Senate For A Supposed Leaning To The Line Of Forty-Nine

The proposition for the line of 49 having been withdrawn by the American government on its non-acceptance by the British, had appeased the democratic storm which had been got up against the President; and his recommendation for strong measures to assert and secure our title was entirely satisfactory to those who now came to be called the Fifty-Four Forties. The debate was advancing well upon this question of notice, when a sinister rumor—only sinister to the extreme party—began to spread, that the British government would propose 49, and that the President was favorable to it. This rumor was true, and by way of preparing the public mind for it, Mr. William H. Haywood, a senator from North Carolina, both personally and politically friendly to the President, undertook to show, not so much that the line of 49 was right in itself, but that the President was not so far committed against it as that he could not yet form a treaty upon it. In this sense he—

"Took a view of the course which had been pursued by the President, approving of the offer of the parallel of 49° to Great Britain, and maintaining that there was nothing in the language of the President to render it improper in him to negotiate hereafter on that basis, notwithstanding this rejection. He regarded the negotiation as still open; and he would not do the President so much wrong as to suppose that, if we passed the notice, and thus put into his hand a great moral weapon, that he could be guilty of so miserable a trick as to use it to the dishonor of his country on the one hand, or to the reckless provocation of a war on the other. Believing that the administration stood committed to accept an offer of a division of the territory on the parallel of 49°—or substantially that—he should sustain the Executive in that position. He expressed his conviction that, whatever might be his individual opinions, the President—as General Washington did in 1796—would fulfil his obligations to the country; that, whenever the interests of the country required it, he would sacrifice his own opinions to the sense of his official duty. He rebuked the cry which had been set up by some of the friends of the President, which placed him in the position of being the mere organ of the Baltimore convention, and declared that, if he could believe that the Executive would permit the resolution of that convention to overrule his duty to his country, he would turn his back upon him. Mr. H. then proceeded to deduce, from the language and acts of the Executive, that he had not put himself in a position which imposed on him the necessity of refusing to negotiate on the parallel of 49°, should negotiation be resumed on that basis. In this respect, the President did not occupy that attitude in which some of his friends wished to place him. It ought to be borne in mind that Great Britain had held occupancy for above forty years; and it was absurd to suppose, that, if we turn suddenly upon her and tell her she must quit, that she will not make resistance. And he asked what our government would be likely to do if placed in a similar position and reduced to the same alternative. No one could contend for a moment that the rejection of the offer of 49° by Great Britain released the President from the obligation to accept that offer whenever it should again be made. The question was to be settled by compromise; and, on this principle, the negotiation was still pending. It was not to be expected that a negotiation of this kind could be carried through hastily. Time must be given for communication with the British government, for proper consideration and consultation; and true politeness requires that ample time should be given for this purpose. It

is obvious that Great Britain does not consider the negotiation terminated, as she would have recalled her minister; and the President cannot deem it closed, or he would have made a communication to Congress to that effect. The acts of the President were not such as to justify any apprehensions of a rupture; and from that, he did not ask for the notice in order that he might draw the sword and throw away the scabbard. The falsehood of any such charge is proved by the fact that he has asked for no enlargement of the annual appropriations; on the other hand, his estimates are rather diminished. Knowing him to be honest, he (Mr. H.) would acquit him of any such imputation of moral treason, which would subject him to the reprobation of man and the anger of his God. Mr. H. then referred to the divisions which had sprung up in the democratic party, the tendency of which is, to destroy the party, by cutting off its heads. This question of Oregon had been turned into a party question, for the purpose of President-making. He repudiated any submission to the commands of factious meetings, got up by demagogues, for the purpose of dictating to the Senate how to make a treaty, and felt thankful that North Carolina had never taken this course. He did not regard such proceedings as indicative of that true democracy which, like a potato, grew at the root, and did not, like the spurious democracy, show itself from the blossom. The creed of the Baltimore convention directs the party to re-annex Texas and to *re-occupy* Oregon. Texas had been re-annexed, and now we are to go for the *re-occupation* of Oregon. Now, Old Oregon, embracing all the territory on which American foot ever trod, comprised merely the valley of Willamette, which did not extend above 49°; and consequently this portion was all which could be contemplated in the expression "re-occupation," as it would involve an absurdity to speak of re-occupying what we had never occupied. Referring to the history of the annexation of Texas, he cited the impossibility of getting Texas through, until the two questions had been made twin sisters by the Baltimore convention. Then Texas passed the House, and came into the Senate, followed so closely by Oregon, that they seemed to be akin."

In all this Mr. Haywood spoke the sentiments of the President, personally confided to him, and to prepare the way for his action in conformity to them. The extreme party suspected this, and had their plan arranged to storm it down, and to force the President to repulse the British offer of 49, if now it should be made, as he had been stormed into a withdrawal of his own offer of that line by his own newspapers and party in the recess of Congress. This task fell upon Mr. Hannegan of Indiana, and Mr. William Allen of Ohio, whose temperaments were better adapted to the work than that of their chief, Mr. Cass. Mr. Hannegan began:

"I must apologize to the Senate for obtruding myself upon your attention at this advanced period of the day, particularly as I have already occupied your attention on several occasions in the course of this debate. My remarks now, however, will be very brief. Before I proceed to make any reply to the speech of the senator from North Carolina—the most extraordinary speech which I have ever listened to in the whole course of my life—I desire, through the Vice President, to put a question to him, which I have committed to writing. It is this: I ask him if he has the authority of the President, directly or indirectly, for saying to the Senate that it is his (the President's) wish to terminate the Oregon question by compromising with Great Britain on the 49th degree of north latitude?"

To this categorical demand, Mr. Haywood replied that it would be unwise and impolitic for the President to authorize any senator to make such a declaration as that implied in the question of Mr. Hannegan. Mr. Allen, of Ohio, then took up the demand for the answer, and said:

"I put the question, and demand an answer to it as a public right. The senator here has assumed to speak for the President. His speech goes to the world; and I demand, as a public

right, that he answer the question; and if he won't answer it, I stand ready to deny that he has expressed the views of the President."

Mr. Westcott of Florida, called Mr. Allen to order for asking for the opinions of the President through a senator. The President could only communicate his opinions to the Senate responsibly, by message. It would be a breach of privilege for any senator to undertake to report such opinions, and consequently a breach of order for any senator to call for them. In this Mr. Westcott was right, but the call to order did not prevent Mr. Allen from renewing his demand:

"I do not demand an answer as any personal right at all. I demand it as a public right. When a senator assumes to speak for the President, every senator possesses a public right to demand his authority for so doing. An avowal has been made that he is the exponent of the views of the President, upon a great national question. He has assumed to be that exponent. And I ask him whether he has the authority of the President for the assumption?"

Mr. Westcott renewed his call to order, but no question was taken upon the call, which must have been decided against Mr. Allen. Mr. Haywood said, he denied the right of any senator to put questions to him in that way, and said he had not assumed to speak by the authority of the President. Then, said Mr. Allen, the senator takes back his speech. Mr. Haywood: "Not at all; but I am glad to see my speech *takes*." Mr. Allen: "With the British." Mr. Hannegan then resumed:

"I do not deem it material whether the senator from North Carolina gives a direct answer to my question or not. It is entirely immaterial. He assumes—no, he says there is no assumption about it—that there is no meaning in language, no truth in man, if the President any where commits himself to 54° 40', as his flattering friends assume for him. Now, sir, there is no truth in man, there is no meaning in language, if the President is not committed to 54° 40' in as strong language as that which makes up the Holy Book. From a period antecedent to that in which he became the nominee of the Baltimore convention, down to this moment, to all the world he stands committed for 54° 40'. I go back to his declaration made in 1844, to a committee of citizens of Cincinnati, who addressed him in relation to the annexation of Texas, and he there uses this language being then before the country as the democratic candidate for the chair which he now fills.

"Mr. Crittenden. What is the date?

"Mr. Hannegan. It is dated the 23d of April.

[Mr. H. here read an extract from Mr. Polk's letter to the committee of the citizens of Cincinnati.]"

Mr. Hannegan then went on to quote from the President's message—the annual message at the commencement of the session—to show that, in withdrawing his proposition for a boundary on the 49th parallel, he had taken a position against ever resuming it. He read this paragraph:

"The extraordinary and wholly inadmissible demands of the British Government, and the rejection of the proposition made in deference alone to what had been done by my predecessors, and the implied obligation which their acts seemed to impose, afford satisfactory evidence that no compromise which the United States ought to accept can be effected. With this conviction, the proposition of compromise which had been made and rejected was, by my direction, subsequently withdrawn, and our title to the whole Oregon Territory asserted, and, as is believed, maintained by irrefragable facts and arguments."

Having read this paragraph, Mr. Hannegan proceeded to reply to it; and exclaimed—

“What does the President here claim? Up to 54° 40’—every inch of it. He has asserted that claim, and is, as he says, sustained by ‘irrefragable facts and arguments.’ But this is not all: I hold that the language of the Secretary of State is the language of the President of the United States; and has not Mr. Buchanan, in his last communication to Mr. Pakenham, named 54° 40’ in so many words? He has. The President adopts this language as his own. He plants himself on 54° 40’.”

Mr. Hannegan then proceeded to plant the whole democratic party upon the line of 54-40, and to show that Oregon to that extent, and Texas to her whole extent, were the watchwords of the party in the presidential election—that both were to be carried together; and Texas having been gained, Oregon, without treachery, could not be abandoned.

“The democratic party is thus bound to the whole of Oregon—every foot of it; and let the senator rise in his place who will tell me in what quarter of this Union—in what assembly of democrats in this Union, pending the presidential election, the names of Texas and Oregon did not fly together, side by side, on the democratic banners. Every where they were twins—every where they were united. Does the senator from North Carolina suppose that he, with his appeals to the democracy, can blind our eyes, as he thinks he tickled our ears? He is mistaken. ‘Texas and Oregon’ cannot be divided; they dwell together in the American heart. Even in Texas, I have been told the flag of the lone star had inscribed on it the name of Oregon. Then, it was all Oregon. Now, when you have got Texas, it means just so much of Oregon as you in your kindness and condescension think proper to give us. You little know us, if you think the mighty West will be trodden on in this way.”

Mr. Hannegan then undertook to disclaim for the President the sentiments attributed to him by Mr. Haywood, and to pronounce an anathema upon him if the attribution was right.

“The senator in his defence of the President, put language into his mouth which I undertake to say the President will repudiate, and I am not the President’s champion. I wish not to be his champion. I would not be the champion of power. I defend the right, and the right only. But, for the President, I deny the intentions which the senator from North Carolina attributes to him—intentions, which, if really entertained by him, would make him an infamous man—ay, an infamous man. He [Mr. Haywood] told the Senate yesterday—unless I grossly misunderstood him, along with several friends around me—’that the President had occasionally stickings-in, parenthetically, to gratify—what?—the ultraisms of the country and of party; whilst he reposed in the White House with no intentions of carrying out these parenthetical stickings-in.’ In plain words, he represents the President as parenthetically sticking in a few hollow and false words to cajole the ‘ultraisms of the country?’ What is this, need I ask, but charging upon the President conduct the most vile and infamous? If this allegation be true, these intentions of the President must sooner or later come to light, and when brought to light, what must follow but irretrievable disgrace? So long as one human eye remains to linger on the page of history, the story of his abasement will be read, sending him and his name together to an infamy so profound, a damnation so deep, that the hand of resurrection will never be able to drag him forth.”

Mr. Mangum called Mr. Hannegan to order: Mr. Haywood desired that he might be permitted to proceed, which he did, disclaiming all disrespect to Mr. Haywood, and concluded with saying; that, “so far as the whole tone, spirit, and meaning of the remarks of the senator from North Carolina is concerned, if they speak the language of James K. Polk, then James K. Polk has spoken words of falsehood with the tongue of a serpent.”

Mr. Reverdy Johnson came to the relief of the President and Mr. Haywood in a temperate and well-considered speech, in which he showed he had had great apprehension of war—that this

apprehension was becoming less, and that he deemed it probable, and right and honorable in itself, that the President should meet the British on the line of 49 if they should come to it; and that line would save the territorial rights of the United States, and the peace and honor of the country.

"It is with unaffected embarrassment I rise to address the Senate on the subject now under consideration; but its great importance and the momentous issues involved in its final settlement are such as compel me, notwithstanding my distrust of my own ability to be useful to my country, to make the attempt. We have all felt that, at one time at least (I trust that time is now past), we were in imminent danger of war. From the moment the President of the United States deemed it right and becoming, in the outset of his official career, to announce to the world that our title to Oregon was clear and unquestionable, down to the period of his message to Congress in December last, when he reiterated the declaration, I could not see how it was possible that war should be averted. That apprehension was rendered much more intense from the character of the debates elsewhere, as well as from the speeches of some of the President's political friends within this chamber. I could not but listen with alarm and dismay to what fell from the very distinguished and experienced senator from Michigan (Mr. Cass) at an early period of this debate; to what I heard from the senator from Indiana (Mr. Hannegan); and, above all, to what was said by the senator from Ohio (Mr. Allen), the chairman of the Committee on Foreign Relations, who, in my simplicity, I supposed must necessarily be apprised of the views of the government in regard to the foreign concerns of the country. Supposing the condition of the country to be what it was represented to be by each and all of the three senators, I could not imagine how it could be possible that the most direful of all human calamities, war, was to be avoided; and I was accordingly prepared to say, on the hypothesis of the fact assumed by the senator from Michigan, that war was inevitable;—to use his own paraphrase of his own term, which, it would appear, has got out of favor with himself—'war must come.'

"What did they represent to be the condition of the nation? I speak now more particularly of the last two senators, from Indiana and Ohio. They told us that negotiation was at an end; that we were now thrown back on our original rights; that, by these original rights, as had been officially announced, our title to the whole country was beyond all question: and that the national honor must be forfeited, if that title should not be maintained by force of arms. I felt that he must have been a careless and a profitless reader of English history who could indulge the hope that, if such was to be the course and conduct of this country, war was not inevitable. Then, in addition to my own opinion, when I heard it admitted by the honorable senator from Michigan, with that perfect candor which always distinguishes him on this floor, that, in his opinion, England would never recede, I felt that war was inevitable.

"I now rejoice in hoping and believing, from what I have subsequently heard, that the fears of the Senate, as well as my own apprehensions, were, as I think, unfounded. Since then, the statesmanlike view taken by the senator from New York who first addressed us (Mr. Dix), and by the senator from Missouri (Mr. Benton), to whom this whole question is as familiar as a household term—and the spirit of peace which breathed in their every word—have fully satisfied me that, so far as depends upon them, a fair and liberal compromise of our difficulties would not be in want of willing and zealous advocates.

"And this hope has been yet more strengthened by the recent speech of the senator from North Carolina (Mr. Haywood), not now in his place. Knowing, as I thought I did, the intimate relations, both personal and political, which that senator bore to the Chief Magistrate—knowing, too, that, as chairman of the Committee on Commerce, it was his special duty to become informed in regard to all matters having a bearing on the foreign

relations of the country; I did not doubt, and I do not now doubt, that in every thing he said as to the determination of the President to accept, if offered by the British government, the same terms which he had himself proposed in July last, the reasonable inference was, that such an offer, if made, would be accepted. I do not mean to say, because I did not so understand the senator, that, in addressing this body with regard to the opinions or purposes of the President, he spoke by any express or delegated authority. But I do mean to say, that I have no doubt, from his knowledge of the general views of the President, as expressed in his message, taken in connection with certain omissions on the part of the Executive, that when he announced to us that the President would feel himself in honor bound to accept his own offer, if now reciprocated by Great Britain, he spoke that which he knew to be true. And this opinion was yet more strengthened and confirmed by what I found to be the effect of his speech on the two senators I have named—the leaders, if they will permit me to call them so, of the ultraists on this subject—I mean the senator from Indiana (Mr. Hannegan), and the senator from Ohio (Mr. Allen). He was an undiscerning witness of the scene which took place in this chamber immediately after the speech of the senator from North Carolina (Mr. Haywood), who must not have seen that those two senators had consulted together with the view of ascertaining how far the senator from North Carolina spoke by authority, and that the result of their consultation was a determination to catechise that senator; and the better to avoid all mistake, that they reduced their interrogatory to writing, in order that it might be propounded to him by the senator from Indiana (Mr. Hannegan); and if it was not answered, that it was then to be held as constructively answered by the senator from Ohio (Mr. Allen). What the result of the manœuvre was I leave it to the Senate to decide; but this I will venture to say, that in the keen encounter of wits, to which their colloquy led, the two senators who commenced it got rather the worst of the contest. My hope and belief has been yet further strengthened by what has NOT since happened; I mean my belief in the pacific views of the Chief Magistrate. The speech of the senator from North Carolina was made on Thursday, and though a week has nearly elapsed since that time, notwithstanding the anxious solicitude of both those senators, and their evident desire to set the public right on that subject, we have, from that day to this, heard from neither of the gentlemen the slightest intimation that the construction given to the message by the senator from North Carolina was not a true one."

Mr. Johnson continued his speech on the merits of the question—the true line which should divide the British and American possessions beyond the Rocky Mountains; and placed it on the parallel of 49° according to the treaty of Utrecht, and in conformity with the opinions and diplomatic instructions of Mr. Jefferson, who had acquired Louisiana and sent an expedition of discovery to the Pacific Ocean, and had well studied the whole question of our territorial rights in that quarter. Mr. Benton did not speak in this incidental debate, but he knew that Mr. Haywood spoke with a knowledge of the President's sentiments, and according to his wishes, and to prepare the country for a treaty upon 49°. He knew this, because he was in consultation with the President, and was to speak for the same purpose, and was urged by him to speak immediately in consequence of the attempt to crush Mr. Haywood—the first of his friends who had given any intimation of his views. Mr. Benton, therefore, at an early day, spoke at large upon the question when it took another form—that of a bill to establish a territorial government for Oregon; some extracts from which constitute the next chapter.

158. Oregon Territorial Government: Boundaries And History Of The Country: Frazer's River: Treaty Of Utrecht: Mr. Benton's Speech: Extracts

Mr. Benton then addressed the Senate. Mr. President, the bill before the Senate proposes to extend the sovereignty and jurisdiction of the United States over all our territories west of the Rocky Mountains, without saying what is the extent and what are the limits of this territory. This is wrong, in my opinion. We ought to define the limits within which our agents are to do such acts as this bill contemplates, otherwise we commit to them the solution of questions which we find too hard for ourselves. This indefinite extension of authority, in a case which requires the utmost precision, forces me to speak, and to give my opinion of the true extent of our territories beyond the Rocky Mountains. I have delayed doing this during the whole session, not from any desire to conceal my opinions (which, in fact, were told to all that asked for them), but because I thought it the business of negotiation, not of legislation, to settle these boundaries. I waited for negotiation: but negotiation lags, while events go forward; and now we are in the process of acting upon measures, upon the adoption of which it may no longer be in the power either of negotiation or of legislation to control the events to which they may give rise. The bill before us is without definition of the territory to be occupied. And why this vagueness in a case requiring the utmost precision? Why not define the boundaries of these territories? Precisely because we do not know them! And this presents a case which requires me to wait no longer for negotiation, but to come forward with my own opinions, and to do what I can to prevent the evils of vague and indefinite legislation. My object will be to show, if I can, the true extent and nature of our territorial claims beyond the Rocky Mountains, with a view to just and wise decisions; and, in doing so, I shall endeavor to act upon the great maxim, "Ask nothing but what is right—submit to nothing that is wrong."

It is my ungracious task, in attempting to act upon this maxim, to commence by exposing error at home, and endeavoring to clear up some great mistakes under which the public mind has labored.

It has been assumed for two years, and the assumption has been made the cause of all the Oregon excitement of the country, that we have a dividing line with Russia, made so by the convention of 1824, along the parallel of 54° 40', from the sea to the Rocky Mountains, up to which our title is good. This is a great mistake. No such line was ever established; and so far as proposed and discussed, it was proposed and discussed as a northern British, and not as a northern American line. The public treaties will prove there is no such line; documents will prove that, so far as 54° 40', from the sea to the mountains, was ever proposed as a northern boundary for any power, it was proposed by us for the British, and not for ourselves.

To make myself intelligible in what I shall say on this point, it is necessary to go back to the epoch of the Russian convention of 1824, and to recall the recollection of the circumstances out of which that convention grew. The circumstances were these: In the year 1821 the Emperor Alexander, acting upon a leading idea of Russian policy (in relation to the North Pacific Ocean) from the time of Peter the Great, undertook to treat that ocean as a close sea, and to exercise municipal authority over a great extent of its shores and waters. In September of that year, the emperor issued a decree, bottomed upon this pretension, assuming exclusive sovereignty and jurisdiction over both shores of the North Pacific Ocean, and over the high seas, in front of each coast, to the extent of one hundred Italian miles, from Behring's Straits

down to latitude fifty-one, on the American coast, and to forty-five on the Asiatic; and denouncing the penalties of confiscation upon all ships, of whatsoever nation that should approach the coasts within the interdicted distances. This was a very startling decree. Coming from a feeble nation, it would have been smiled at; coming from Russia, it gave uneasiness to all nations.

Great Britain and the United States, as having the largest commerce in the North Pacific Ocean, and as having large territorial claims on the north-west coast of America, were the first to take the alarm, and to send remonstrances to St. Petersburg against the formidable ukase. They found themselves suddenly thrown together, and standing side by side in this new and portentous contest with Russia. They remonstrated in concert, and here the wise and pacific conduct of the Emperor Alexander displayed itself in the most prompt and honorable manner. He immediately suspended the ukase (which, in fact, had remained without execution), and invited the United States and Great Britain to unite with Russia in a convention to settle amicably, and in a spirit of mutual convenience, all the questions between them, and especially their respective territorial claims on the north-west coast of America. This magnanimous proposition was immediately met by the two powers in a corresponding spirit; and, the ukase being voluntarily relinquished by the emperor, a convention was quickly signed by Russia with each power, settling, so far as Russia was concerned, with each, all their territorial claims in North-west America. The Emperor Alexander had proposed that it should be a joint convention of the three powers—a tripartite convention—settling the claims of each and of all at the same time; and if this wise suggestion had been followed, all the subsequent and all the present difficulties between the United States and Great Britain, with respect to this territory, would have been entirely avoided. But it was not followed: an act of our own prevented it. After Great Britain had consented, the non-colonization principle—the principle of non-colonization in America by any European power—was promulgated by our government, and for that reason Great Britain chose to treat separately with each power, and so it was done.

Great Britain and the United States treated separately with Russia, and with each other; and each came to agreements with Russia, but to none among themselves. The agreements with Russia were contained in two conventions signed nearly at the same time, and nearly in the same words, limiting the territorial claim of Russia to 54° 40', confining her to the coasts and islands, and leaving the continent, out to the Rocky Mountains, to be divided between the United States and Great Britain, by an agreement between themselves. The emperor finished up his own business and quit the concern. In fact, it would seem, from the promptitude, moderation, and fairness with which he adjusted all differences both with the United States and Great Britain, that his only object of issuing the alarming ukase of 1821 was to bring those powers to a settlement; acting upon the homely, but wise maxim, that short settlements make long friends.

Well, there is no such line as 54° 40'; and that would seem to be enough to quiet the excitement which has been got up about it. But there is more to come. I set out with saying, that although this fifty-four forty was never established as a northern boundary for the United States, yet it was proposed to be established as a northern boundary, not for us, but for Great Britain—and that proposal was made to Great Britain by ourselves. This must sound like a strange statement in the ears of the fifty-four forties; but it is no more strange than true; and after stating the facts, I mean to prove them. The plan of the United States at that time was this: That each of the three powers (Great Britain, Russia, and the United States) having claims on the north-west coast of America, should divide the country between them, each taking a third. In this plan of partition, each was to receive a share of the continent from the sea to the Rocky Mountains, Russia taking the northern slice, the United States the southern,

and Great Britain the centre, with fifty-four forty for her northern boundary, and forty-nine for her southern. The document from which I now read will say fifty-one; but that was the first offer—forty-nine was the real one, as I will hereafter show. This was our plan. The moderation of Russia defeated it. That power had no settlements on that part of the continent, and rejected the continental share which we offered her. She limited herself to the coasts and islands where she had settlements, and left Great Britain and the United States to share the continent between themselves. But before this was known, we had proposed to her fifty-four forty for the Russian southern boundary, and to Great Britain the same for her northern boundary. I say fifty-four forty; for, although the word in the proposition was fifty-five, yet it was on the principle which gave fifty-four forty—namely, running from the south end of Prince of Wales' Island, supposed to be in fifty-five, but found to have a point to it running down to fifty-four forty. We proposed this to Great Britain. She refused it, saying she would establish her northern boundary with Russia, who was on her north, and not with the United States, who was on her south. This seemed reasonable; and the United States then, and not until then, relinquished the business of pressing fifty-four forty upon Great Britain for her northern boundary. The proof is in the executive documents. Here it is—a despatch from Mr. Rush, our minister in London, to Mr. Adams, Secretary of State, dated December 19, 1823.

(The despatch read.)

Here is the offer, in the most explicit terms, in 1823, to make fifty-five, which was in fact fifty-four forty, the northern boundary of Great Britain; and here is her answer to that proposition. It is the next paragraph in the same despatch from Mr. Rush to Mr. Adams.

(The answer read.)

This was her answer, refusing to take, in 1823, as a northern boundary coming south for quantity, what is now prescribed to her, at the peril of war, for a southern boundary, with nothing north!—for, although the fact happens to be that Russia is not there, bounding us on the north, yet that makes no difference in the philosophy of our Fifty-four-Forties, who believe it to be so; and, on that belief, are ready to fight. Their notion is, that we go jam up to 54° 40', and the Russians come jam down to the same, leaving no place for the British lion to put down a paw, although that paw should be no bigger than the sole of the dove's foot which sought a resting-place from Noah's ark. This must seem a little strange to British statesmen, who do not grow so fast as to leave all knowledge behind them. They remember that Mr. Monroe and his cabinet—the President and cabinet who acquired the Spanish title under which we now propose to squeeze them out of the continent—actually offered them six degrees of latitude in that very place; and they will certainly want reasons for this so much compression now, where we offered them so much expansion then. These reasons cannot be given. There is no boundary at 54° 40'; and so far as we proposed to make it one, it was for the British and not for ourselves; and so ends this redoubtable line, up to which all true patriots were to march! and marching, fight! and fighting, die! if need be! singing all the while, with Horace—

"Dulce et decorum est pro patria mori."

I come to the line of Utrecht, the existence of which is denied upon this floor by senators whose fate it seems to be to assert the existence of a line that is not, and to deny the existence of one that is. A clerk in the Department of State has compiled a volume of voyages and of treaties, and, undertaking to set the world right, has denied that commissioners ever met under the treaty of Utrecht, and fixed boundaries between the British northern and French Canadian possessions in North America. That denial has been produced and accredited on this floor by a senator in his place (Mr. Cass); and this production of a blundering book, with

this senatorial endorsement of its blunder, lays me under the necessity of correcting a third error which the “fifty-four-forties” hug to their bosom, and the correction of which becomes necessary for the vindication of history, the establishment of a political right, and the protection of the Senate from the suspicion of ignorance. I affirm that the line was established; that the commissioners met and did their work; and that what they did has been acquiesced in by all the powers interested from the year 1713 down to the present time.

In the year 1805, being the second year after the acquisition of Louisiana, President Jefferson sent ministers to Madrid (Messrs. Monroe and Charles Pinckney) to adjust the southern and southwestern boundaries with her; and, in doing so, the principles which had governed the settlement of the northern boundary of the same province became a proper illustration of their ideas. They quoted these principles, and gave the line of Utrecht as the example; and this to Don Pedro Cevallos, one of the most accomplished statesmen of Europe. They say to him:

”It is believed that this principle has been admitted and acted on invariably since the discovery of America, in respect to their possessions there, by all the European powers. It is particularly illustrated by the stipulations of their most important treaties concerning those possessions and the practice under them, viz., the treaty of Utrecht in 1713, and that of Paris in 1763. In conformity with the 10th article of the first-mentioned treaty, the boundary between Canada and Louisiana on the one side, and the Hudson Bay and Northwestern Companies on the other, was established by commissioners, by a line to commence at a cape or promontory on the ocean, in 58° 31’ north latitude; to run thence, southwestwardly, to latitude 49° north from the equator; and along that line indefinitely westward. Since that time, no attempt has been made to extend the limits of Louisiana or Canada to the *north* of that line, or of those companies to the *south* of it, by purchase, conquest, or grants from the Indians.”

This is what Messrs. Monroe and Charles Pinckney said to Don Pedro Cevallos—a minister who must be supposed to be as well acquainted with the treaties which settled the boundaries of the late Spanish province of Louisiana as we are with the treaties which settle the boundaries of the United States. The line of Utrecht, and in the very words which carry it from the Lake of the Woods to the Pacific Ocean, and which confine the British to the north, and the French and Spanish to the south of that line, are quoted to Mr. Cevallos as a fact which he and all the world knew. He received it as such; and thus Spanish authority comes in aid of British, French, and American, to vindicate our rights and the truth of history.

(The letter was read.)

Another contribution, which I have pleasure to acknowledge, is from a gentleman of Baltimore, formerly of the House of Representatives (Mr. Kennedy), who gives me an extract from the Journal of the British House of Commons, March 5th, 1714, directing a writ to be issued for electing a burgess in the place of Frederick Herne, Esq., who, since his election, hath accepted, as the Journal says, the office of one of his Majesty’s commissioners for treating with commissioners on the part of France for settling the trade between Great Britain and France. The same entry occurs at the same time with respect to James Murray, Esq., and Sir Joseph Martyn. The tenth article of the treaty of Utrecht applies to limits in North America, the eleventh and fifteenth to commerce; and these commissioners were appointed under some or all of these articles. Others might have been appointed by the king, and not mentioned in the journals, as not being members of Parliament whose vacated seats were to be filled. All three of the articles of the treaty were equally obligatory for the appointment of commissioners; and here is proof that three were appointed under the commercial articles.

One more piece of testimony, and I have done. And, first, a little statement to introduce it. We all know that in one of the debates which took place in the British House of Commons on the Ashburton treaty, and after that treaty was ratified and past recall, mention was made of a certain map called the King's map, which had belonged to the late King (George III.), and hung in his library during his lifetime, and afterwards in the Foreign Office, from which said office the said map silently disappeared about the time of the Ashburton treaty, and which certainly was not before our Senate at the time of the ratification of that treaty. Well, the member who mentioned it in Parliament said there was a strong red line upon it, about the tenth of an inch wide, running all along where the Americans said the true boundary was, with these words written along it in four places in King George's handwriting: "*This is Oswald's line*;" meaning, it is the line of the treaty of peace negotiated by Mr. Oswald on the British side, and therefore called *Oswald's line*.

Now, what I have to say is this: That whenever this royal map shall emerge from its retreat and resume its place in the Foreign Office, on it will be found another strong red line about the tenth of an inch wide, in another place, with these words written on it: Boundaries between the British and French possessions in America "*as fixed by the treaty of Utrecht*." To complete this last and crowning piece of testimony, I have to add that the evidence of it is in the Department of State, as is nearly the whole of the evidence which I have used in crushing this *pie-poudre* insurrection—"*this puddle-lane rebellion*"—against the truth and majesty of history, which, beginning with a clerk in the Department of State, spread to all the organs, big and little; then reached the Senate of the United States, held divided empire in this chamber for four months, and now dies the death of the ridiculous.[19]

We must now introduce the gentlemen of 54-40 to Frazer's River, an acquaintance which they will be obliged to make before they arrive at their inexorable line; for it lies in their course, and must be crossed—both itself and the British province of New Caledonia, which it waters. This, then, is the introduction to that inevitable acquaintance, hitherto ignored. It is a river of about a thousand miles in length (following its windings), rising in the Rocky Mountains, opposite the head of the Unjigah, or Peace River, which flows into the Frozen Ocean in latitude about 70. The course of this river is nearly north and south, rising in latitude 55, flowing south to near latitude 49, and along that parallel, and just north of it, to the Gulf of Georgia, into which it falls behind Vancouver's Island. The upper part of this river is good for navigation; the lower half, plunging through volcanic chasms in mountains of rock, is wholly unnavigable for any species of craft. This river was discovered by Sir Alexander Mackenzie in 1793, was settled by the Northwest Company in 1806, and soon covered by their establishments from head to mouth. No American or Spaniard had ever left a track upon this river or its valley. Our claim to it, as far as I can see, rested wholly upon the treaty with Spain of 1819; and her claim rested wholly upon those discoveries among the islands, the

[19] Since the delivery of this speech a copy of a paragraph of a despatch from Mr. Edward Everett, United States minister in London, dated 31st March, 1843, has been obtained, giving an account of this map as shown to him by Lord Aberdeen, containing the two red lines upon it, one for our northeast boundary, called "Oswald's line," the other for the northwest, called the line of the "treaty of Utrecht." The paragraph is in these words: "The above was chiefly written before I had seen Mr. Oswald's map, which I have since by the kindness of Sir Robert Peel and Lord Aberdeen, been permitted to do. It is a copy of Mitchell in fine preservation. The boundaries between the British and French possessions in America, 'as fixed by the treaty of Utrecht,' are marked upon it in a very full distinct line, at least a tenth of an inch broad, and those words written in several places. In like manner the line giving our boundary as we have always claimed it, that is, carrying the northeastern angle of Nova Scotia far to the north of the St. Johns, is drawn very carefully in a bold red line, full a tenth of an inch broad: and in four different places along the line distinctly written 'the boundary described by Mr. Oswald.' What is very noticeable is, that a line narrower, but drawn with care with an instrument, from the lower end of Lake Nipissing to the source of the Mississippi, as far as the map permits such a line to run, had once been drawn on the map, and has since been partially erased, though still distinctly visible."

value of which, as conferring claims upon the continent, it has been my province to show in our negotiations with Russia in 1824. At the time that we acquired this Spanish claim to Frazer's River, it had already been discovered twenty-six years by the British; had been settled by them for twelve years; was known by a British name; and no Spaniard had ever made a track on its banks. New Caledonia, or Western Caledonia, was the name which it then bore; and it so happens that an American citizen, a native of Vermont, respectably known to the senators now present from that State, and who had spent twenty years of his life in the hyperborean regions of Northwest America, in publishing an account of his travels and sojournings in that quarter, actually published a description of this New Caledonia, as a British province, at the very moment that we were getting it from Spain, and without the least suspicion that it belonged to Spain! I speak of Mr. David Harmon, whose Journal of Nineteen Years' Residence between latitudes 47 and 58 in Northwestern America, was published at Andover, in his native State, in the year 1820, the precise year after we had purchased this New Caledonia from the Spaniards. I read, not from the volume itself, which is not in the library of Congress, but from the London Quarterly Review January No., 1822, as reprinted in Boston; article, Western Caledonia.

(The extract.)

This is the account given by Mr. Harmon of New Caledonia, and given of it by him at the exact moment that we were purchasing the Spanish title to it! Of this Spanish title, of which the Spaniards never heard, the narrator seems to have been as profoundly ignorant as the Spaniards were themselves; and made his description of New Caledonia as of a British possession, without any more reference to an adverse title than if he had been speaking of Canada. So much for the written description: now let us look at the map, and see how it stands there. Here is a map—a 54° 40' map—which will show us the features of the country, and the names of the settlements upon it. Here is Frazer's River, running from 55° to 49° and here is a line of British posts upon it, from Fort McLeod, at its head, to Fort Langley, at its mouth, and from Thompson's Fork, on one side, to Stuart's Fork on the other. And here are clusters of British names, imposed by the British, visible every where—Forts George, St. James, Simpson, Thompson, Frazer, McLeod, Langley, and others: rivers and lakes with the same names, and others: and here is Deserter's Creek, so named by Mackenzie, because his guide deserted him there in July, 1793; and here is an Indian village which he named Friendly, because the people were the most friendly to strangers that he had ever seen; and here another called Rascals' village, so named by Mackenzie fifty-three years ago, because its inhabitants were the most rascally Indians he had ever seen; and here is the representation of that famous boundary line 54° 40', which is supposed to be the exact boundary of American territorial rights in that quarter, and which happens to include the whole of New Caledonia, except McLeod's fort, and the whole of Stuart's lake, and a spring, which is left to the British, while we take the branch which flows from it. This line takes all in—river, lakes, forts, villages. See how it goes! Starting at the sea, it gives us, by a quarter of an inch on the map, Fort Simpson, so named after the British Governor Simpson, and founded by the Hudson Bay Company. Upon what principle we take this British fort I know not—except it be on the assumption that our sacred right and title being adjusted to a minute, by the aid of these 40 minutes, so appositely determined by the Emperor Paul's charter to a fur company in 1799, to be on this straight line, the bad example of even a slight deviation from it at the start should not be allowed even to spare a British fort away up at Point McIntyre, in Chatham Sound. On this principle we can understand the inclusion, by a quarter of an inch on the map, of this remote and isolated British post. The cutting in two of Stuart's lake, which the line does as it runs, is quite intelligible: it must be on the principle stated in one of the fifty-four-forty papers, that Great Britain should not have one drop of our water; therefore we divide the

lake, each taking their own share of its drops. The fate of the two forts, McLeod and St. James, so near each other and so far off from us, united all their lives, and now so unexpectedly divided from each other by this line, is less comprehensible; and I cannot account for the difference of their fates, unless it is upon the law of the day of judgment, when, of two men in the field, one shall be taken and the other left, and no man be able to tell the reason why. All the rest of the inclusions of British establishments which the line makes, from head to mouth of Frazer's River, are intelligible enough: they turn upon the principle of all or none!—upon the principle that every acre and every inch, every grain of sand, drop of water, and blade of grass in all Oregon, up to fifty-four forty, is ours! and have it we will.

This is the country which geography and history five-and-twenty years ago called New Caledonia, and treated as a British possession; and it is the country which an *organized* party among ourselves of the present day call "*the whole of Oregon or none*," and every inch of which they say belongs to us. Well, let us proceed a little further with the documents of 1823, and see what the men of that day—President Monroe and his cabinet—the men who made the treaty with Spain by which we became the masters of this large domain: let us proceed a little further, and see what they thought of our title up to fifty-four forty. I read from the same document of 1823:

Mr. Adams to Mr. Middleton, July, 22, 1823.

"The right of the United States, from the forty-second to the forty-ninth parallel of latitude on the Pacific Ocean we consider as unquestionable, being founded, first, on the acquisition by the treaty of 22d February, 1819, of all the rights of Spain; second, by the discovery of the Columbia River, first from the sea at its mouth, and then by land, by Lewis and Clarke; and, third, by the settlement at its mouth in 1811. This territory is to the United States of an importance which no possession in North America can be of to any European nation, not only as it is but the continuity of their possessions from the Atlantic to the Pacific Ocean, but as it offers their inhabitants the means of establishing hereafter water communications from the one to the other."

From 42° to 49° is here laid down by Mr. Monroe and his cabinet as the extent of our unquestionable title, and on these boundaries they were ready to settle the question. Five other despatches the same year from Mr. Adams to Mr. Rush, our minister in London, offer the same thing. They all claim the valley of the Columbia River, and nothing more. They claim the land drained by its waters, and no more; but as the Columbia had a northern prong, drawing water just under the mountains from as far north as 51°—yes! 51—not 54-40, they offered to cut off the head of that prong, and take the line of 49, which included all that was worth having of the waters of the Columbia, and left out, but barely left out, Frazer's River—coming within three miles of it at its mouth.

On Friday, Mr. President, I read one passage from the documents of 1823, to let you see that fifty-four forty (for that is the true reading of fifty-five) had been offered to Great Britain for her northern boundary: to-day I read you six PASSAGES from the same documents, to show the same thing. And let me remark once more—the remark will bear eternal repetition—these offers were made by the men who had acquired the Spanish title to Oregon! and who must be presumed to know as much about it as those whose acquaintance with Oregon dates from the epoch of the Baltimore convention—whose love for it dates from the era of its promulgation as a party watchword—whose knowledge of it extends to the luminous pages of Mr. Greenhow's horn-book!

Six times Mr. Monroe and his cabinet renounced Frazer's River and its valley, and left it to the British! They did so on the intelligible principle that the British had discovered it, and

settled it, and were in the actual possession of it when we got the Spanish claim; which claim Spain never made! Upon this principle, New Caledonia was left to the British in 1823. Upon what *principle* is it claimed now?

This is what Mr. Monroe and his cabinet thought of our title to the whole of Oregon or none, in the year 1823. They took neither branch of this proposition. They did not go for all or none, but for some! They took some, and left some; and they divided by a line right in itself, and convenient in itself, and mutually suitable to each party. That President and his cabinet carry their "unquestionable right" to Oregon as far as 49°, and no further. This is exactly what was done six years before. Mr. Gallatin and Mr. Rush offered the same line, as being a continuation of the line of Utrecht (describing it by that name in their despatch of October 20th, 1818), and as covering the valley of the Columbia River, to which they alleged our title to be indisputable. Mr. Jefferson had offered the same line in 1807. All these offers leave Frazer's River and its valley to the British, because they discovered and settled it. All these offers hold on to the Columbia River and its valley, because we discovered and settled it; and all these offers let the principle of contiguity or continuity work equally on the British as on the American side of the line of Utrecht.

This is what the statesmen did who made the acquisition of the Spanish claim to Oregon in 1819. In four years afterwards they had freely offered all north of 49 to Great Britain; and no one ever thought of arraigning them for it. Most of these statesmen have gone through fiery trials since, and been fiercely assailed on all the deeds of their lives; but I never heard of one of them being called to account, much less lose an election, for the part he acted in offering 49 to Great Britain in 1823, or at any other time. For my part, I thought they were right then, and I think so now; I was senator then, as I am now. I thought with them that New Caledonia belonged to the British; and thinking so still, and acting upon the first half of the great maxim—Ask nothing but what is right—I shall not ask them for it, much less fight them for it now.

159. Oregon Joint Occupation: Notice Authorized For Terminating It: British Government Offers The Line Of 49: Quandary Of The Administration: Device: Senate Consulted: Treaty Made And Ratified

The abrogation of the article in the conventions of 1818 and 1828, for the joint occupation of the Columbia, was a measure right in itself, indispensable in the actual condition of the territory—colonies from two nations planting themselves upon it together—and necessary to stimulate the conclusion of the treaty which was to separate the possessions of the two countries. Every consideration required the notice to be given, and Congress finally voted it; but not without a struggle in each House, longer and more determined than the disparity of the vote would indicate. In the House of Representatives, the vote in its favor was 154—headed by Mr. John Quincy Adams: the nays were 54. The resolution as adopted by the House, then went to the Senate for its concurrence, where, on the motion of Mr. Reverdy Johnson, of Maryland, it underwent a very material alteration in form, without impairing its effect, adopting a preamble containing the motives for the notice, and of which the leading were to show that amicable settlement of the title by negotiation was an object in view, and intended to be promoted by a separation of interests between the parties. Thus amended, the resolution was passed by a good majority—40 to 14. The yeas and nays were:

Messrs. Archer, Ashley, Atherton, Bagby, Barrow, Benton, Berrien, Calhoun, Cameron, Chalmers, John M. Clayton, Corwin, Crittenden, Davis, Dayton, Dix, Greene, Haywood, Houston, Huntington, Jarnagin, Johnson of Maryland, Johnson of Louisiana, Lewis, McDuffie, Mangum, Miller, Morehead, Niles, Pearce, Pennybacker, Phelps, Rusk, Sevier, Simmons, Speight, Turney, Upham, Webster, Woodbridge.

The nays were:

Messrs. Allen, Atchison, Breese, Bright, Cass, Thomas Clayton, Dickinson, Evans, Fairfield, Hannegan, Jenness, Semple, Sturgeon, Westcott.

These nays were not all opposed to the notice itself, but to the form it had adopted, and to the clause which left it discretional with the President to give it when he should think proper. They constituted the body of the extreme friends of Oregon, standing on the Baltimore platform—"the whole of Oregon or none"—looking to war as inevitable, and who certainly would have made it if their course had been followed. In the House the Senate's amendment was substantially adopted, and by an increased vote; and the authority for terminating the joint occupancy—a great political blunder in itself, and fraught with dangerous consequences—was eventually given, but after the lapse of a quarter of a century, and after bringing the two countries to the brink of hostilities. The President acted at once upon the discretion which was given him—caused the notice for the abrogation of the joint occupant article to be immediately given to the British government—and urged Congress to the adoption of the measures which were necessary for the protection of the American citizens who had gone to the territory.

The news of the broken off negotiations was received with regret in Great Britain. Sir Robert Peel, with the frankness and integrity which constitute the patriotic statesman, openly

expressed his regret in Parliament that the offer of 49, when made by the American government, had not been accepted by the British government; and it was evident that negotiations would be renewed. They were so: and in a way to induce a speedy conclusion of the question—being no less than a fair and open offer on the side of the British to accept the line we had offered. The administration was in a quandary (qu'en dirai-je? what shall I say to it?), at this unexpected offer. They felt that it was just, and that it ought to be accepted: at the same time they had stood upon the platform of the Baltimore convention—had helped to make it—had had the benefit of it in the election; and were loth to show themselves inconsistent, or ignorant. Besides the fifty-four forties were in commotion against it. A specimen of their temper has been shown in Mr. Hannegan's denunciation of the President. All the government newspapers—the official organ at Washington City, and the five hundred democratic papers throughout the Union which followed its lead, were all vehement against it. Underhandedly they did what they could to allay the storm which was raging—encouraging Mr. Haywood, Mr. Benton, and others to speak; but the pride of consistency, and the fear of reproach, kept them in the background, and even ostensibly in favor of 54-40, while encouraging the events which would enable them to settle on 49. Mr. Pakenham made his offer: it was not a case for delay: and acceptance or rejection became inevitable. It was accepted; and nothing remained but to put the treaty into form. A device was necessary, and it was found in the early practice of the government—that of the President asking the advice of the Senate upon the articles of a treaty before the negotiation. Mr. Benton proposed this course to Mr. Polk. He was pleased with it, but feared its feasibility. The advice of the Senate would be his sufficient shield: but could it be obtained? The chances seemed to be against it. It was an up-hill business, requiring a vote of two-thirds: it was a novelty, not practised since the time of Washington: it was a submission to the whigs, with the risk of defeat; for unless they stood by the President against the dominant division of his own friends, the advice desired would not be given; and the embarrassment of the administration would be greater than ever. In this uneasy and uncertain state of mind, the President had many conferences with Mr. Benton, the point of which was to know, beyond the chance of mistake, how far he could rely upon the whig senators. Mr. Benton talked with them all—with Webster, Archer, Berrien, John M. Clayton, Crittenden, Corwin, Davis of Massachusetts, Dayton, Greene of Rhode Island, Huntington of Connecticut, Reverdy Johnson, Henry Johnson of Louisiana, Miller of New Jersey, Phelps, Simmons, Upham, Woodbridge,—and saw fully that they intended to act for their country, and not for their party: and reported to the President that he would be safe in trusting to them—that their united voice would be in favor of the advice, which, added to the minority of the democracy, would make the two-thirds which were requisite. The most auspicious mode of applying for this advice was deemed to be the submission of a *projet* of a treaty, presented by the British minister, and to be laid before the Senate for their opinion upon its acceptance. The *projet* was accordingly received by Mr. Buchanan, a message drawn up, and the desired advice was to be asked the next day, 10th of June. A prey to anxiety as to the conduct of the whigs, the mere absence of part of whom would defeat the measure, the President sent for Mr. Benton the night before, to get himself re-assured on that point. Mr. Benton was clear and positive that they would be in their places, and would vote the advice, and that the measure would be carried. The next day the *projet* of the treaty was sent in, and with it a message from the President, asking the advice which he desired. It stated:—

"In the early periods of the government, the opinion and advice of the Senate were often taken in advance upon important questions of our foreign policy. General Washington repeatedly consulted the Senate, and asked their previous advice upon pending negotiations with foreign powers; and the Senate in every instance responded to his call by giving their advice, to which he always conformed his action. This practice, though rarely resorted to in

later times, was, in my judgment, eminently wise, and may, on occasions of great importance, be properly revived. The Senate are a branch of the treaty-making power; and, by consulting them in advance of his own action upon important measures of foreign policy which may ultimately come before them for their consideration, the President secures harmony of action between that body and himself. The Senate are, moreover, a branch of the war-making power, and it may be eminently proper for the Executive to take the opinion and advice of that body in advance upon any great question which may involve in its decision the issue of peace or war. On the present occasion, the magnitude of the subject would induce me, under any circumstances, to desire the previous advice of the Senate; and that desire is increased by the recent debates and proceedings in Congress, which render it, in my judgment, not only respectful to the Senate, but necessary and proper, if not indispensable, to insure harmonious action between that body and the Executive. In conferring on the Executive the authority to give the notice for the abrogation of the convention of 1827, the Senate acted publicly so large a part, that a decision on the proposal now made by the British government, without a definite knowledge of the views of that body in reference to it, might render the question still more complicated and difficult of adjustment. For these reasons I invite the consideration of the Senate to the proposal of the British government for the settlement of the Oregon question, and ask their advice on the subject."

This statement and expression of opinion were conformable to the early practice of the government and the theory of the constitution, which, in requiring the President to take the advice of the Senate in the formation of treaties, would certainly imply a consultation before they were made; and this interpretation had often been asserted by members of the Senate. As an interpretation deemed right in itself, and being deferential to the Senate, and being of good example for the future, and of great immediate practical good in taking the question of peace or war with Great Britain out of the hands of an administration standing upon the creed of the Baltimore convention, and putting it into the hands of the whigs to whom it did not apply, and that part of the democracy which disregarded it, this application of the President was most favorably received. Still, however, dominated by the idea of consistency, the President added a salvo for that sensitive point in the shape of a reservation in behalf of his previous opinions, thus:

"My opinions and my action on the Oregon question were fully made known to Congress in my annual message of the second of December last; and the opinions therein expressed remain unchanged."

With this reservation, and with a complete devolution of the responsibility of the act upon the Senate, he proceeded to ask their advice in these terms:

"Should the Senate, by the constitutional majority required for the ratification of treaties, advise the acceptance of this proposition, or advise it with such modifications as they may, upon full deliberation, deem proper, I shall conform my action to their advice. Should the Senate, however, decline by such constitutional majority to give such advice, or to express an opinion on the subject, I shall consider it my duty to reject the offer."

It was clear, then, that the fact of treaty or no treaty depended upon the Senate—that the whole responsibility was placed upon it—that the issue of peace or war depended upon that body. Far from shunning this responsibility, that body was glad to take it, and gave the President a faithful support against himself, against his cabinet, and against his peculiar friends. These friends struggled hard, and exhausted parliamentary tactics to defeat the application, and though a small minority, were formidable in a vote where each one counted two against the opposite side. The first motion was to refer the message to the Committee on Foreign Relations, where the fifty-four forties were in the majority, and from whose action

delay and embarrassment might ensue. Failing in that motion, it was moved to lay the message on the table. Failing again, it was moved to postpone the consideration of the subject to the next week. That motion being rejected, the consideration of the message was commenced, and then succeeded a series of motions to amend and alter the terms of the proposition as submitted. All these failed, and at the end of two days the vote was taken and the advice given. The yeas were:

"Messrs. Archer, Ashley, Bagby, Benton, Berrien, Calhoun, Chalmers, Thomas Clayton, John M. Clayton, Colquitt, Davis, Dayton, Dix, Evans, Greene, Haywood, Houston, Huntington, Johnson of Maryland, Johnson of Louisiana, Lewis, McDuffie, Mangum, Miller, Morehead, Niles, Pearce, Pennybacker, Phelps, Rusk, Sevier, Simmons, Speight, Turney, Upham, Webster, Woodbridge, Yulee."—38.

The nays:

"Messrs. Allen, Atherton, Breese, Cameron, Cass, Dickinson, Fairfield, Hannegan, Jarnagin, Jenness, Semple, Sturgeon."—12.

The advice was in these words:

"*Resolved* (two-thirds of the Senators present concurring), That the President of the United States be, and he is hereby, advised to accept the proposal of the British government, accompanying his message to the Senate dated 10th June, 1846, for a convention to settle boundaries, &c., between the United States and Great Britain west of the Rocky or Stony mountains.

"*Ordered*, That the Secretary lay the said resolution before the President of the United States."

Four days afterwards the treaty was sent in in due form, accompanied by a message which still left its responsibility on the advising Senate, thus:

"In accordance with the resolution of the Senate of the 12th instant, that 'the President of the United States be, and he is hereby, advised to accept the proposal of the British government, accompanying his message to the Senate dated 10th June, 1846, for a convention to settle boundaries, &c., between the United States and Great Britain west of the Rocky or Stony mountains,' a convention was concluded and signed on the 15th instant, by the Secretary of State on the part of the United States, and the envoy extraordinary and minister plenipotentiary of her Britannic Majesty on the part of Great Britain. This convention I now lay before the Senate for their consideration, with a view to its ratification."

Two days more were consumed in efforts to amend or alter the treaty in various of its provisions, all of which failing, the final vote on its ratification was taken, and carried by an increased vote on each side—41 to 14.

Yeas.—"Messrs. Archer, Ashley, Bagby, Barrow, Benton, Berrien, Calhoun, Chalmers, Thomas Clayton, John M. Clayton, Colquitt, Corwin, Crittenden, Davis, Dayton, Dix, Evans, Greene, Haywood, Houston, Huntington, Johnson of Maryland, Henry Johnson of Louisiana, Lewis, McDuffie, Mangum, Miller, Morehead, Niles, Pearce, Pennybacker, Phelps, Rusk, Sevier, Simmons, Speight, Turney, Upham, Webster, Woodbridge, Yulee.

Nays.—"Messrs. Allen, Atchison, Atherton, Breese, Bright, Cameron, Cass, Dickinson, Fairfield, Hannegan, Jenness, Semple, Sturgeon, Westcott."

An anomaly was presented in the progress of this question—that of the daily attack, by all the government papers, upon the senators who were accomplishing the wishes of the President. The organ at Washington, conducted by Mr. Ritchie, was incessant and unmeasured in

these attacks, especially on Mr. Benton, whose place in the party, and his geographical position in the West, gave him the privilege of being considered the leader of the forty-nines, and therefore the most obnoxious. It was a new thing under the sun to see the senator daily assailed, in the government papers, for carrying into effect the wishes of the government—to see him attacked in the morning for what the President was hurrying him to do the night before. His course was equally independent of the wishes of the government, and the abuse of its papers. He had studied the Oregon question for twenty-five years—had his mind made up upon it—and should have acted according to his convictions without regard to support or resistance from any quarter.—The issue was an instructive commentary upon the improvidence of these party platforms, adopted for an electioneering campaign, made into a party watch-word, often fraught with great mischief to the country, and often founded in ignorance or disregard of the public welfare. This Oregon platform was eminently of that character. It was a party platform for the campaign: its architects knew but little of the geography of the north-west coast, or of its diplomatic history. They had never heard of the line of the treaty of Utrecht, and denied its existence: they had never heard of the multiplied offers of our government to settle upon that line, and treated the offer now as a novelty and an abandonment of our rights: they had never heard that their 54-40 was no line on the continent, but only a point on an island on the coast, fixed by the Emperor Paul as the southern limit of the charter granted by him to the Russian Fur Company: had never heard of Frazer's River and New Caledonia, which lay between Oregon and their indisputable line, and ignored the existence of that river and province. The pride of consistency made them adhere to these errors; and a desire to destroy Mr. Benton for not joining in the *hurrahs* for the "whole of Oregon, or none," and for the "immediate annexation of Texas without regard to consequences," lent additional force to the attacks upon him. The conduct of the whigs was patriotic in preferring their country to their party—in preventing a war with Great Britain—and in saving the administration from itself and its friends. Great Britain acted magnanimously, and was worthily represented by her minister, Mr. (now Sir Richard) Pakenham. Her adoption and renewal of our own offer, settled the last remaining controversy between the countries—left them in a condition which they had not seen since the peace of 1783—without any thing to quarrel about, and with a mutuality of interest in the preservation of peace which promised a long continuance of peace. But, alas, Great Britain is to the United States now what Spain was for centuries to her—the raw-head and bloody-bones which inspires terror and rage. During these centuries a ministry, or a public man that was losing ground at home, had only to raise a cry of some insult, aggression, or evil design on the part of Spain to have Great Britain in arms against her. And so it is in the United States at present, putting Great Britain in the place of Spain, and ourselves in hers. We have periodical returns of complaints against her, each to perish when it has served its turn, and to be succeeded by another, evanescent as itself. Thus far, no war has been made; but politicians have gained reputations; newspapers have taken fire; stocks have vacillated, to the profit of jobbers; great expense incurred for national defence in ships and forts, when there is nothing to defend against: and if there was, the electric telegraph and the steam car would do the work with little expense either of time or money.

160. Meeting Of The Second Session Of The 29th Congress: President's Message: Vigorous Prosecution Of The War Recommended: Lieutenant-General Proposed To Be Created

Congress met at the regular annual period, the first Monday in December; and being the second session of the same body, there was nothing to be done, after the assembling of a quorum, before the commencement of business, but to receive the President's message. It was immediately communicated, and, of course, was greatly occupied with the Mexican war. The success of our arms, under the command of General Taylor, was a theme of exultation; and after that, an elaborate argument to throw the blame of the war on Mexico. The war was assumed, and argued to have been made by her, and its existence only recognized by us after "American blood had been spilled upon American soil." History is bound to pronounce her judgment upon these assumptions, and to say that they are unfounded. In the first place, the legal state of war, the *status belli*, was produced by the incorporation of Texas, with which Mexico was at war. In the next place, the United States' government understood that act to be the assumption of the war in fact, as well as in law, by the immediate advance of the army to the frontier of Texas, and of the navy to the Gulf of Mexico, to take the war off the hands of the Texians. In the third place, the actual collision of arms was brought on by the further advance of the American troops to the left bank of the Lower Rio Grande, then and always in the possession of Mexico, and erecting field works on the bank of the river, and pointing cannon at the town of Matamoras on the opposite side, the seat of a Mexican population, and the head-quarters of their army of observation. It was under these circumstances that the Mexican troops crossed the river, and commenced the attack. And this is what is called spilling American blood on American soil. The laws of nations and the law of self-defence, justify that spilling of blood; and such will be the judgment of history. The paragraph in the original message asking for a provisional territorial government to be established by Congress for the conquered provinces was superseded, and replaced by one asserting the right of the United States to govern them under the law of nations, according to the recommendation of Mr. Benton, and expressed in these words:

"By the laws of nations a conquered territory is subject to be governed by the conqueror during his military possession, and until there is either a treaty of peace, or he shall voluntarily withdraw from it. The old civil government being necessarily superseded, it is the right and duty of the conqueror to secure his conquest, and provide for the maintenance of civil order and the rights of the inhabitants. This right has been exercised and this duty performed by our military and naval commanders, by the establishment of temporary governments in some of the conquered provinces in Mexico, assimilating them as far as practicable to the free institutions of our country. In the provinces of New Mexico and of the Californias, little, if any further resistance is apprehended from the inhabitants of the temporary governments which have thus, from the necessity of the case, and according to the laws of war, been established. It may be proper to provide for the security of these important conquests, by making an adequate appropriation for the purpose of erecting fortifications, and defraying the expenses necessarily incident to the maintenance of our possession and authority over them."

Having abandoned the idea of conquering by “a masterly inactivity,” and adopted the idea of a vigorous prosecution of the war, the President also adopted Mr. Benton’s plan for prosecuting it, which was to carry the war straight to the city of Mexico—General Taylor, for that purpose, to be supplied with 25,000 men, that, advancing along the table land by San Luis de Potosi, and overcoming all the obstacles in his way, and leaving some garrisons, he might arrive at the capital with some 10,000 men:—General Scott to be supplied with 15,000, that, landing at Vera Cruz, and leaving some battalions to invest (with the seamen) that town, he might run up the road to Mexico, arriving there (after all casualties) with 10,000 men. Thus 20,000 men were expected to arrive at the capital, but 10,000 were deemed enough to master any Mexican force which could meet it—no matter how numerous. This plan (and that without any reference to dissensions among generals) required a higher rank than that of major-general. A lieutenant-general, representing the constitutional commander-in-chief, was the proper commander in the field: and as such, was a part of Colonel Benton’s plan; to which negotiation was to be added, and much relied on, as it was known that the old republican party—that which had framed a constitution on the model of that of the United States, and sought its friendship—were all in favor of peace. All this plan was given to the President in writing, and having adopted all that part of it which depended on his own authority, he applied to Congress to give him authority to do what he could not without it, namely, to make the appointment of a lieutenant-general—the appointment, it being well known, intended for Senator Benton, who had been a colonel in the army before either of the present generals held that rank. The bill for the creation of this office readily passed the House of Representatives, but was undermined and defeated in the Senate by three of the President’s cabinet ministers, Messrs. Marcy, Walker, and Buchanan—done covertly, of course, for reasons unconnected with the public service. The plan went on, and was consummated, although the office of lieutenant-general was not created. A major-general, in right of seniority, had to command other major-generals; while every one accustomed to military, or naval service, knows that it is rank, and not seniority, which is essential to harmonious and efficient command.

161. War With Mexico: The War Declared, And An Intrigue For Peace Commenced The Same Day

The state of war had been produced between the United States and Mexico by the incorporation of Texas: hostilities between the two countries were brought on by the advance of the American troops to the left bank of the Lower Rio Grande—the Mexican troops being on the opposite side. The left bank of the river being disputed territory, and always in her possession, the Mexican government had a right to consider this advance an aggression—and the more so as field-works were thrown up, and cannon pointed at the Mexican town of Matamoros on the opposite side of the river. The armies being thus in presence, with anger in their bosoms and arms in their hands, that took place which every body foresaw must take place: collisions and hostilities. They did so; and early in May the President sent in a message to the two Houses of Congress, informing them that American blood had been spilt upon American soil; and requesting Congress to recognize the existence of war, as a fact, and to provide for its prosecution. It was, however, an event determined upon before the spilling of that blood, and the advance of the troops was a way of bringing it on. The President in his message at the commencement of the session, after an enumeration of Mexican wrongs, had distinctly intimated that he should have recommended measures of redress if a minister had not been sent to effect a peaceable settlement; but the minister having gone, and not yet been heard from, "he should forbear recommending to Congress such ulterior measures of redress for the wrongs and injuries we have so long borne, as it would have been proper to make had no such negotiation been instituted." This was a declared postponement of war measures for a contingency which might quickly happen; and did. Mr. Slidell, the minister, returned without having been received, and denouncing war in his retiring despatch. The contingency had therefore occurred on which the forbearance of the President was to cease, and the ulterior measures to be recommended which he had intimated. All this was independent of the spilt blood; but that event producing a state of hostilities in fact, fired the American blood, both in and out of Congress, and inflamed the country for immediate war. Without that event it would have been difficult—perhaps impossible—to have got Congress to vote it: with it, the vote was almost unanimous. Duresse was plead by many members—duresse in the necessity of aiding our own troops. In the Senate only two senators voted against the measure, Mr. Thomas Clayton of Delaware, and Mr. John Davis of Massachusetts. In the House there were 14 negative votes: Messrs. John Quincy Adams, George Ashmun, Henry Y. Cranston, Erastus D. Culver, Columbus Delano, Joshua R. Giddings, Joseph Grinnell, Charles Hudson, Daniel P. King, Joseph M. Root, Luther Severance, John Strohm, Daniel R. Tilden and Joseph Vance. Mr. Calhoun spoke against the bill, but did not vote upon it. He was sincerely opposed to the war, although his conduct had produced it—always deluding himself, even while creating the *status belli*, with the belief that money, and her own weakness, would induce Mexico to submit, and yield to the incorporation of Texas without forcible resistance: which would certainly have been the case if the United States had proceeded gently by negotiation. He had despatched a messenger, to offer a douceur of ten millions of dollars at the time of signing the treaty of annexation two years before, and he expected the means, repulsed then, to be successful now when the incorporation should be effected under an act of Congress. Had he remained in the cabinet to do which he had not concealed his wish, his labors would have been earnestly directed to that end; but his associates who had co-operated with him in getting up the Texas question for the presidential election, and to defeat Mr. Van Buren and Mr. Clay, had war in view as an object within itself from the beginning: and these

associates were now in the cabinet, and he not—their power increased: his gone. Claims upon Mexico, and speculations in Texas land and scrip, were with them (the active managing part of the cabinet) an additional motive, and required a war, or a treaty under the menace of war, or at the end of war, to make these claims and speculations available. Mr. Robert J. Walker had the reputation of being at the head of this class.

Many members of Congress, of the same party with the administration, were extremely averse to this war, and had interviews with the administration, to see if it was inevitable, before it was declared. They were found united for it, and also under the confident belief that there would be no war—not another gun fired: and that in "ninety" or "one hundred and twenty days," peace would be signed, and all the objects gained. This was laid down as a certainty, and the President himself declared that Congress would be "responsible if they did not vote the declaration." Mr. Benton was struck with this confident calculation, without knowing its basis; and with these 90 and 120 days, the usual run of a country bill of exchange; and which was now to become the run of the war. It was enigmatical, and unintelligible, but eventually became comprehensible. Truth was, an intrigue was laid for a peace before the war was declared! and this intrigue was even part of the scheme for making the war. It is impossible to conceive of an administration less warlike, or more intriguing, than that of Mr. Polk. They were men of peace, with objects to be accomplished by means of war; so that war was a necessity and an indispensability to their purpose; but they wanted no more of it than would answer their purposes. They wanted a small war, just large enough to require a treaty of peace, and not large enough to make military reputations, dangerous for the presidency. Never were men at the head of a government less imbued with military spirit, or more addicted to intrigue. How to manage the war was the puzzle. Defeat would be ruin: to conquer vicariously, would be dangerous. Another mode must be fallen upon; and that seemed to have been devised before the declaration was resolved upon, and to have been relied upon for its immediate termination—for its conclusion within the 90 and the 120 days which had been so confidently fixed for its term. This was nothing less than the restoration of the exiled Santa Anna to power, and the purchase of a peace from him. The date of the conception of this plan is not known: the execution of it commenced on the day of the declaration of war. It was intended to be secret, both for the honor of the United States, the success of the movement, and the safety of Santa Anna; but it leaked out: and the ostentation of Captain Slidell Mackenzie in giving all possible *eclat* to his secret mission, put the report on the winds, and sent it flying over the country. At first it was denied, and early in July the Daily Union (the government paper) gave it a formal and authoritative contradiction. Referring to the current reports that paper said:

"We deem it our duty to state in the most positive terms, that our government has no sort of connection with any scheme of Santa Anna for the revolution of Mexico, or for any sort of purpose. Some three months ago some adventurer was in Washington, who wished to obtain their countenance and aid in some scheme or other connected with Santa Anna. They declined all sort of connection, co-operation, or participation in any effort for the purpose. The government of this country declines all such intrigues or bargains. They have made war openly in the face of the world. They mean to prosecute it with all their vigor. They mean to force Mexico to do us justice at the point of the sword. This, then, is their design—this is their plan; and it is worthy of a bold, high-minded, and energetic people."

The only part of this publication that retains a surviving interest, is that which states that, some three months before that time (which would have been a month before the war was declared), some adventurer was in Washington who wished to obtain the government countenance to some scheme connected with Santa Anna. As for the rest, and all the denial, it was soon superseded by events—by the actual return of Santa Anna through our fleet, and

upon an American passport! and open landing at Vera Cruz. Further denial became impossible: justification was the only course: and the President essayed it in his next annual message. Thus:

”Before that time (the day of the declaration of the war) there were symptoms of a revolution in Mexico, favored, as it was understood to be, by the more liberal party, and especially by those who were opposed to foreign interference and to the monarchical government. Santa Anna was then in exile in Havana, having been expelled from power and banished from his country by a revolution which occurred in December, 1844; but it was known that he had still a considerable party in his favor in Mexico. It was also equally well known, that no vigilance which could be exerted by our squadron would, in all probability, have prevented him from effecting a landing somewhere on the extensive gulf coast of Mexico, if he desired to return to his county. He had openly professed an entire change of policy; had expressed his regret that he had subverted the federal constitution of 1824, and avowed that he was now in favor of its restoration. He had publicly declared his hostility, in the strongest terms, to the establishment of a monarchy, and to European interference in the affairs of his country. Information to this effect had been received, from sources believed to be reliable, at the date of the recognition of the existence of the war by Congress, and was afterwards fully confirmed by the receipt of the despatch of our consul in the city of Mexico, with the accompanying documents, which are herewith transmitted. Besides, it was reasonable to suppose that he must see the ruinous consequences to Mexico of a war with the United States, and that it would be his interest to favor peace. It was under these circumstances and upon these considerations that it was deemed expedient not to obstruct his return to Mexico, should he attempt to do so. Our object was the restoration of peace; and with that view, no reason was perceived why we should take part with Paredes, and aid him, by means of our blockade, in preventing the return of his rival to Mexico. On the contrary, it was believed that the intestine divisions which ordinary sagacity could not but anticipate as the fruit of Santa Anna’s return to Mexico, and his contest with Paredes, might strongly tend to produce a disposition with both parties to restore and preserve peace with the United States. Paredes was a soldier by profession, and a monarchist in principle. He had but recently before been successful in a military revolution, by which he had obtained power. He was the sworn enemy of the United States, with which he had involved his country in the existing war. Santa Anna had been expelled from power by the army, was known to be in open hostility to Paredes, and publicly pledged against foreign intervention and the restoration of monarchy in Mexico. In view of these facts and circumstances, it was, that, when orders were issued to the commander of our naval forces in the Gulf, on the thirteenth day of May last, the day on which the existence of the war was recognized by Congress, to place the coasts of Mexico under blockade, he was directed not to obstruct the passage of Santa Anna to Mexico, should he attempt to return.”

So that the return of Santa Anna, and his restoration to power, and his expected friendship, were part of the means relied upon for obtaining peace from the beginning—from the day of the declaration of war, and consequently before the declaration, and obviously as an inducement to it. This knowledge, subsequently obtained, enabled Mr. Benton (to whom the words had been spoken) to comprehend the reliance which was placed on the termination of the war in ninety or one hundred and twenty days. It was the arrangement with Santa Anna! we to put him back in Mexico, and he to make peace with us; of course an agreeable peace. But Santa Anna was not a man to promise any thing, whether intending to fulfill it or not, without receiving a consideration; and in this case some million of dollars was the sum required—not for himself, of course, but to enable him to promote the peace at home. This explains the application made to Congress by the President before the end of its session—

before the adjournment of the body which had declared the war—for an appropriation of two millions as a means of terminating it. On the 4th of August a confidential message was communicated to the Senate, informing them that he had made fresh overtures to Mexico for negotiation of a treaty of peace, and asking for an appropriation of two millions to enable him to treat with the better prospect of success, and even to pay the money when the treaty should be ratified in Mexico, without waiting for its ratification by our own Senate. After stating the overture, and the object, the message went on to say:

"Under these circumstances, and considering the exhausted and distracted condition of the Mexican republic, it might become necessary, in order to restore peace, that I should have it in my power to advance a portion of the consideration money for any cession of territory which may be made. The Mexican government might not be willing to wait for the payment of the whole until the treaty could be ratified by the Senate, and an appropriation to carry it into effect be made by Congress; and the necessity for such a delay might defeat the object altogether. I would, therefore, suggest whether it might not be wise for Congress to appropriate a sum such as they might consider adequate for this purpose, to be paid, if necessary, immediately upon the ratification of the treaty by Mexico."

A similar communication was made to the House on the 8th day of the month (August), and the dates become material, as connecting the requested appropriation with the return of Santa Anna, and his restoration to power. The dates are all in a cluster—Santa Anna landing at Vera Cruz on the 8th of August, and arriving at the capital on the 15th—the President's messages informing the Senate that he had made overtures for peace, and asking the appropriations to promote it, being dated on the 4th and the 8th of the same month. The fact was, it was known at what time Santa Anna was to leave Havana for Mexico, and the overture was made, and the appropriations asked, just at the proper time to meet him. The appropriation was not voted by Congress, and at the next session the application for it was renewed, increased to three millions—the same to which Mr. Wilmot offered that *proviso* which Mr. Calhoun privately hugged to his bosom as a fortunate event for the South, while publicly holding it up as the greatest of outrages, and just cause for a separation of the slave and the free States.

An intrigue for peace, through the restored Santa Anna, was then a part of the war with Mexico from the beginning. They were simultaneous concoctions. They were twins. The war was made to get the peace. Ninety to one-hundred and twenty days was to be the limit of the life of the war, and that pacifically all the while, and to be terminated by a good treaty of indemnities and acquisitions. It is probably the first time in the history of nations that a secret intrigue for peace was part and parcel of an open declaration of war! the first time that a war was commenced upon an agreement to finish it in so many days! and that the terms of its conclusion were settled before its commencement. It was certainly a most unmilitary conception: and infinitely silly, as the event proved. Santa Anna, restored by our means, and again in power, only thought of himself, and how to make Mexico his own, after getting back. He took the high military road. He roused the war spirit of the country, raised armies, placed himself at their head, issued animating proclamations; and displayed the most exaggerated hatred to the United States—the more so, perhaps, to cover up the secret of his return. He gave the United States a year of bloody and costly work! many thousands killed—many more dead of disease—many ten millions of money expended. Buena Vista, Cerro Gordo, Contreras, Churubusco, Chepultepec, were the fruit of his return! honorable to the American arms, but costly in blood and money. To the Mexicans his return was not less inauspicious: for, true to his old instincts, he became the tyrant of his country—ruled by fraud, force, and bribes—crushed the liberal party—exiled or shot liberal men—became intolerable—and put the nation to the horrors of another civil war to expel him again, and again: but not finally until he had got another milking from the best cow that ever was in his

pen—more money from the United States. It was all the natural consequence of trusting such a man: the natural consequence of beginning war upon an intrigue with him. But what must history say of the policy and morality of such doings? The butcher of the American prisoners at Goliad, San Patricio, the Old Mission and the Alamo; the destroyer of republican government at home; the military dictator aspiring to permanent supreme power: this man to be restored to power by the United States, for the purpose of fulfilling speculating and indemnity calculations on which a war was begun.

162. Bloodless Conquest Of New Mexico: How It Was Done: Subsequent Bloody Insurrection, And Its Cause

General Kearney was directed to lead an expedition to New Mexico, setting out from the western frontier of Missouri, and mainly composed of volunteers from that State; and to conquer the province. He did so, without firing a gun, and the only inquiry is, how it was done? how a province nine hundred miles distant, covered by a long range of mountain which could not well be turned, penetrable only by a defile which could not be forced, and defended by a numerous militia—could so easily be taken? This work does not write of military events, open to public history, but only of things less known, and to show how they were done: and in this point of view the easy and bloodless conquest of New Mexico, against such formidable obstacles, becomes an exception, and presents a proper problem for intimate historical solution. That solution is this: At the time of the fitting out that expedition there was a citizen of the United States, long resident in New Mexico, on a visit of business at Washington City—his name James Magoffin;—a man of mind, of will, of generous temper, patriotic, and rich. He knew every man in New Mexico and his character, and all the localities, and could be of infinite service to the invading force. Mr. Benton proposed to him to go with it: he agreed. Mr. Benton took him to the President and Secretary at War, who gladly availed themselves of his agreement to go with General Kearney. He went: and approaching New Mexico, was sent ahead, with a staff officer—the officer charged with a mission, himself charged with his own plan: which was to operate upon Governor Armijo, and prevent his resistance to the entrance of the American troops. That was easily done. Armijo promised not to make a stand at the defile, after which the invaders would have no difficulty. But his second in command, Col. Archuletti, was determined to fight, and to defend that pass; and if he did, Armijo would have to do the same. It became indispensable to quiet Archuletti. He was of different mould from the governor, and only accessible to a different class of considerations—those which addressed themselves to ambition. Magoffin knew the side on which to approach him. It so happened that General Kearney had set out to take the left bank of the Upper Del Norte—the eastern half of New Mexico—as part of Texas, leaving the western part untouched. Magoffin explained this to Archuletti, pointed to the western half of New Mexico as a derelict, not seized by the United States, and too far off to be protected by the central government: and recommended him to make a *pronunciamiento*, and take that half to himself. The idea suited the temper of Archuletti. He agreed not to fight, and General Kearney was informed there would be no resistance at the defile: and there was none. Some thousands of militia collected there (and which could have stopped a large army), retired without firing a gun, and without knowing why. Armijo fled, and General Kearney occupied his capital: and the conquest was complete and bloodless: and this was the secret of that facile success—heralded in the newspapers as a masterpiece of generalship, but not so reported by the general.

But there was an after-clap, to make blood flow for the recovery of a province which had been yielded without resistance. Mr. Magoffin was sincere and veracious in what he said to Col. Archuletti; but General Kearney soon (or before) had other orders, and took possession of the whole country! and Archuletti, deeming himself cheated, determined on a revolt. Events soon became favorable to him. General Kearney proceeded to California, leaving General Sterling Price in command, with some Missouri volunteers. Archuletti prepared his

insurrection, and having got the upper country above Santa Fé ready, went below to prepare the lower part. While absent, the plot was detected and broke out, and led to bloody scenes in which there was severe fighting, and many deaths on both sides. It was in this insurrection that Governor Charles Bent, of New Mexico, and Captain Burgwin of the United States army, and many others were killed. The insurgents fought with courage and desperation; but, without their leader, without combination, without resources, they were soon suppressed; many being killed in action, and others hung for high treason—being tried by some sort of a court which had no jurisdiction of treason. All that were condemned were hanged except one, and he recommended to the President of the United States for pardon. Here was a dilemma for the administration. To pardon the man would be to admit the legality of the condemnation: not to pardon was to subject him to murder. A middle course was taken: the officers were directed to turn loose the condemned, and let him run. And this was the cause of the insurrection, and its upshot.

Mr. Magoffin having prepared the way for the entrance of General Kearney into Santa Fé, proceeded to the execution of the remaining part of his mission, which was to do the same by Chihuahua for General Wool, then advancing upon that ancient capital of the Western Internal Provinces on a lower line. He arrived in that city—became suspected—was arrested—and confined. He was a social, generous-tempered man, a son of Erin: loved company, spoke Spanish fluently, entertained freely, and where it was some cost to entertain—claret $36 00 a-dozen, champagne $50 00. He became a great favorite with the Mexican officers. One day the military judge advocate entered his quarters, and told him that Dr. Connolly, an American, coming from Santa Fé, had been captured near El Paso del Norte, his papers taken, and forwarded to Chihuahua, and placed in his hands, to see if there were any that needed government attention: and that he had found among the papers a letter addressed to him (Mr. Magoffin). He had the letter unopened, and said he did not know what it might be; but being just ordered to join Santa Anna at San Luis Potosi, and being unwilling that any thing should happen after he was gone to a gentleman who had been so agreeable to him, he had brought it to him, that he might destroy it if there was any thing in it to commit him. Magoffin glanced his eyes over the letter. It was an attestation from General Kearney of his services in New Mexico, recommending him to the acknowledgments of the American government in that invasion!—that is to say, it was his death warrant, if seen by the Mexican authorities. A look was exchanged: the letter went into the fire: and Magoffin escaped being shot.

But he did not escape suspicion. He remained confined until the approach of Doniphan's expedition, and was then sent off to Durango, where he remained a prisoner to the end of the war. Returning to the United States after the peace, he came to Washington in the last days of Mr. Polk's administration, and expected remuneration. He had made no terms, asked nothing, and received nothing, and had expended his own money, and that freely, for the public service. The administration had no money applicable to the object. Mr. Benton stated his case in secret session in the Senate, and obtained an appropriation, couched in general terms, of fifty thousand dollars for secret services rendered during the war. The appropriation, granted in the last night of the expiring administration, remained to be applied by the new one—to which the business was unknown, and had to be presented unsupported by a line of writing. Mr. Benton went with Magoffin to President Taylor, who, hearing what he had done, and what information he had gained for General Kearney, instantly expressed the wish that he had had some person to do the same for him—observing that he got no information but what he obtained at the point of the bayonet. He gave orders to the Secretary at War to attend to the case as if there had been no change in the administration. The secretary (Mr. Crawford, of Georgia), higgled, required statements to be filed, almost in the nature of an account; and,

finally, proposed thirty thousand dollars. It barely covered expenses and losses; but, having undertaken the service patriotically, Magoffin would not lower its character by standing out for more. The paper which he filed in the war office may furnish some material for history—some insight into the way of making conquests—if ever examined. This is the secret history of General Kearney's expedition, and of the insurrection, given because it would not be found in the documents. The history of Doniphan's expedition will be given for the same reason, and to show that a regiment of citizen volunteers, without a regular officer among them, almost without expense, and hardly with the knowledge of their government, performed actions as brilliant as any that illustrated the American arms in Mexico; and made a march in the enemy's country longer than that of the ten thousand under Xenophon. This history will constitute the next chapter, and will consist of the salutatory address with which the heroic volunteers were saluted, when, arriving at St. Louis, they were greeted with a public reception, and the Senator of Thirty Years required to be the organ of the exulting feelings of their countrymen.

163. Mexican War: Doniphan’s Expedition: Mr. Benton’s Salutatory Address, St. Louis, Missouri

Colonel Doniphan and Officers and Men:—I have been appointed to an honorable and a pleasant duty—that of making you the congratulations of your fellow-citizens of St. Louis, on your happy return from your long, and almost fabulous expedition. You have, indeed, marched far, and done much, and suffered much, and well entitled yourselves to the applauses of your fellow-citizens, as well as to the rewards and thanks of your government. A year ago you left home. Going out from the western border of your State, you re-enter it on the east, having made a circuit equal to the fourth of the circumference of the globe, providing for yourselves as you went, and returning with trophies taken from fields, the names of which were unknown to yourselves and your country, until revealed by your enterprise, illustrated by your valor, and immortalized by your deeds. History has but few such expeditions to record; and when they occur, it is as honorable and useful as it is just and wise, to celebrate and commemorate the events which entitle them to renown.

Your march and exploits have been among the most wonderful of the age. At the call of your country you marched a thousand miles to the conquest of New Mexico, as part of the force under General Kearney, and achieved that conquest, without the loss of a man, or the fire of a gun. That work finished, and New Mexico, itself so distant, and so lately the ultima thule—the outside boundary of speculation and enterprise—so lately a distant point to be attained, becomes itself a point of departure—a beginning point, for new and far more extended expeditions. You look across the long and lofty chain—the Cordilleras of North America—which divide the Atlantic from the Pacific waters; and you see beyond that ridge, a savage tribe which had been long in the habit of depredations upon the province which had just become an American conquest. You, a part only of the subsequent Chihuahua column, under Jackson and Gilpin, march upon them—bring them to terms—and they sign a treaty with Colonel Doniphan, in which they bind themselves to cease their depredations on the Mexicans, and to become the friends of the United States. A novel treaty, that! signed on the western confines of New Mexico, between parties who had hardly ever heard each other’s names before, and to give peace and protection to Mexicans who were hostile to both. This was the meeting, and this the parting of the Missouri volunteers, with the numerous and savage tribe of the Navaho Indians living on the waters of the Gulf of California, and so long the terror and scourge of Sonora, Sinaloa, and New Mexico.

This object accomplished, and impatient of inactivity, and without orders (General Kearney having departed for California), you cast about to carve out some new work for yourselves. Chihuahua, a rich and populous city of near thirty thousand souls, the seat of government of the State of that name, and formerly the residence of the captains-general of the Internal Provinces under the vice-regal government of New Spain, was the captivating object which fixed your attention. It was a far distant city—about as far from St. Louis as Moscow is from Paris; and towns and enemies, and a large river, and defiles and mountains, and the desert whose ominous name, portending death to travellers—*el jornada de los muertos*—the journey of the dead—all lay between you. It was a perilous enterprise, and a discouraging one, for a thousand men, badly equipped, to contemplate. No matter. Danger and hardship lent it a charm, and the adventurous march was resolved on, and the execution commenced. First, the ominous desert was passed, its character vindicating its title to its mournful appellation—an arid plain of ninety miles, strewed with the bones of animals perished of hunger and thirst—little hillocks of stone, and the solitary cross, erected by pious hands,

marking the spot where some Christian had fallen, victim of the savage, of the robber, or of the desert itself—no water—no animal life—no sign of habitation. There the Texian prisoners, driven by the cruel Salazar, had met their direst sufferings, unrelieved, as in other parts of their march in the settled parts of the country, by the compassionate ministrations (for where is it that *woman* is not compassionate?) of the pitying women. The desert was passed, and the place for crossing the river approached. A little arm of the river, Bracito (in Spanish), made out from its side. There the enemy, in superior numbers, and confident in cavalry and artillery, undertook to bar the way. Vain pretension! Their discovery, attack, and rout, were about simultaneous operations. A few minutes did the work! And in this way our Missouri volunteers of the Chihuahua column spent their Christmas day of the year 1846.

The victory of the Bracito opened the way to the crossing of the river Del Norte, and to admission into the beautiful little town of the Paso del Norte, where a neat cultivation, a comfortable people, fields, orchards, and vineyards, and a hospitable reception, offered the rest and refreshment which toils and dangers, and victory had won. You rested there till artillery was brought down from Sante Fé; but the pretty town of the Paso del Norte, with all its enjoyments, and they were many, and the greater for the place in which they were found, was not a Capua to the men of Missouri. You moved forward in February, and the battle of the Sacramento, one of the military marvels of the age, cleared the road to Chihuahua; which was entered without further resistance. It had been entered once before by a detachment of American troops; but under circumstances how different! In the year 1807, Lieutenant Pike and his thirty brave men, taken prisoners on the head of the Rio del Norte, had been marched captives into Chihuahua: in the year 1847, Doniphan and his men enter it as conquerors. The paltry triumph of a captain-general over a lieutenant, was effaced in the triumphal entrance of a thousand Missourians into the grand and ancient capital of all the Internal Provinces! and old men, still alive, could remark the grandeur of the American spirit under both events—the proud and lofty bearing of the captive thirty—the mildness and moderation of the conquering thousand.

Chihuahua was taken, and responsible duties, more delicate than those of arms, were to be performed. Many American citizens were there, engaged in trade; much American property was there. All this was to be protected, both life and property, and by peaceful arrangement; for the command was too small to admit of division, and of leaving a garrison. Conciliation, and negotiation were resorted to, and successfully. Every American interest was provided for, and placed under the safeguard, first, of good will, and next, of guarantees not to be violated with impunity.

Chihuahua gained, it became, like Santa Fé, not the terminating point of a long expedition, but the beginning point of a new one. General Taylor was somewhere—no one knew where—but some seven or eight hundred miles towards the other side of Mexico. You had heard that he had been defeated, that Buena Vista had not been a *good prospect* to him. Like good Americans, you did not believe a word of it; but, like good soldiers, you thought it best to go and see. A volunteer party of fourteen, headed by Collins, of Boonville, undertake to penetrate to Saltillo, and to bring you information of his condition. They set out. Amidst innumerable dangers they accomplish their purpose, and return. Taylor is conqueror; but will be glad to see you. You march. A vanguard of one hundred men, led by Lieutenant-colonel Mitchell, led the way. Then came the main body (if the name is not a burlesque on such a handful), commanded by Colonel Doniphan himself.

The whole table land of Mexico, in all its breadth, from west to east, was to be traversed. A numerous and hostile population in towns—treacherous Camanches in the mountains—were to be passed. Every thing was to be self-provided—provisions, transportation, fresh horses

for remounts, and even the means of victory—and all without a military chest, or even an empty box, in which government gold had ever reposed. All was accomplished. Mexican towns were passed, in order and quiet: plundering Camanches were punished: means were obtained from traders to liquidate indispensable contributions: and the wants that could not be supplied, were endured like soldiers of veteran service.

The long march from Chihuahua to Monterey, was made more in the character of protection and deliverance than of conquest and invasion. Armed enemies were not met, and peaceful people were not disturbed. You arrived in the month of May in General Taylor's camp, and about in a condition to vindicate, each of you for himself, your lawful title to the double *sobriquet* of the general, with the addition to it which the colonel commanding the expedition has supplied—ragged—as well as rough and ready. No doubt you all showed title, at that time, to that third *sobriquet*; but to see you now, so gayly attired, so sprucely equipped, one might suppose that you had never, for a day, been strangers to the virtues of soap and water, or the magic ministrations of the *blanchisseuse*, and the elegant transformations of the fashionable tailor. Thanks perhaps to the difference between pay in the lump at the end of the service, and driblets along in the course of it.

You arrived in General Taylor's camp ragged and rough, as we can well conceive, and ready, as I can quickly show. You arrived: you reported for duty: you asked for service—such as a march upon San Luis de Potosi, Zacatecas, or the "halls of the Montezumas;" or any thing in that way that the general should have a mind to. If he was going upon any excursion of that kind, all right. No matter about fatigues that were passed, or expirations of service that might accrue: you came to go, and only asked the privilege. That is what I call ready. Unhappily the conqueror of Palo Alto, Resaca de la Palma, Monterey, and Buena Vista, was not exactly in the condition that the lieutenant-general, that might have been, intended him to be. He was not at the head of twenty thousand men! he was not at the head of any thousands that would enable him to march! and had to decline the proffered service. Thus the long-marched and well-fought volunteers—the rough, the ready, and the ragged—had to turn their faces towards home, still more than two thousand miles distant. But this being mostly by water, you hardly count it in the recital of your march. But this is an unjust omission, and against the precedents as well as unjust. "The ten thousand" counted the voyage on the Black Sea as well as the march from Babylon; and twenty centuries admit the validity of the count. The present age, and posterity, will include in "the going out and coming in" of the Missouri-Chihuahua volunteers, the water voyage as well as the land march; and then the expedition of the one thousand will exceed that of the ten by some two thousand miles.

The last nine hundred miles of your land march, from Chihuahua to Matamoros, you made in forty-five days, bringing seventeen pieces of artillery, eleven of which were taken from the Sacramento and Bracito. Your horses, travelling the whole distance without United States provender, were astonished to find themselves regaled, on their arrival on the Rio Grande frontier, with hay, corn, and oats from the States. You marched further than the farthest, fought as well as the best, left order and quiet in your train; and cost less money than any.

You arrive here to-day, absent one year, marching and fighting all the time, bringing trophies of cannon and standards from fields whose names were unknown to you before you set out, and only grieving that you could not have gone further. Ten pieces of cannon, rolled out of Chihuahua to arrest your march, now roll through the streets of St. Louis, to grace your triumphal return. Many standards, all pierced with bullets while waving over the heads of the enemy at the Sacramento, now wave at the head of your column. The black flag, brought to the Bracito, to indicate the refusal of that quarter which its bearers so soon needed and received, now takes its place among your trophies, and hangs drooping in their nobler

presence. To crown the whole—to make public and private happiness go together—to spare the cypress where the laurel hangs in clusters—this long, perilous march, with all its accidents of field and camp, presents an incredibly small list of comrades lost. Almost all return: and the joy of families resounds, intermingled with the applause of the State.

I have said that you made your long expedition without government orders: and so, indeed, you did. You received no orders from your government, but, without knowing it, you were fulfilling its orders—orders which, though issued for you, never reached you. Happy the soldier who executes the command of his government: happier still he who anticipates command, and does what is wanted before he is bid. This is your case. You did the right thing, at the right time, and what your government intended you to do, and without knowing its intentions. The facts are these: Early in the month of November last, the President asked my opinion on the manner of conducting the war. I submitted a plan to him, which, in addition to other things, required all the disposable troops in New Mexico, and all the American citizens in that quarter who could be engaged for a dashing expedition, to move down through Chihuahua, and the State of Durango, and, if necessary, to Zacatecas, and get into communication with General Taylor's right as early as possible in the month of March. In fact, the disposable forces in New Mexico were to form one of three columns destined for a combined movement on the city of Mexico, all to be on the table-land and ready for a combined movement in the month of March. The President approved the plan, and the Missourians being most distant, orders were despatched to New Mexico to put them in motion. Mr. Solomon Sublette carried the order, and delivered it to the commanding officer at Santa Fé, General Price, on the 22d day of February—just five days before you fought the marvellous action of Sacramento. I well remember what passed between the President and myself at the time he resolved to give this order. It awakened his solicitude for your safety. It was to send a small body of men a great distance, into the heart of a hostile country, and upon the contingency of uniting in a combined movement, the means for which had not yet been obtained from Congress. The President made it a question, and very properly, whether it was safe or prudent to start the small Missouri column, before the movement of the left and the centre was assured: I answered that my own rule in public affairs was to do what I thought was right, and leave it to others to do what they thought was right; and that I believed it the proper course for him to follow on the present occasion. On this view he acted. He gave the order to go, without waiting to see whether Congress would supply the means of executing the combined plan; and for his consolation I undertook to guarantee your safety. Let the worst come to the worst, I promised him that you would take care of yourselves. Though the other parts of the plan should fail—though you should become far involved in the advance, and deeply compromised in the enemy's country, and without support—still I relied on your courage, skill, and enterprise to extricate yourselves from every danger—to make daylight through all the Mexicans that should stand before you—cut your way out—and make good your retreat to Taylor's camp. This is what I promised the President in November last; and what I promised him you have done. Nobly and manfully you have made one of the most remarkable expeditions in history, worthy to be studied by statesmen, and showing what citizen volunteers can do; for the crowning characteristic is that you were all citizens—all volunteers—not a regular bred officer among you: and if there had been, with power to control you, you could never have done what you did.

164. Fremont’s Third Expedition, And Acquisition Of California

In the month of May 1845, Mr. Frémont, then a brevet captain of engineers (appointed a lieutenant-colonel of Rifles before he returned), set out on his third expedition of geographical and scientific exploration in the Great West. Hostilities had not broken out between the United States and Mexico; but Texas had been incorporated; the preservation of peace was precarious, and Mr. Frémont was determined, by no act of his, to increase the difficulties, or to give any just cause of complaint to the Mexican government. His line of observation would lead him to the Pacific Ocean, through a Mexican province—through the desert parts first, and the settled part afterwards of the Alta California. Approaching the settled parts of the province at the commencement of winter, he left his equipment of 60 men and 200 horses on the frontier, and proceeded alone to Monterey, to make known to the governor the object of his coming, and his desire to pass the winter (for the refreshment of his men and horses) in the uninhabited parts of the valley of the San Joaquin. The permission was granted; but soon revoked, under the pretext that Mr. Frémont had come into California, not to pursue science, but to excite the American settlers to revolt against the Mexican government. Upon this pretext troops were raised, and marched to attack him. Having notice of their approach, he took a position on the mountain, hoisted the flag of the United States, and determined, with his sixty brave men, to defend himself to the last extremity—never surrendering; and dying, if need be, to the last man. A messenger came into his camp, bringing a letter from the American consul at Monterey, to apprise him of his danger: that messenger, returning, reported that 2,000 men could not force the American position: and that information had its effect upon the Mexican commander. Waiting four days in his mountain camp, and not being attacked, he quit his position, descended from the mountain, and set out for Oregon, that he might give no further pretext for complaint, by remaining in California.

Turning his back on the Mexican possessions, and looking to Oregon as the field of his future labors, Mr. Frémont determined to explore a new route to the Wah-lah-math settlements and the tide-water region of the Columbia, through the wild and elevated region of the Tla-math lakes. A romantic interest attached to this region from the grandeur of its features, its lofty mountains, and snow-clad peaks, and from the formidable character of its warlike inhabitants. In the first week of May, he was at the north end of the Great Tla-math lake, and in Oregon—the lake being cut near its south end by the parallel of 42 degrees north latitude. On the 8th day of that month, a strange sight presented itself—almost a startling apparition—two men riding up, and penetrating a region which few ever approached without paying toll of life or blood. They proved to be two of Mr. Frémont’s old *voyageurs*, and quickly told their story. They were part of a guard of six men conducting a United States officer, who was on his trail with despatches from Washington, and whom they had left two days back, while they came on to give notice of his approach, and to ask that assistance might be sent him. They themselves had only escaped the Indians by the swiftness of their horses. It was a case in which no time was to be lost, or a mistake made. Mr. Frémont determined to go himself; and taking ten picked men, four of them Delaware Indians, he took down the western shore of the lake on the morning of the 9th (the direction the officer was to come), and made a ride of sixty miles without a halt. But to meet men, and not to miss them, was the difficult point in this trackless region. It was not the case of a high road, where all travellers must meet in passing each other: at intervals there were places—defiles, or camping grounds—where both parties must pass; and watching for these, he came to one in the afternoon, and decided that,

if the party was not killed, it must be there that night. He halted and encamped; and, as the sun was going down, had the inexpressible satisfaction to see the four men approaching. The officer proved to be a lieutenant of the United States marines, who had been despatched from Washington the November previous, to make his way by Vera Cruz, the City of Mexico, and Mazatlan to Monterey, in Upper California, deliver despatches to the United States' consul there; and then find Mr. Frémont, wherever he should be. His despatches for Mr. Frémont were only a letter of introduction from the Secretary of State (Mr. Buchanan), and some letters and slips of newspapers from Senator Benton and his family, and some verbal communications from the Secretary of State. The verbal communications were that Mr. Frémont should watch and counteract any foreign scheme on California, and conciliate the good will of the inhabitants towards the United States. Upon this intimation of the government's wishes, Mr. Frémont turned back from Oregon, in the edge of which he then was, and returned to California. The letter of introduction was in the common form, that it might tell nothing if it fell into the hands of foes, and signified nothing of itself; but it accredited the bearer, and gave the stamp of authority to what he communicated; and upon this Mr. Frémont acted: for it was not to be supposed that Lieutenant Gillespie had been sent so far, and through so many dangers, merely to deliver a common letter of introduction on the shores of the Tlamath lake.

The events of some days on the shores of this wild lake, sketched with the brevity which the occasion requires, may give a glimpse of the hardships and dangers through which Mr. Frémont pursued science, and encountered and conquered perils and toils. The night he met Mr. Gillespie presented one of those scenes to which he was so often exposed, and which nothing but the highest degree of vigilance and courage could prevent from being fatal. The camping ground was on the western side of the lake, the horses picketed with long halters on the shore, to feed on the grass; and the men (fourteen in number) sleeping by threes at different fires, disposed in a square; for danger required them so to sleep as to be ready for an attack; and, though in the month of May, the elevation of the place, and the proximity of snow-clad mountains, made the night intensely cold. His feelings joyfully excited by hearing from home (the first word of intelligence he had received since leaving the U. S. a year before), Mr. Frémont sat up by a large fire, reading his letters and papers, and watching himself over the safety of the camp, while the men slept. Towards midnight, he heard a movement among the horses, indicative of alarm and danger. Horses, and especially mules, become sensitive to danger under long travelling and camping in the wilderness, and manifest their alarm at the approach of any thing strange. Taking a six-barrelled pistol in his hand, first making sure of their ready fire, and, without waking the camp, he went down among the disturbed animals. The moon shone brightly: he could see well, but could discover nothing. Encouraged by his presence, the horses became quiet—poor dumb creatures that could see the danger, but not tell what they had seen; and he returned to the camp, supposing it was only some beast of the forest—a bear or wolf—prowling for food, that had disturbed them. He returned to the camp fire. Lieutenant Gillespie woke up, and talked with him awhile, and then lay down again. Finally nature had her course with Mr. Frémont himself. Excited spirits gave way to exhausted strength. The day's ride, and the night's excitement demanded the reparation of repose. He lay down to sleep, and without waking up a man to watch—relying on the loneliness of the place, and the long ride of the day, as a security against the proximity of danger. It was the second time in his twenty thousand miles of wilderness explorations that his camp had slept without a guard: the first was in his second expedition, and on an island in the Great Salt Lake, and when the surrounding water of the lake itself constituted a guard. The whole camp was then asleep. A cry from Carson roused it. In his sleep he heard a groan: it was the groan of a man receiving the tomahawk in his brains. All sprung to their feet. The savages were in the camp: the hatchet and the winged arrow were at work. Basil Lajeunesse,

a brave and faithful young Frenchman, the follower of Frémont in all his expeditions, was dead: an Iowa was dead: a brave Delaware Indian, one of those who had accompanied Frémont from Missouri, was dying: it was his groan that awoke Carson. Another of the Delawares was a target for arrows, from which no rifle could save him—only avenge him. The savages had waited till the moon was in the trees, casting long shadows over the sleeping camp: then approaching from the dark side, with their objects between themselves and the fading light, they used only the hatchet and the formidable bow, whose arrow went to its mark without a flash or a sound to show whence it came. All advantages were on the side of the savages: but the camp was saved! the wounded protected from massacre, and the dead from mutilation. The men, springing to their feet, with their arms in their hands, fought with skill and courage. In the morning, Lieutenant Gillespie recognized, in the person of one of the slain assailants, the Tlamath chief who the morning before had given him a salmon, in token of friendship, and who had followed him all day to kill and rob his party at night—a design in which he would certainly have been successful had it not been for the promptitude and precision of Mr. Frémont's movement. Mr. Frémont himself would have been killed, when he went to the horses, had it not been that the savages counted upon the destruction of the whole camp, and feared to alarm it by killing one, before the general massacre.

It was on the 9th of May—a day immortalized by American arms at Resaca de la Palma—that this fierce and bloody work was done in the far distant region of the Tlamath lakes.

The morning of the 10th of May was one of gloom in the camp. The evening sun of the 9th had set upon it full of life and joy at a happy meeting: the same sun rose upon it the next morning, stained with blood, ghastly with the dead and wounded, and imposing mournful duties on the survivors. The wounded were to be carried—the dead to be buried; and so buried as to be hid and secured from discovery and violation. They were carried ten miles, and every precaution taken to secure the remains from the wolf and the savage: for men, in these remote and solitary dangers, become brothers, and defend each other living and dead. The return route lay along the shore of the lake, and during the day the distant canoes of the savages could be seen upon it, evidently watching the progress of the party, and meditating a night attack upon it. All precautions, at the night encampment, were taken for security—horses and men enclosed in a breastwork of great trees, cut down for the purpose, and half the men constantly on the watch. At leaving in the morning, an ambuscade was planted—and two of the Tlamaths were killed by the men in ambush—a successful return of their own mode of warfare. At night the main camp, at the north end of the lake, was reached. It was strongly intrenched, and could not be attacked; but the whole neighborhood was infested, and scouts and patrols were necessary to protect every movement. In one of these excursions the Californian horse, so noted for spirit and docility, showed what he would do at the bid of his master. Carson's rifle had missed fire, at ten feet distance. The Tlamath long bow, arrow on the string, was bending to the pull. All the rifles in the party could not have saved him. A horse and his rider did it. Mr. Frémont touched his horse; he sprang upon the savage! and the hatchet of a Delaware completed the deliverance of Carson. It was a noble horse, an iron gray, with a most formidable name—el Toro del Sacramento: and which vindicated his title to the name in all the trials of travel, courage, and performance to which he was subjected. It was in the midst of such dangers as these, that science was pursued by Mr. Frémont; that the telescope was carried to read the heavens; the barometer to measure the elevations of the earth; the thermometer to gauge the temperature of the air; the pencil to sketch the grandeur of mountains, and to paint the beauty of flowers; the pen to write down whatever was new, or strange, or useful in the works of nature. It was in the midst of such dangers, and such occupations as these, and in the wildest regions of the Farthest West, that Mr. Frémont was pursuing science and shunning war, when the arrival of Lieutenant Gillespie, and his

communications from Washington, suddenly changed all his plans, turned him back from Oregon, and opened a new and splendid field of operations in California itself. He arrived in the valley of the Sacramento in the month of May, 1846, and found the country alarmingly, and critically situated. Three great operations, fatal to American interests, were then going on, and without remedy, if not arrested at once. These were: 1. The massacre of the Americans, and the destruction of their settlements, in the valley of the Sacramento. 2. The subjection of California to British protection. 3. The transfer of the public domain to British subjects. And all this with a view to anticipate the events of a Mexican war, and to shelter California from the arms of the United States.

The American settlers sent a deputation to the camp of Mr. Frémont, in the valley of the Sacramento, laid all these dangers before him, and implored him to place himself at their head and save them from destruction. General Castro was then in march upon them: the Indians were incited to attack their families, and burn their wheat fields, and were only waiting for the dry season to apply the torch. Juntas were in session to transfer the country to Great Britain: the public domain was passing away in large grants to British subjects: a British fleet was expected on the coast: the British vice consul, Forbes, and the emissary priest, Macnamara, ruling and conducting every thing: and all their plans so far advanced as to render the least delay fatal. It was then the beginning of June. War had broken out between the United States and Mexico, but that was unknown in California. Mr. Frémont had left the two countries at peace when he set out upon his expedition, and was determined to do nothing to disturb their relations: he had even left California to avoid giving offence; and to return and take up arms in so short a time was apparently to discredit his own previous conduct as well as to implicate his government. He felt all the responsibilities of his position; but the actual approach of Castro, and the immediate danger of the settlers, left him no alternative. He determined to put himself at the head of the people, and to save the country. To repulse Castro was not sufficient: to overturn the Mexican government in California, and to establish Californian Independence, was the bold resolve, and the only measure adequate to the emergency. That resolve was taken, and executed with a celerity that gave it a romantic success. The American settlers rushed to his camp—brought their arms, horses and ammunition—were formed into a battalion; and obeyed with zeal and alacrity the orders they received. In thirty days all the northern part of California was freed from Mexican authority—Independence proclaimed—the flag of Independence raised—Castro flying to the south—the American settlers saved from destruction; and the British party in California counteracted and broken up in all their schemes.

This movement for Independence was the salvation of California, and snatched it out of the hands of the British at the moment they were ready to clutch it. For two hundred years—from the time of the navigator Drake, who almost claimed it as a discovery, and placed the English name of New Albion upon it—the eye of England has been upon California; and the magnificent bay of San Francisco, the great seaport of the North Pacific Ocean, has been surveyed as her own. The approaching war between Mexico and the United States was the crisis in which she expected to realize the long-deferred wish for its acquisition; and carefully she took her measures accordingly. She sent two squadrons to the Pacific as soon as Texas was incorporated—well seeing the actual war which was to grow out of that event—a small one into the mouth of the Columbia, an imposing one to Mazatlan, on the Mexican coast, to watch the United States squadron there, and to anticipate its movements upon California. Commodore Sloat commanding the squadron at Mazatlan, saw that he was watched, and pursued, by Admiral Seymour, who lay alongside of him, and he determined to deceive him. He stood out to sea, and was followed by the British Admiral. During the day he bore west, across the ocean, as if going to the Sandwich Islands: Admiral Seymour followed. In the

night the American commodore tacked, and ran up the coast towards California: the British admiral, not seeing the tack, continued on his course, and went entirely to the Sandwich Islands before he was undeceived. Commodore Sloat arrived before Monterey on the second of July, entering the port amicably, and offering to salute the town, which the authorities declined on the pretext that they had no powder to return it—in reality because they momentarily expected the British fleet. Commodore Sloat remained five days before the town, and until he heard of Frémont's operations: then believing that Frémont had orders from his government to take California, he having none himself, he determined to act himself. He received the news of Frémont's successes on the 6th day of July: on the 7th he took the town of Monterey, and sent a despatch to Frémont. This latter came to him in all speed, at the head of his mounted force. Going immediately on board the commodore's vessel, an explanation took place. The commodore learnt with astonishment that Frémont had no orders from his government to commence hostilities—that he had acted entirely on his own responsibility. This left the commodore without authority for having taken Monterey; for still at this time, the commencement of the war with Mexico was unknown. Uneasiness came upon the commodore. He remembered the fate of Captain Jones in making the mistake of seizing the town once before in time of peace. He resolved to return to the United States, which he did—turning over the command of the squadron to Commodore Stockton, who had arrived on the 15th. The next day (16th) Admiral Seymour arrived; his flagship the Collingwood, of 80 guns, and his squadron the largest British fleet ever seen in the Pacific. To his astonishment he beheld the American flag flying over Monterey, the American squadron in its harbor, and Frémont's mounted riflemen encamped over the town. His mission was at an end. The prize had escaped him. He attempted nothing further, and Frémont and Stockton rapidly pressed the conquest of California to its conclusion. The subsequent military events can be traced by any history: they were the natural sequence of the great measure conceived and executed by Frémont before any squadron had arrived upon the coast, before he knew of any war with Mexico, and without any authority from his government, except the equivocal and enigmatical visit of Mr. Gillespie. Before the junction of Mr. Frémont with Commodore Sloat and Stockton, his operations had been carried on under the flag of Independence—the Bear Flag, as it was called—the device of the bear being adopted on account of the courageous qualities of that animal (the white bear), which never gives the road to men,—which attacks any number,—and fights to the last with increasing ferocity, with amazing strength of muscle, and with an incredible tenacity of the vital principle—never more formidable and dangerous than when mortally wounded. The Independents took the device of this bear for their flag, and established the independence of California under it: and in joining the United States forces, hauled down this flag, and hoisted the flag of the United States. And the fate of California would have been the same whether the United States squadrons had arrived, or not; and whether the Mexican war had happened, or not. California was in a revolutionary state, already divided from Mexico politically as it had always been geographically. The last governor-general from Mexico, Don Michel Toreno, had been resisted—fought—captured—and shipped back to Mexico, with his 300 cut-throat soldiers. An insurgent government was in operation, determined to be free of Mexico, sensible of inability to stand alone, and looking, part to the United States, part to Great Britain, for the support which they needed. All the American settlers were for the United States protection, and joined Frémont. The leading Californians were also joining him. His conciliatory course drew them rapidly to him. The Picos, who were the leading men of the revolt (Don Pico, Don Andres, and Don Jesus), became his friends. California, become independent of Mexico by the revolt of the Picos, and independent of them by the revolt of the American settlers, had its destiny to fulfil—which was, to be handed over to the United

States. So that its incorporation with the American Republic was equally sure in any, and every event.

165. Pause In The War: Sedentary Tactics: "Masterly Inactivity."

Arriving at Washington before the commencement of the session of '46-'47, Mr. Benton was requested by the President to look over the draught of his proposed message to Congress (then in manuscript), and to make the remarks upon it which he might think it required; and in writing. Mr. Benton did so, and found a part to which he objected, and thought ought to be omitted. It was a recommendation to Congress to cease the active prosecution of the war, to occupy the conquered part of the country (General Taylor had then taken Monterey) with troops in forts and stations, and to pass an act establishing a temporary government in the occupied part; and to retain the possession until the peace was made. This recommendation, and the argument in support of it, spread over four pages of the message—from 101 to 105. Mr. Benton objected to the whole plan, and answered to it in an equal, or greater number of pages, and to the entire conviction and satisfaction of the President. 1. The sedentary occupation was objected to as being entirely contrary to the temper of the American people, which was active, and required continual "going ahead" until their work was finished. 2. It was a mode of warfare suited to the Spanish temper, which loved procrastination, and could beat the world at it, and had sat-out the Moors seven hundred years in the South of Spain and the Visigoths three hundred years in the north of it; and would certainly out-sit us in Mexico. 3. That he could govern the conquered country under the laws of nations, without applying to Congress, to be worried upon the details of the act, and rousing the question of annexation by conquest, and that beyond the Rio Grande; for the proposed line was to cover Monterey, and to run east and west entirely across the country. These objections, pursued through their illustrations, were entirely convincing to the President, and he frankly gave up the sedentary project.

But it was a project which had been passed upon in the cabinet, and not only adopted but began to be executed. The Secretary at War, Mr. Marcy, had officially refused to accept proffered volunteers from the governors of several States, saying to them—"*A sufficient amount of force for the prosecution of the war had already been called into service*:" and a premium of two dollars a head had been offered to all persons who could bring in a recruit to the regular army—the regulars being the reliance for the sedentary occupation. The cabinet adhered to their policy. The President convoked them again, and had Mr. Benton present to enforce his objections; but without much effect. The abandonment of the sedentary policy required the adoption of an active one, and for that purpose the immediate calling out of ten regiments of volunteers had been recommended by Mr. Benton; and this call would result at once from the abandonment of the sedentary scheme. Here the pride of consistency came in to play its part. The Secretary at War said he had just refused to accept any more volunteers, and informed the governors of two States that the government had troops enough to prosecute the war; and urged that it would be contradictory now to call out ten regiments. The majority of the cabinet sided with him; but the President retained Mr. Benton to a private interview—talked the subject all over—and finally came to the resolution to act for himself, regardless of the opposition of the major part of his cabinet. It was then in the night, and the President said he would send the order to the Secretary at War in the morning to call out the ten regiments—which he did: but the Secretary, higgling to the last, got one regiment abated: so that nine instead of ten were called out: but these nine were enough. They enabled Scott to go to Mexico, and Taylor to conquer at Buena Vista, and to finish the war victoriously.

A comic mistake grew out of this change in the President's message, which caused the ridicule of the sedentary line to be fastened on Mr. Calhoun—who in fact had counselled it. When the message was read in the Senate, Mr. Westcott, of Florida, believing it remained as it had been drawn up, and induced by Mr. Calhoun, with whose views he was acquainted, made some motion upon it, significant of approbatory action. Mr. Benton asked for the reading of the part of the message referred to. Mr. Westcott searched, but could not find it: Mr. Calhoun did the same. Neither could find the passage. Inquiring and despairing looks were exchanged: and the search for the present was adjourned. Of course it was never found. Afterwards Mr. Westcott said to Mr. Benton that the President had deceived Mr. Calhoun—had told him that the sedentary line was recommended in the message, when it was not. Mr. Benton told him there was no deception—that the recommendation was in the message when he said so, but had been taken out (and he explained how) and replaced by an urgent recommendation for a vigorous prosecution of the war. But the secret was kept for the time. The administration stood before the country vehement for war, and loaded with applause for their spirit. Mr. Calhoun remained mystified, and adhered to the line, and incurred the censure of opposing the administration which he professed to support. He brought forward his plan in all its detail—the line marked out—the number of forts and stations necessary—and the number of troops necessary to garrison them: and spoke often, and earnestly in its support: but to no purpose. His plan was entirely rejected, nor did I ever hear of any one of the cabinet offering to share with him in the ridicule which he brought upon himself for advocating a plan so preposterous in itself, and so utterly unsuited to the temper of our people. It was in this debate, and in support of this sedentary occupation that Mr. Calhoun characterized that proposed inaction as "*a masterly inactivity*:" a fine expression of the Earl of Chatham—and which Mr. Calhoun had previously used in the Oregon debate in recommending us to do nothing there, and leave it to time to perfect our title. Seven years afterwards the establishment of a boundary between the United States and Mexico was attempted by treaty in the latitude of this proposed line of occupation—a circumstance,—one of the circumstances,—which proves that Mr. Calhoun's plans and spirit survive him.

In all that passed between the President and Mr. Benton about this line, there was no suspicion on the part of either of any design to make it permanent; nor did any thing to that effect appear in Mr. Calhoun's speeches in favor of it; but the design was developed at the time of the ratification of the treaty of peace, and has since been attempted by treaty; and is a design which evidently connects itself with, what is called, *preserving the equilibrium of the States* (free and slave) by adding on territory for slave States—and to increase the Southern margin for the "United States South," in the event of a separation of the two classes of States.

166. The Wilmot Proviso; Or, Prohibition Of Slavery In The Territories: Its Inutility And Mischief

Scarcely was the war with Mexico commenced when means, different from those of arms, were put in operation to finish it. One of these was the return of the exiled Santa Anna (as has been shown) to his country, and his restoration to power, under the belief that he was favorable to peace, and for which purpose arrangements began to be made from the day of the declaration of the war—or before. In the same session another move was made in the same direction, that of getting peace by peaceable means, in an application made to Congress by the President, to place three millions of dollars at his disposal, to be used in negotiating for a boundary which should give us additional territory: and that recommendation not having been acted upon at the war session, was renewed at the commencement of the next one. It was recommended as an "important measure for securing a speedy peace;" and as an argument in favor of granting it, a sum of two millions similarly placed at the disposition of Mr. Jefferson when about to negotiate for Florida (which ended in the acquisition of Louisiana), was plead as a precedent; and justly. Congress, at this second application, granted the appropriation; but while it was depending, Mr. Wilmot, a member of Congress, from Pennsylvania, moved a proviso, *that no part of the territory to be acquired should be open to the introduction of slavery*. It was a proposition not necessary for the purpose of excluding slavery, as the only territory to be acquired was that of New Mexico and California, where slavery was already prohibited by the Mexican laws and constitution; and where it could not be carried until those laws should be repealed, and a law for slavery passed. The proviso was nugatory, and could answer no purpose but that of bringing on a slavery agitation in the United States; for which purpose it was immediately seized upon by Mr. Calhoun and his friends, and treated as the greatest possible outrage and injury to the slave States. Congress was occupied with this proviso for two sessions, became excessively heated on the subject, and communicated its heat to the legislatures of the slave States—by several of which conditional disunion resolutions were passed. Every where, in the slave States, the Wilmot Proviso became a Gorgon's head—a chimera dire—a watchword of party, and the synonyme of civil war and the dissolution of the Union. Many patriotic members were employed in resisting the proviso as a *bona fide* cause of breaking up the Union, if adopted; many amiable and gentle-tempered members were employed in devising modes of adjusting and compromising it; a few, of whom Mr. Benton was one, produced the laws and the constitution of Mexico to show that New Mexico and California were free from slavery; and argued that neither party had any thing to fear, or to hope—the free soil party nothing to fear, because the soil was now free; the slave soil party nothing to hope, because they could not take a step to make it slave soil, having just invented the dogma of "No power in Congress to legislate upon slavery in territories." Never were two parties so completely at loggerheads about nothing: never did two parties contend more furiously against the greatest possible evil. Close observers, who had been watching the progress of the slavery agitation since its inauguration in Congress in 1835, knew it to be a game played by the abolitionists on one side and the disunionists on the other, to accomplish their own purposes. Many courageous men denounced it as such—as a game to be kept up for the political benefit of the players; and deplored the blindness which could not see their determination to keep it agoing to the last possible moment, and to the production of the greatest possible degree of national and sectional exasperation. It was while this contention was thus raging, that Mr. Calhoun wrote a

confidential letter to a member of the Alabama legislature, hugging this proviso to his bosom as a fortunate event—as a means of "*forcing the issue*" between the North and the South; and deprecating any adjustment, compromise, or defeat of it, as a misfortune to the South: and which letter has since come to light. Gentle and credulous people, who believed him to be in earnest when he was sounding the *tocsin* to rouse the States, instigating them to pass disunion resolutions, and stirring up both national and village orators to attack the proviso unto death: such persons must be amazed to read in that exhumed letter, written during the fiercest of the strife, these ominous words:

"*With this impression I would regard any compromise or adjustment of the proviso, or even its defeat, without meeting the danger in its whole length and breadth, as very unfortunate for us. It would lull us to sleep again, without removing the danger, or materially diminishing it.*"

This issue to be forced was a separation of the slave and the free States; the means, a commercial non-intercourse, in shutting the slave State seaports against the vessels of the free States; the danger to be met, was in the trial of this issue, by the means indicated; which were simply high treason when pursued to the overt act. Mr. Calhoun had flinched from that act in the time of Jackson, but he being dead, and no more Jacksons at the head of the government, he rejoiced in another chance of meeting the danger—meeting it in all its length and breadth; and deprecated the loss of the proviso as the loss of this chance.

Truly the abolitionists and the nullifiers were necessary to each other—the two halves of a pair of shears, neither of which could cut until joined together. Then the map of the Union was in danger; for in their conjunction, that map was cloth between the edges of the shears. And this was that Wilmot Proviso, which for two years convulsed the Union, and prostrated men of firmness and patriotism—a thing of nothing in itself, but magnified into a hideous reality, and seized upon to conflagrate the States and dissolve the Union. The Wilmot Proviso was not passed: that chance of forcing the issue was lost: another had to be found, or made.

167. Mr. Calhoun's Slavery Resolutions, And Denial Of The Right Of Congress To Prohibit Slavery In A Territory

On Friday, the 19th of February, Mr. Calhoun introduced into the Senate his new slavery resolutions, prefaced by an elaborate speech, and requiring an immediate vote upon them. They were in these words:

"*Resolved*, That the territories of the United States belong to the several States composing this Union, and are held by them as their joint and common property.

"*Resolved*, That Congress, as the joint agent and representative of the States of this Union, has no right to make any law, or do any act whatever, that shall directly, or by its effects, make any discrimination between the States of this Union, by which any of them shall be deprived of its full and equal right in any territory of the United States acquired or to be acquired.

"*Resolved*, That the enactment of any law which should directly, or by its effects, deprive the citizens of any of the States of this Union from emigrating, with their property, into any of the territories of the United States, will make such discrimination, and would, therefore, be a violation of the constitution, and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality which belongs to them as members of this Union, and would tend directly to subvert the Union itself.

"*Resolved*, That it is a fundamental principle in our political creed, that a people, in forming a constitution, have the unconditional right to form and adopt the government which they may think best calculated to secure their liberty, prosperity, and happiness; and that, in conformity thereto, no other condition is imposed by the federal constitution on a State, in order to be admitted into this Union, except that its constitution shall be republican; and that the imposition of any other by Congress would not only be in violation of the constitution, but in direct conflict with the principle on which our political system rests."

These resolutions, although the sense is involved in circumlocutory phrases, are intelligible to the point, that Congress has no power to prohibit slavery in a territory, and that the exercise of such a power would be a breach of the constitution, and leading to the subversion of the Union. Ostensibly the complaint was, that the emigrant from the slave State was not allowed to carry his slave with him: in reality it was that he was not allowed to carry the State law along with him to protect his slave. Placed in that light, which is the true one, the complaint is absurd: presented as applying to a piece of property instead of the law of the State, it becomes specious—has deluded whole communities; and has led to rage and resentment, and hatred of the Union. In support of these resolutions the mover made a speech in which he showed a readiness to carry out in action, to their extreme results, the doctrines they contained, and to appeal to the slave-holding States for their action, in the event that the Senate should not sustain them. This was the concluding part of his speech:

"Well, sir, what if the decision of this body shall deny to us this high constitutional right, not the less clear because deduced from the whole body of the instrument and the nature of the subject to which it relates? What, then, is the question? I will not undertake to decide. It is a question for our constituents—the slave-holding States. A solemn and a great question. If the decision should be adverse, I trust and do believe that they will take under solemn

consideration what they ought to do. I give no advice. It would be hazardous and dangerous for me to do so. But I may speak as an individual member of that section of the Union. There I drew my first breath. There are all my hopes. There is my family and connections. I am a planter—a cotton planter. I am a Southern man, and a slave-holder; a kind and a merciful one, I trust—and none the worse for being a slave-holder. I say, for one, I would rather meet any extremity upon earth than give up one inch of our equality—one inch of what belongs to us as members of this great republic. What, acknowledge inferiority! The surrender of life is nothing to sinking down into acknowledged inferiority.

"I have examined this subject largely—widely. I think I see the future if we do not stand up as we ought. In my humble opinion, in that case, the condition of Ireland is prosperous and happy—the condition of Hindostan is prosperous and happy—the condition of Jamaica is prosperous and happy, to what the Southern States will be if they should not now stand up manfully in defence of their rights".

When these resolutions were read, Mr. Benton rose in his place, and called them "firebrand." Mr. Calhoun said he had expected the support of Mr. Benton "as the representative of a slave-holding State." Mr. Benton answered that it was impossible that he could have expected such a thing. Then, said Mr. Calhoun, I shall know where to find the gentleman. To which Mr. Benton: "I shall be found in the right place—on the side of my country and the Union." This answer, given on that day, and on the spot, is one of the incidents of his life which Mr. Benton will wish posterity to remember.

Mr. Calhoun demanded the prompt consideration of his resolutions, giving notice that he would call them up the next day, and press them to a speedy and final vote. He did call them up, but never called for the vote, nor was any ever had: nor would a vote have any practical consequence, one way or the other. The resolutions were abstractions, without application. They asserted a constitutional principle, which could not be decided, one way or the other, by the separate action of the Senate; not even in a bill, much less in a single and barren set of resolves. No vote was had upon them. The condition had not happened on which they were to be taken up by the slave States; but they were sent out to all such States, and adopted by some of them; and there commenced the great slavery agitation, founded upon the dogma of "*no power in Congress to legislate upon slavery in the territories*," which has led to the abrogation of the Missouri compromise line—which has filled the Union with distraction—and which is threatening to bring all federal legislation, and all federal elections, to a mere sectional struggle, in which, one-half of the States is to be arrayed against the other. The resolves were evidently introduced for the mere purpose of carrying a question to the slave States on which they could be formed into a unit against the free States; and they answered that purpose as well on rejection by the Senate as with it; and were accordingly used in conformity to their design without any such rejection, which—it cannot be repeated too often—could in no way have decided the constitutional question which they presented.

These were new resolutions—the first of their kind in the (almost) sixty years' existence of the federal government—contrary to its practice during that time—contrary to Mr. Calhoun's slavery resolutions of 1838—contrary to his early and long support of the Missouri compromise—and contrary to the re-enactment of that line by the authors of the Texas annexation law. That re-enactment had taken place only two years before, and was in the very words of the anti-slavery ordinance of '87, and of the Missouri compromise prohibition of 1820; and was voted for by the whole body of the annexationists, and was not only conceived and supported by Mr. Calhoun, then Secretary of State, but carried into effect by him in the despatch of that messenger to Texas in the expiring moments of his power. The words of the re-enactment were: "*And in such State, or States as shall be formed out of said territory north*

of the said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited." This clause re-established that compromise line in all that long extent of it which was ceded to Spain by the treaty of 1819, which became Texian by her separation from Mexico, and which became slave soil under her laws and constitution. So that, up to the third day of March, in the year 1845—not quite two years before the date of these resolutions—Mr. Calhoun by authentic acts, and the two Houses of Congress by recorded votes, and President Tyler by his approving signature, acknowledged the power of Congress to prohibit slavery in a territory! and not only acknowledged the power, but exerted it! and actually prohibited slavery in a long slip of country, enough to make a "State or States," where it then legally existed. This fact was formally brought out in the chapter of this volume which treats of the legislative annexation of Texas; and those who wish to see the proceeding in detail may find it in the journals of the two Houses of Congress, and in the congressional history of the time.

These resolutions of 1847, called fire-brand at the time, were further characterized as nullification a few days afterwards, when Mr. Benton said of them, that, "*as Sylla saw in the young Cæsar many Mariuses, so did he see in them many nullifications*."

168. The Slavery Agitation: Disunion: Key To Mr. Calhoun's Policy: Forcing The Issue: Mode Of Forcing It

In the course of this year, and some months after the submission of his resolutions in the Senate denying the right of Congress to abolish slavery in a territory, Mr. Calhoun wrote a letter to a member of the Alabama Legislature, which furnishes the key to unlock his whole system of policy in relation to the slavery agitation, and its designs, from his first taking up the business in Congress in the year 1835, down to the date of the letter; and thereafter. The letter was in reply to one asking his opinion "*as to the steps which should be taken*" to guard the rights of the South; and was written in a feeling of personal confidence to a person in a condition to take steps; and which he has since published to counteract the belief that Mr. Calhoun was seeking the dissolution of the Union. The letter disavows such a design, and at the same time proves it—recommends forcing the issue between the North and the South, and lays down the manner in which it should be done. It opens with this paragraph:

"I am much gratified with the tone and views of your letter, and concur entirely in the opinion you express, that instead of shunning, we ought to court the issue with the North on the slavery question. I would even go one step further, and add that it is our duty—due to ourselves, to the Union, and our political institutions, to *force* the issue on the North. We are now stronger relatively than we shall be hereafter, politically and morally. Unless we bring on the issue, delay to us will be dangerous indeed. It is the true policy of those enemies who seek our destruction. Its effects are, and have been, and will be to weaken us politically and morally, and to strengthen them. Such has been my opinion from the first. Had the South, or even my own State backed me, I would have *forced* the issue on the North in 1835, when the spirit of abolitionism first developed itself to any considerable extent. It is a true maxim, to meet danger on the frontier, in politics as well as war. Thus thinking, I am of the impression, that if the South act as it ought, the Wilmot Proviso, instead of proving to be the means of successfully assailing us and our peculiar institution, may be made the occasion of successfully asserting our equality and rights, by enabling us to *force* the issue on the North. Something of the kind was indispensable to rouse and unite the South. On the contrary, if we should not meet it as we ought, I fear, greatly fear, our doom will be fixed. It would prove that we either have not the sense or spirit to defend ourselves and our institutions."

The phrase "forcing the issue" is here used too often, and for a purpose too obvious, to need remark. The reference to his movement in 1835 confirms all that was said of that movement at the time by senators from both sections of the Union, and which has been related in chapter 131 of the first volume of this View. At that time Mr. Calhoun characterized his movement as defensive—as done in a spirit of self-defence: it was then characterized by senators as aggressive and offensive: and it is now declared in this letter to have been so. He was then openly told that he was playing into the hands of the abolitionists, and giving them a champion to contend with, and the elevated theatre of the American Senate for the dissemination of their doctrines, and the production of agitation and sectional division. All that is now admitted, with a lamentation that the South, and not even his own State, would stand by him then in forcing the issue. So that chance was lost. Another was now presented. The Wilmot Proviso, so much deprecated in public, is privately saluted as a fortunate event, giving another chance for forcing the issue. The letter proceeds:

“But in making up the issue, we must look far beyond the proviso. It is but one of many acts of aggression, and, in my opinion, by no means the most dangerous or degrading, though more striking and palpable.”

In looking beyond the proviso (the nature of which has been explained in a preceding chapter) Mr. Calhoun took up the recent act of the General Assembly of Pennsylvania, repealing the slave sojournment law within her limits, and obstructing the recovery of fugitive slaves—saying:

“I regard the recent act of Pennsylvania, and laws of that description, passed by other States, intended to prevent or embarrass the reclamation of fugitive slaves, or to liberate our domestics when travelling with them in non-slaveholding States, as unconstitutional. Insulting as it is, it is even more dangerous. I go further, and hold that if we have a right to hold our slaves, we have a right to hold them in peace and quiet, and that the toleration, in the non-slaveholding States, of the establishment of societies and presses, and the delivery of lectures, with the express intention of calling in question our right to our slaves, and of seducing and abducting them from the service of their masters, and finally overthrowing the institution itself, as not only a violation of international laws, but also of the Federal compact. I hold, also, that we cannot acquiesce in such wrongs, without the certain destruction of the relation of master and slave, and without the ruin of the South.”

The acts of Pennsylvania here referred to are justly complained of, but with the omission to tell that these injurious acts were the fruit of his own agitation policy, and in his own line of forcing issues; and that the repeal of the sojournment law, which had subsisted since the year 1780, and the obstruction of the fugitive slave act, which had been enforced since 1793, only took place twelve years after he had commenced slavery agitation in the South, and were legitimate consequences of that agitation, and of the design to force the issue with the North. The next sentence of the letter reverts to the Wilmot Proviso, and is of momentous consequence as showing that Mr. Calhoun, with all his public professions in favor of compromise and conciliation, was secretly opposed to any compromise or adjustment, and actually considered the defeat of the proviso as a misfortune to the South. Thus:

“With this impression, I would regard any compromise or adjustment of the proviso, or even its defeat, without meeting the danger in its whole length and breadth, as very unfortunate for us. It would lull us to sleep again, without removing the danger, or materially diminishing it.”

So that, while this proviso was, publicly, the Pandora’s box which filled the Union with evil, and while it was to Mr. Calhoun and his friends the theme of endless deprecation, it was secretly cherished as a means of keeping up discord, and forcing the issue between the North and the South. Mr. Calhoun then proceeds to the serious question of disunion, and of the manner in which the issue could be forced.

“This brings up the question, how can it be so met, *without resorting to the dissolution of the Union*? I say without its dissolution, for, in my opinion, a high and sacred regard for the constitution, as well as the dictates of wisdom, make it our duty in this case, as well as all others, not to resort to, or even to look to that extreme remedy, until all others have failed, and then only in defence of our liberty and safety. There is, in my opinion, but one way in which it can be met; and that is the one indicated in my letter to Mr. ——, and to which you allude in yours to me, viz., by retaliation. Why I think so, I shall now proceed to explain.”

Then follows an argument to justify retaliation, by representing the constitution as containing provisions, he calls them stipulations, some in favor of the slaveholding, and some in favor of the non-slaveholding States, and the breach of any of which, on one side, authorizes a retaliation on the other; and then declaring that Pennsylvania, and other States, have violated

the provision in favor of the slave States in obstructing the recovery of fugitive slaves, he proceeds to explain his remedy—saying:

"There is and can be but one remedy short of disunion, and that is to retaliate on our part, by refusing to fulfil the stipulations in their favor, or such as we may select, as the most efficient. Among these, the right of their ships and commerce to enter and depart from our ports is the most effectual, and can be enforced. That the refusal on their part would justify us to refuse to fulfil on our part those in their favor, is too clear to admit of argument. That it would be effectual in compelling them to fulfil those in our favor can hardly be doubted, when the immense profit they make by trade and navigation out of us is regarded; and also the advantages we would derive from the direct trade it would establish between the rest of the world and our ports."

Retaliation by closing the ports of the State against the commerce of the offending State: and this called a constitutional remedy, and a remedy short of disunion. It is, on the contrary, a flagrant breach of the constitution, and disunion itself, and that at the very point which caused the Union to be formed. Every one acquainted with the history of the formation of the federal constitution, knows that it grew out of the single question of commerce—the necessity of its regulation between the States to prevent them from harassing each other, and with foreign nations to prevent State rivalries for foreign trade. To stop the trade with any State is, therefore, to break the Union with that State; and to give any advantage to a foreign nation over a State, would be to break the constitution again in the fundamental article of its formation; and this is what the retaliatory remedy of commercial non-intercourse arrives at—a double breach of the constitution—one to the prejudice of sister States, the other in favor of foreign nations. For immediately upon this retaliation upon a State, and as a consequence of it, a great foreign trade is to grow up with all the world. The letter proceeds with further instructions upon the manner of executing the retaliation:

"My impression is, that it should be restricted to *sea-going* vessels, which would leave open the trade of the valley of the Mississippi to New Orleans by river, and to the other Southern cities by railroad; and tend thereby to detach the North-western from the North-eastern States."

This discloses a further feature in the plan of forcing the issue. The North-eastern States were to be excluded from Southern maritime commerce: the North-western States were to be admitted to it by railroad, and also allowed to reach New Orleans by the Mississippi River. And this discrimination in favor of the North-western States was for the purpose of detaching them from the North-east. Detach is the word. And that word signifies to separate, disengage, disunite, part from: so that the scheme of disunion contemplated the inclusion of the North-western States in the Southern division. The State of Missouri was one of the principal of these States, and great efforts were made to gain her over, and to beat down Senator Benton who was an obstacle to that design. The letter concludes by pointing out the only difficulty in the execution of this plan, and showing how to surmount it.

"There is but one practical difficulty in the way; and that is, to give it force, it will require the co-operation of all the slave-holding States lying on the Atlantic Gulf. Without that, it would be ineffective. To get that is the great point, and for that purpose a convention of the Southern States is indispensable. Let that be called, and let it adopt measures to bring about the co-operation, and I would underwrite for the rest. The non-slaveholding States would be compelled to observe the stipulations of the constitution in our favor, or abandon their trade with us, or to take measures to coerce us, which would throw on them the responsibility of dissolving the Union. Which they would choose, I do not think doubtful. Their unbounded avarice would, in the end, control them. Let a convention be called—let it recommend to the

slaveholding States to take the course advised, giving, say one year's notice, before the acts of the several States should go into effect, and the issue would fairly be made up, and our safety and triumph certain."

This the only difficulty—the want of a co-operation of all the Southern Atlantic States; and to surmount that, the indispensability of a convention of the Southern States is fully declared. This was going back to the starting point—to the year 1835—when Mr. Calhoun first took up the slavery agitation in the Senate, and when a convention of the slaveholding States was as much demanded then as now, and that twelve years before the Wilmot Proviso—twelve years before the Pennsylvania unfriendly legislation—twelve years before the insult and outrage to the South, in not permitting them to carry their local laws with them to the territories, for the protection of their slave property. A call of a Southern convention was as much demanded then as now; and such conventions often actually attained: but without accomplishing the object of the prime mover. No step could be got to be taken in those conventions towards dividing and sectionalizing the States, and after a vain reliance upon them for seventeen years, a new method has been fallen upon: and this confidential letter from Mr. Calhoun to a member of the Alabama legislature of 1847, has come to light, to furnish the key which unlocks his whole system of slavery agitation which he commenced in the year 1835. That system was to force issues upon the North under the pretext of self-defence, and to sectionalize the South, preparatory to disunion, through the instrumentality of sectional conventions, composed wholly of delegates from the slaveholding States. Failing in that scheme of accomplishing the purpose, a new one was fallen upon, which will disclose itself in its proper place.

169. Death Of Silas Wright, Ex-Senator And Ex-Governor Of New York

He died suddenly, at the early age of fifty-two, and without the sufferings and premonitions which usually accompany the mortal transit from time to eternity. A letter that he was reading, was seen to fall from his hand: a physician was called: in two hours he was dead—apoplexy the cause. Though dying at the age deemed young in a statesman, he had attained all that long life could give—high office, national fame, fixed character, and universal esteem. He had run the career of honors in the State of New York—been representative and senator in Congress—and had refused more offices, and higher, than he ever accepted. He refused cabinet appointments under his fast friend, Mr. Van Buren, and under Mr. Polk, whom he may be said to have elected: he refused a seat on the bench of the federal Supreme Court; he rejected instantly the nomination of 1844 for Vice-President of the United States, when that nomination was the election. He refused to be put in nomination for the presidency. He refused to accept foreign missions. He spent that time in declining office which others did in winning it; and of those he did accept, it might well be said they were "*thrust*" upon him. Office, not greatness, was thrust upon him. He was born great, and above office, and unwillingly descended to it; and only took it for its burthens, and to satisfy an importunate public demand. Mind, manners, morals, temper, habits, united in him to form the character that was perfect, both in public and private life, and to give the example of a patriot citizen—of a farmer statesman—of which we have read in Cincinnatus and Cato, and seen in Mr. Macon, and some others of their stamp—created by nature—formed in no school: and of which the instances are so rare and long between.

His mind was clear and strong, his judgment solid, his elocution smooth and equable, his speaking always addressed to the understanding, and always enchaining the attention of those who had minds to understand. Grave reasoning was his forte. Argumentation was always the line of his speech. He spoke to the head, not to the passions; and would have been disconcerted to have seen any body laugh, or cry, at any thing he said. His thoughts evolved spontaneously, in natural and proper order, clothed in language of force and clearness; all so naturally and easily conceived that an extemporaneous speech, or the first draught of an intricate report, had all the correctness of a finished composition. His manuscript had no blots—a proof that his mind had none; and he wrote a neat, compact hand, suitable to a clear and solid mind. He came into the Senate, in the beginning of General Jackson's administration, and remained during that of Mr. Van Buren; and took a ready and active part in all the great debates of those eventful times. The ablest speakers of the opposition always had to answer him; and when he answered them, they showed by their anxious concern, that the adversary was upon them whose force they dreaded most. Though taking his full part upon all subjects, yet finance was his particular department, always chairman of that committee, when his party was in power, and by the lucidity of his statements making plain the most intricate moneyed details. He had a just conception of the difference between the functions of the finance committee of the Senate, and the committee of ways and means of the House—so little understood in these latter times: those of the latter founded in the prerogative of the House to originate all revenue bills; those of the former to act upon the propositions from the House, without originating measures which might affect the revenue, so as to coerce either its increase or prevent its reduction. In 1844 he left the Senate, to stand for the governorship of New York; and never did his self-sacrificing temper undergo a stronger trial, or submit to a greater sacrifice. He liked the Senate: he disliked the

governorship, even to absolute repugnance. But it was said to him (and truly, as then believed, and afterwards proved) that the State would be lost to Mr. Polk, unless Mr. Wright was associated with him in the canvass: and to this argument he yielded. He stood the canvass for the governorship—carried it—and Mr. Polk with him; and saved the presidential election of that year.

Judgment was the character of Mr. Wright's mind: purity the quality of the heart. Though valuable in the field of debate, he was still more valued at the council table, where sense and honesty are most demanded. General Jackson and Mr. Van Buren relied upon him as one of their safest counsellors. A candor which knew no guile—an integrity which knew no deviation—which worked right on, like a machine governed by a law of which it was unconscious—were the inexorable conditions of his nature, ruling his conduct in every act, public and private. No foul legislation ever emanated from him. The jobber, the speculator, the dealer in false claims, the plunderer, whose scheme required an act of Congress; all these found in his vigilance and perspicacity a detective police, which discovered their designs, and in his integrity a scorn of corruption which kept them at a distance from the purity of his atmosphere.

His temper was gentle—his manners simple—his intercourse kindly—his habits laborious—and rich upon a freehold of thirty acres, in much part cultivated by his own hand. In the intervals of senatorial duties this man, who refused cabinet appointments and presidential honors, and a seat upon the Supreme Bench—who measured strength with Clay, Webster, and Calhoun, and on whose accents admiring Senates hung: this man, his neat suit of broadcloth and fine linen exchanged for the laborer's dress, might be seen in the harvest field, or meadow, carrying the foremost row, and doing the cleanest work: and this not as recreation or pastime, or encouragement to others, but as work, which was to count in the annual cultivation, and labor to be felt in the production of the needed crop. His principles were democratic, and innate, founded in a feeling, still more than a conviction, that the masses were generally right in their sentiments, though sometimes wrong in their action; and that there was less injury to the country from the honest mistakes of the people, than from the interested schemes of corrupt and intriguing politicians. He was born in Massachusetts, came to man's estate in New York, received from that State the only honors he would accept; and in choosing his place of residence in it gave proof of his modest, retiring, unpretending nature. Instead of following his profession in the commercial or political capital of his State, where there would be demand and reward for his talent, he constituted himself a village lawyer where there was neither, and pertinaciously refused to change his locality. In an outside county, on the extreme border of the State, taking its name of St. Lawrence from the river which washed its northern side, and divided the United States from British America—and in one of the smallest towns of that county, and in one of the least ambitious houses of that modest town, lived and died this patriot statesman—a good husband (he had no children)—a good neighbor—a kind relative—a fast friend—exact and punctual in every duty, and the exemplification of every social and civic virtue.

170. Thirtieth Congress: First Session: List Of Members: President's Message

Senate.

Maine.—Hannibal Hamlin, J. W. Bradbury.

New Hampshire.—Charles G. Atherton, John P. Hale.

Vermont.—William Upham, Samuel S. Phelps.

Massachusetts.—Daniel Webster, John Davis.

Rhode Island.—Albert C. Greene, John H. Clarke.

Connecticut.—John M. Niles, Roger S. Baldwin.

New York.—John A. Dix, Daniel S. Dickinson.

New Jersey.—William L. Dayton, Jacob W. Miller.

Pennsylvania.—Simon Cameron, Daniel Sturgeon.

Delaware.—John M. Clayton, Presley Spruance.

MARYLAND.—James A. Pearce, Reverdy Johnson.

Virginia.—James M. Mason, R. M. T. Hunter.

North Carolina.—George. E. Badger, Willie P. Mangum.

South Carolina.—A. P. Butler, John C. Calhoun.

Georgia.—Herschell V. Johnson, John M. Berrien.

Alabama.—William R. King, Arthur P. Bagley.

Mississippi.—Jefferson Davis, Henry Stuart Foote.

Louisiana.—Henry Johnson, S. U. Downs.

Tennessee.—Hopkins L. Turney, John Bell.

Kentucky.—Thomas Metcalfe, Joseph R. Underwood.

Ohio.—William Allen, Thomas Corwin.

Indiana.—Edward A. Hannegan, Jesse D. Bright.

Illinois.—Sidney Breese, Stephen A. Douglass.

Missouri.—David R. Atchison, Thomas H. Benton.

Arkansas.—Solon Borland, William K. Sebastian.

Michigan.—Thomas Fitzgerald, Alpheus Felch.

Florida.—J. D. Westcott, Jr., David Yulee.

Texas.—Thomas J. Rusk, Samuel Houston.

Iowa.—Augustus C. Dodge, George W. Jones.

Wisconsin.—Henry Dodge, I. P. Walker.

House of Representatives.

Maine.—David Hammonds, Asa W. H. Clapp, Hiram Belcher, Franklin Clark, E. K. Smart, James S. Wiley, Hezekiah Williams.

New Hampshire.—Amos Tuck, Charles H. Peaslee, James Wilson, James H. Johnson.

Massachusetts.—Rob't C. Winthrop, Daniel P. King, Amos Abbott, John G. Palfrey, Chas. Hudson, George Ashmun, Julius Rockwell, Horace Mann, Artemas Hale, Joseph Grinnell.

Rhode Island.—R. B. Cranston, B. B. Thurston.

Connecticut.—James Dixon, S. D. Hilliard, J. A. Rockwell, Truman Smith.

Vermont.—William Henry, Jacob Collamer, George P. Marsh, Lucius B. Peck.

New York.—Frederick W. Lloyd, H. C. Murphy, Henry Nicoll, W. B. Maclay, Horace Greeley, William Nelson, Cornelius Warren, Daniel B. St. John, Eliakim Sherrill, P. H. Sylvester, Gideon Reynolds, J. I. Slingerland, Orlando Kellogg, S. Lawrence, Hugh White, George Petrie, Joseph Mullin, William Collins, Timothy Jenkins, G. A. Starkweather, Ausburn Birdsall, William Duer, Daniel Gott, Harmon S. Conger, William T. Lawrence, Ebon Blackman, Elias B. Holmes, Robert L. Rose, David Ramsay, Dudly Marvin, Nathan K. Hall, Harvey Putnam, Washington Hunt.

New Jersey.—James G. Hampton, William A. Newell, Joseph Edsall, J. Van Dyke, D. S. Gregory.

Pennsylvania.—Lewis C. Levin, J. R. Ingersoll, Charles Brown, C. J. Ingersoll, John Freedly, Samuel A. Bridges, A. R. McIlvaine, John Strohm, William Strong, R. Brodhead, Chester Butler, David Wilmot, James Pollock, George N. Eckert, Henry Nes, Jasper E. Brady, John Blanchard, Andrew Stewart, Job Mann, John Dickey, Moses Hampton, J. W. Farrelly, James Thompson, Alexander Irvine.

Delaware.—John W. Houston.

Maryland.—J. G. Chapman, J. Dixon Roman, T. Watkins Ligon, R. M. McLane, Alexander Evans, John W. Crisfield.

Virginia.—Archibald Atkinson, Richard K. Meade, Thomas S. Flournoy, Thomas S. Bocock, William L. Goggin, John M. Botts, Thomas H. Bayly, R. T. L. Beale, J. S. Pendleton, Henry Bedinger, James McDowell, William B. Preston, Andrew S. Fulton, R. A. Thompson, William G. Brown.

North Carolina.—Thomas S. Clingman, Nathaniel Boyden, D. M. Berringer, Aug. H. Shepherd, Abm. W. Venable, James J. McKay, J. R. J. Daniel, Richard S. Donnell, David Outlaw.

South Carolina.—Daniel Wallace, Richard F. Simpson, J. A. Woodward, Artemas Burt, Isaac E. Holmes, R. Barnwell Rhett.

Georgia.—T. Butler King, Alfred Iverson, John W. Jones, H. A. Harralson, J. A. Lumpkin, Howell Cobb, A. H. Stephens, Robert Toombs.

Alabama.—John Gayle, H. W. Hilliard, S. W. Harris, William M. Inge, G. S. Houston, W. R. W. Cobb, F. W. Bowdon.

Mississippi.—Jacob Thompson, W. S. Featherston, Patrick W. Tompkins, Albert G. Brown.

Louisiana.—Emile La Sere, B. G. Thibodeaux, J. M. Harmansan, Isaac E. Morse.

Florida.—Edward C. Cabell.

Ohio.—James J. Faran, David Fisher, Robert C. Schenck, Richard S. Canby, William Sawyer, R. Dickinson, Jonathan D. Morris, J. L. Taylor, T. O. Edwards, Daniel Duncan, John K. Miller, Samuel F. Vinton, Thomas Richey, Nathan Evans, William Kennon, Jr., J. D. Cummins, George Fries, Samuel Lahm, John Crowell, J. R. Giddings, Joseph M. Root.

Indiana.—Elisha Embree, Thomas J. Henley, J. L. Robinson, Caleb B. Smith, William W. Wick, George G. Dunn, R. W. Thompson, John Pettit, C. W. Cathcart, William Rockhill.

Michigan.—R. McClelland, Cha's E. Stewart, Kinsley S. Bingham.

Illinois.—Robert Smith, J. A. McClernand, O. B. Ficklin, John Wentworth, W. A. Richardson, Thomas J. Turner, A. Lincoln.

Iowa.—William Thompson, Shepherd Leffler.

Kentucky.—Linn Boyd, Samuel O. Peyton, B. L. Clark, Aylett Buckner, J. B. Thompson, Green Adams, Garnett Duncan, Charles S. Morehead, Richard French, John P. Gaines.

Tennessee.—Andrew Johnson, William M. Cocke, John H. Crozier, H. L. W. Hill, George W. Jones, James H. Thomas, Meredith P. Gentry, Washington Barrow, Lucien B. Chase, Frederick P. Stanton, William T. Haskell.

Missouri.—James B. Bowlin, John Jamieson, James S. Green, Willard P. Hall, John S. Phelps.

Arkansas.—Robert W. Johnson.

Texas.—David S. Kaufman, Timothy Pillsbury.

Wisconsin.—Mason C. Darling, William Pitt Lynde.

Robert C. Winthrop, Esq., of Massachusetts, was elected Speaker of the House, and Benjamin B. French, Esq., clerk, and soon after the President's message was delivered, a quorum of the Senate having appeared the first day. The election of Speaker had decided the question of the political character of the House, and showed the administration to be in a minority:—a bad omen for the popularity of the Mexican war. The President had gratifying events to communicate to Congress—the victories of Cerro Gordo, Contreras and Churubusco, the storming of Chepultepec, and the capture of the City of Mexico: and exulted over these exploits with the pride of an American, although all these advantages had to be gained over the man whom he handed back into Mexico under the belief that he was to make peace. He also informed Congress that a commissioner had been sent to the head-quarters of the American army to take advantage of events to treat for peace; and that he had carried out with him the draught of the treaty, already prepared, which contained the terms on which alone the war was to be terminated. This commissioner was Nicholas P. Trist, Esq., principal clerk in the Department of State, a man of mind and integrity, well acquainted with the state of parties in Mexico, subject to none at home, and anxious to establish peace between the countries. Upon the capture of the city, and the downfall of Santa Anna, commissioners were appointed to meet Mr. Trist; but the Mexican government, far from accepting the treaty as drawn up and sent to them, submitted other terms still more objectionable to us than ours to them; and the two parties remained without prospect of agreement. The American commissioner was recalled, "*under the belief*," said the message, "*that his continued presence with the army could do no good*." This recall was despatched from the United States the 6th of October, immediately after information had been received of the failure of the attempted negotiations; but, as will be seen hereafter, the notice of the recall arriving when negotiations had been resumed with good prospect of success, Mr. Trist remained at his post to finish his work.

In the course of the summer a "*female*," fresh from Mexico, and with a masculine stomach for war and politics, arrived at Washington, had interviews with members of the administration, and infected some of them with the contagion of a large project—nothing less than the absorption into our Union of all Mexico, and the assumption of all her debts (many tens of millions *in esse*, and more *in posse*), and all to be assumed at par, though the best were at 25 cents in the dollar, and the mass ranging down to five cents. This project was given out, and greatly applauded in some of the administration papers—condemned by the public feeling, and greatly denounced in a large opposition meeting in Lexington, Kentucky, at which Mr. Clay came forth from his retirement to speak wisely and patriotically against it. The "*female*" had gone back to Mexico, with high letters from some members of the cabinet to the commanding general, and to the plenipotentiary negotiator; both of whom, however, eschewed the proffered aid. A party in Mexico developed itself for this total absorption, and total assumption of debts, and the scheme acquired so much notoriety, and gained such consistency of detail, and stuck so close to some members of the administration, that the President deemed it necessary to clear himself from the suspicion; which he did in a decisive paragraph of his message:

"It has never been contemplated by me, as an object of the war, to make a permanent conquest of the republic of Mexico, or to annihilate her separate existence as an independent nation. On the contrary, it has ever been my desire that she should maintain her nationality, and, under a good government adapted to her condition, be a free, independent, and prosperous republic. The United States were the first among the nations to recognize her independence, and have always desired to be on terms of amity and good neighborhood with her. This she would not suffer. By her own conduct we have been compelled to engage in the present war. In its prosecution, we seek not her overthrow as a nation, but, in vindicating our national honor, we seek to obtain redress for the wrongs she has done us, and indemnity for our just demands against her. We demand an honorable peace; and that peace must bring with it indemnity for the past, and security for the future."

While some were for total absorption, others were for half; and for taking a line (provisionally during the war), preparatory to its becoming permanent at its close, and giving to the United States the northern States of Mexico from gulf to gulf. This project the President also repulsed in a paragraph of his message:

"To retire to a line, and simply hold and defend it, would not terminate the war. On the contrary, it would encourage Mexico to persevere, and tend to protract it indefinitely. It is not to be expected that Mexico, after refusing to establish such a line as a permanent boundary when our victorious army are in possession of her capital, and in the heart of her country, would permit us to hold it without resistance. That she would continue the war, and in the most harassing and annoying forms, there can be no doubt. A border warfare of the most savage character, extending over a long line, would be unceasingly waged. It would require a large army to be kept constantly in the field stationed at posts and garrisons along such a line, to protect and defend it. The enemy, relieved from the pressure of our arms on his coasts and in the populous parts of the interior, would direct his attention to this line, and selecting an isolated post for attack, would concentrate his forces upon it. This would be a condition of affairs which the Mexicans, pursuing their favorite system of guerilla warfare, would probably prefer to any other. Were we to assume a defensive attitude on such a line, all the advantages of such a state of war would be on the side of the enemy. We could levy no contributions upon him, or in any other way make him feel the pressure of the war; but must remain inactive, and wait his approach, being in constant uncertainty at what point on the line, or at what time, he might make an assault. He may assemble and organize an overwhelming force in the interior, on his own side of the line, and, concealing his purpose,

make a sudden assault on some one of our posts so distant from any other as to prevent the possibility of timely succor or reinforcements; and in this way our gallant army would be exposed to the danger of being cut off in detail; or if by their unequalled bravery and prowess every where exhibited during this war, they should repulse the enemy, their number stationed at any one post may be too small to pursue him. If the enemy be repulsed in one attack, he would have nothing to do but to retreat to his own side of the line, and being in no fear of a pursuing army, may reinforce himself at leisure, for another attack on the same or some other post. He may, too, cross the line between our posts, make rapid incursions into the country which we hold, murder the inhabitants, commit depredations on them, and then retreat to the interior before a sufficient force can be concentrated to pursue him. Such would probably be the harassing character of a mere defensive war on our part. If our forces, when attacked, or threatened with attack, be permitted to cross the line, drive back the enemy, and conquer him, this would be again to invade the enemy's country, after having lost all the advantages of the conquests we have already made by having voluntarily abandoned them. To hold such a line successfully and in security, it is far from being certain that it would not require as large an army as would be necessary to hold all the conquests we have already made, and to continue the prosecution of the war in the heart of the enemy's country. It is also far from being certain that the expense of the war would be diminished by such a policy."

These were the same arguments which Senator Benton had addressed to the President the year before, when the recommendation of this line of occupation had gone into the draught of his message, as a cabinet measure, and was with such difficulty got out of it; but without getting it out of the head of Mr. Calhoun and his political friends. To return to the argument against such a line, in this subsequent message, bespoke an adherence to it on the part of some formidable interest, which required to be authoritatively combated: and such was the fact. The formidable interest which wished a separation of the slave from the free States, wished also as an extension of their Southern territory, to obtain a broad slice from Mexico, embracing Tampico as a port on the east, Guaymas as a port on the Gulf of California, and Monterey and Saltillo in the middle. Mr. Polk did not sympathize with that interest, and publicly repulsed their plan—without, however, extinguishing their scheme—which survives, and still labors at its consummation in a different form, and with more success.

The expenses of the government during that season of war, were the next interesting head of the message, and were presented, all heads of expenditure included, at some fifty-eight millions of dollars; or a quarter less than those same expenses now are in a state of peace The message says:

"It is estimated that the receipts into the Treasury for the fiscal year ending on the 30th of June, 1848, including the balance in the Treasury on the 1st of July last, will amount to forty-two millions eight hundred and eighty-six thousand five hundred and forty-five dollars and eighty cents; of which thirty-one millions, it is estimated, will be derived from customs; three millions five hundred thousand from the sale of the public lands; four hundred thousand from incidental sources; including sales made by the solicitor of the Treasury; and six millions two hundred and eighty-five thousand two hundred and ninety-four dollars and fifty-five cents from loans already authorized by law, which, together with the balance in the Treasury on the 1st of July last, make the sum estimated. The expenditures for the same period, if peace with Mexico shall not be concluded, and the army shall be increased as is proposed, will amount, including the necessary payments on account of principal and interest of the public debt and Treasury notes, to fifty-eight millions six hundred and fifteen thousand and sixty dollars and seven cents."

An encomium upon the good working of the independent treasury system, and the perpetual repulse of paper money from the federal Treasury, concluded the heads of this message which retain a surviving interest:

”The financial system established by the constitutional Treasury has been, thus far, eminently successful in its operations; and I recommend an adherence to all its essential provisions; and especially to that vital provision, which wholly separates the government from all connection with banks, and excludes bank paper from all revenue receipts.”

An earnest exhortation to a vigorous prosecution of the war concluded the message.

171. Death Of Senator Barrow: Mr. Benton's Eulogium

Mr. Benton. In rising to second the motion for paying to the memory of our deceased brother senator the last honors of this body, I feel myself to be obeying the impulsions of an hereditary friendship, as well as conforming to the practice of the Senate. Forty years ago, when coming to the bar at Nashville, it was my good fortune to enjoy the friendship of the father of the deceased, then an inhabitant of Nashville, and one of its most respected citizens. The deceased was then too young to be noted amongst the rest of the family. The pursuits of life soon carried us far apart, and long after, and for the first time to know each other, we met on this floor. We met not as strangers, but as friends—friends of early and hereditary recollections; and all our intercourse since—every incident and every word of our lives, public and private—has gone to strengthen and confirm the feelings under which we met, and to perpetuate with the son the friendship which had existed with the father. Up to the last moments of his presence in this chamber—up to the last moment that I saw him—our meetings and partings were the cordial greetings of hereditary friendship; and now, not only as one of the elder senators, but as the early and family friend of the deceased, I come forward to second the motion for the honors to his memory.

The senator from Louisiana (Mr. H. Johnson) has performed the office of duty and of friendship to his deceased friend and colleague. Justly, truly and feelingly has he performed it. With deep and heartfelt emotion he has portrayed the virtues, and sketched the qualities, which constituted the manly and lofty character of Alexander Barrow. He has given us a picture as faithful as it is honorable, and it does not become me to dilate upon what he has so well presented; but, in contemplating the rich and full portrait of the high qualities of the head and heart which he has presented, suffer me to look for an instant to the source, the fountain, from which flowed the full stream of generous and noble actions which distinguished the entire life of our deceased brother senator. I speak of the heart—the noble heart—of Alexander Barrow. Honor, courage, patriotism, friendship, generosity—fidelity to his friend and his country—the social affections—devotion to the wife of his bosom, and the children of their love: all—all, were there! and never, not once, did any cold, or selfish, or timid calculation ever come from his manly head to check or balk the noble impulsions of his generous heart. A quick, clear, and strong judgment found nothing to restrain in these impulsions; and in all the wide circle of his public and private relations—in all the words and acts of his life—it was the heart that moved first, and always so true to honor that judgment had nothing to do but to approve the impulsion. From that fountain flowed the stream of the actions of his life; and now what we all deplore—what so many will join in deploring—is, that such a fountain, so unexpectedly, in the full tide of its flow, should have been so suddenly dried up. He was one of the younger members of this body, and in all the hope and vigor of meridian manhood. Time was ripening and maturing his faculties. He seemed to have a right to look forward to many years of usefulness to his country and to his family. With qualities evidently fitted for the *field* as well as for the Senate, a brilliant future was before him; ready, as I know he was, to serve his country in any way that honor and duty should require.

172. Death Of Mr. Adams

"Just after the yeas and nays were taken on a question, and the Speaker had risen to put another question to the House, a sudden cry was heard on the left of the chair, 'Mr. Adams is dying!' Turning our eyes to the spot, we beheld the venerable man in the act of falling over the left arm of his chair, while his right arm was extended, grasping his desk for support. He would have dropped upon the floor had he not been caught in the arms of the member sitting next him. A great sensation was created in the House: members from all quarters rushing from their seats, and gathering round the fallen statesman, who was immediately lifted into the area in front of the clerk's table. The Speaker instantly suggested that some gentleman move an adjournment, which being promptly done, the House adjourned."

So wrote the editors of the National Intelligencer, friends and associates of Mr. Adams for forty years, and now witnesses of the last scene—the sudden sinking in his chair, which was to end in his death. The news flew to the Senate chamber, the Senate then in session, and engaged in business, which Mr. Benton interrupted, standing up, and saying to the President of the body and the senators:

"I am called on to make a painful announcement to the Senate. I have just been informed that the House of Representatives has this instant adjourned under the most afflictive circumstances. A calamitous visitation has fallen on one of its oldest and most valuable members—one who has been President of the United States, and whose character has inspired the highest respect and esteem. Mr. Adams has just sunk down in his chair, and has been carried into an adjoining room, and may be at this moment passing from the earth, under the roof that covers us, and almost in our presence. In these circumstances the whole Senate will feel alike, and feel wholly unable to attend to any business. I therefore move the immediate adjournment of the Senate."

The Senate immediately adjourned, and all inquiries were directed to the condition of the stricken statesman. He had been removed to the Speaker's room, where he slightly recovered the use of his speech, and uttered in faltering accents, the intelligible words, "*This is the last of earth*;" and soon after, "*I am composed.*" These were the last words he ever spoke. He lingered two days, and died on the evening of the 23d—struck the day before, and dying the day after the anniversary of Washington's birth—and attended by every circumstance which he could have chosen to give felicity in death. It was on the field of his labors—in the presence of the national representation, presided by a son of Massachusetts (Robert C. Winthrop, Esq.), in the full possession of his faculties, and of their faithful use—at octogenarian age—without a pang—hung over in his last unconscious moments by her who had been for more than fifty years the worthy partner of his bosom. Such a death was the "crowning mercy" of a long life of eminent and patriotic service, filled with every incident that gives dignity and lustre to human existence.

I was sitting in my library-room in the twilight of a raw and blustering day, the lamp not yet lit, when a note was delivered to me from Mr. Webster—I had saved it seven years, just seven—when it was destroyed in that conflagration of my house which consumed, in a moment, so much which I had long cherished. The note was to inform me that Mr. Adams had breathed his last; and to say that the Massachusetts delegation had fixed upon me to second the motion, which would be made in the Senate the next day, for the customary funeral honors to his memory. Seconding the motion on such an occasion always requires a brief discourse on the life and character of the deceased. I was taken by surprise, for I had not

expected such an honor: I was oppressed; for a feeling of inability and unworthiness fell upon me. I went immediately to Mr. Winthrop, who was nearest, to inquire if some other senator had been named to take my place if I should find it impossible to comply with the request. He said there was none—that Mr. Davis, of Massachusetts, would make the motion, and that I was the only one named to second him. My part was then fixed. I went to the other end of the city to see Mr. Davis, and so to arrange with him as to avoid repetitions—which was done, that he should speak of events, and I of characteristics. It was late in the night when I got back to my house, and took pen and paper to note the heads of what I should say. Never did I feel so much the weight of Cicero's admonition—"*Choose with discretion out of the plenty that lies before you.*" The plenty was too much. It was a field crowded with fruits and flowers, of which you could only cull a few—a mine filled with gems, of which you could only snatch a handful. By midnight I had finished the task, and was ready for the ceremony.

Mr. Adams died a member of the House, and the honors to his memory commenced there, to be finished in the Senate. Mr. Webster was suffering from domestic affliction—the death of a son and a daughter—and could not appear among the speakers. Several members of the House spoke justly and beautifully; and of these, the pre-eminent beauty and justice of the discourse delivered by Mr. James McDowell, of Virginia (even if he had not been a near connection, the brother of Mrs. Benton), would lead me to give it the preference in selecting some passages from the tributes of the House. With a feeling and melodious delivery, he said:

"It is not for Massachusetts to mourn alone over a solitary and exclusive bereavement. It is not for her to feel alone a solitary and exclusive sorrow. No, sir; no! Her sister commonwealths gather to her side in this hour of her affliction, and, intertwining their arms with hers, they bend together over the bier of her illustrious son—feeling as she feels, and weeping as she weeps, over a sage, a patriot, and a statesman gone! It was in these great characteristics of individual and of public man that his country reverenced that son when living, and such, with a painful sense of her common loss, will she deplore him now that he is dead.

"Born in our revolutionary day, and brought up in early and cherished intimacy with the fathers and founders of the republic, he was a living bond of connection between the present and the past—the venerable representative of the memories of another age, and the zealous, watchful, and powerful one of the expectations, interests, and progressive knowledge of his own.

"There he sat, with his intense eye upon every thing that passed, the picturesque and rare one man, unapproachable by all others in the unity of his character and in the thousand-fold anxieties which centred upon him. No human being ever entered this hall without turning habitually and with heart-felt deference first to him, and few ever left it without pausing, as they went, to pour out their blessings upon that spirit of consecration to the country which brought and which kept him here.

"Standing upon the extreme boundary of human life, and disdaining all the relaxations and exemptions of age, his outer framework only was crumbling away. The glorious engine within still worked on unhurt, uninjured, amid all the dilapidations around it, and worked on with its wonted and its iron power, until the blow was sent from above which crushed it into fragments before us. And, however appalling that blow, and however profoundly it smote upon our own feelings as we beheld its extinguishing effect upon his, where else could it have fallen so fitly upon him? Where else could he have been relieved from the yoke of his labors so well as in the field where he bore them? Where else would he himself have been so willing to have yielded up his life, as upon the post of duty, and by the side of that very altar to which he had devoted it? Where but in the capitol of his country, to which all the

throbbings and hopes of his heart had been given, would the dying patriot be so willing that those hopes and throbbings should cease? And where but from this mansion-house of liberty on earth, could this dying Christian more fitly go to his mansion-house of eternal liberty on high?"

Mr. Benton concluded in the Senate the ceremonies which had commenced in the House, pronouncing the brief discourse which was intended to group into one cluster the varied characteristics of the public and private life of this most remarkable man:

"The voice of his native State has been heard, through one of the senators of Massachusetts, announcing the death of her aged and most distinguished son. The voice of the other senator from Massachusetts is not heard, nor is his presence seen. A domestic calamity, known to us all, and felt by us all, confines him to the chamber of grief while the Senate is occupied with the public manifestations of a respect and sorrow which a national loss inspires. In the absence of that senator, and as the member of this body longest here, it is not unfitting or unbecoming in me to second the motion which has been made for extending the last honors of the Senate to him who, forty-five years ago, was a member of this body, who, at the time of his death, was among the oldest members of the House of Representatives, and who, putting the years of his service together, was the oldest of all the members of the American government.

"The eulogium of Mr. Adams is made in the facts of his life, which the senator from Massachusetts (Mr. Davis) has so strikingly stated, that from early manhood to octogenarian age, he has been constantly and most honorably employed in the public service. For a period of more than fifty years, from the time of his first appointment as minister abroad under Washington, to his last election to the House of Representatives by the people of his native district, he has been constantly retained in the public service, and that, not by the favor of a sovereign, or by hereditary title, but by the elections and appointments of republican government. This fact makes the eulogy of the illustrious deceased. For what, except a union of all the qualities which command the esteem and confidence of man, could have insured a public service so long, by appointments free and popular, and from sources so various and exalted? Minister many times abroad; member of this body; member of the House of Representatives; cabinet minister; President of the United States; such has been the galaxy of his splendid appointments. And what but moral excellence the most perfect; intellectual ability the most eminent; fidelity the most unwavering; service the most useful; would have commanded such a succession of appointments so exalted, and from sources so various and so eminent? Nothing less could have commanded such a series of appointments; and accordingly we see the union of all these great qualities in him who has received them.

"In this long career of public service, Mr. Adams was distinguished not only by faithful attention to all the great duties of his stations, but to all their less and minor duties. He was not the Salaminian galley, to be launched only on extraordinary occasions; but he was the ready vessel, always under sail when the duties of his station required it, be the occasion great or small. As President, as cabinet minister, as minister abroad, he examined all questions that came before him, and examined all, in all their parts—in all the minutiæ of their detail, as well as in all the vastness of their comprehension. As senator, and as a member of the House of Representatives, the obscure committee-room was as much the witness of his laborious application to the drudgery of legislation, as the halls of the two Houses were to the ever-ready speech, replete with knowledge, which instructed all hearers, enlightened all subjects, and gave dignity and ornament to all debate.

"In the observance of all the proprieties of life, Mr. Adams was a most noble and impressive example. He cultivated the minor as well as the greater virtues. Wherever his presence could

give aid and countenance to what was useful and honorable to man, there he was. In the exercises of the school and of the college—in the meritorious meetings of the agricultural, mechanical, and commercial societies—in attendance upon Divine worship—he gave the punctual attendance rarely seen but in those who are free from the weight of public cares.

“Punctual to every duty, death found him at the post of duty; and where else could it have found him, at any stage of his career, for the fifty years of his illustrious public life? From the time of his first appointment by Washington to his last election by the people of his native town, where could death have found him but at the post of duty? At that post, in the fulness of age, in the ripeness of renown crowned with honors, surrounded by his family, his friends, and admirers, and in the very presence of the national representation, he has been gathered to his fathers, leaving behind him the memory of public services which are the history of his country for half a century, and the example of a life, public and private, which should be the study and the model of the generations of his countrymen.”

The whole ceremony was inconceivably impressive. The two Houses of Congress were filled to their utmost capacity, and of all that Washington contained, and neighboring cities could send—the President, his cabinet, foreign ministers, judges of the Supreme Court, senators and representatives, citizens and visitors.

173. Downfall Of Santa Anna: New Government In Mexico: Peace Negotiations: Treaty Of Peace

The war was declared May 13th, 1846, upon a belief, grounded on the projected restoration of Santa Anna (then in exile in Havana), that it would be finished in ninety to one hundred and twenty days, and that, in the mean time, no fighting would take place. Santa Anna did not get back until the month of August; and, simultaneously with his return, was the President's overture for peace, and application to Congress for two millions of dollars—with leave to pay the money in the city of Mexico on the conclusion of peace there, without waiting for the ratification of the treaty by the United States. Such an overture, and such an application, and the novelty of paying money upon a treaty before it was ratified by our own authorities, bespoke a great desire to obtain peace, even by extraordinary means. And such was the fact. The desire was great—the means unusual; but the event baffled all the calculations. Santa Anna repulsed the peace overture, put himself at the head of armies, inflamed the war spirit of the country, and fought desperately. It was found that a mistake had been made—that the sword, and not the olive branch had been returned to Mexico; and that, before peace could be made, it became the part of brave soldiers to conquer by arms the man whom intrigue had brought back to grant it. Brought back by politicians, he had to be driven out by victorious generals before the peace he was to give could be obtained. The victories before the city of Mexico, and the capture of the city, put an end to his career. The republican party, which abhorred him, seized upon those defeats to depose him. He fled the country, and a new administration being organized, peaceful negotiations were resumed, and soon terminated in the desired pacification. Mr. Trist had remained at his post, though recalled, and went on with his negotiations. In three months after his downfall, and without further operation of arms, the treaty was signed, and all the desired stipulations obtained. New Mexico and Upper California were ceded to the United States, and the lower Rio Grande, from its mouth to El Paso, taken for the boundary of Texas. These were the acquisitions. On the other hand, the United States agreed to pay to Mexico fifteen millions of dollars in five instalments, annual after the first; which first instalment, true to the original idea of the efficacy of money in terminating the war, was to be paid down in the city of Mexico as soon as the articles of pacification were signed, and ratified there. The claims of American citizens against Mexico were all assumed, limited to three and a quarter millions of dollars, which, considering that the war ostensibly originated in these claims, was a very small sum. But the largest gratified interest was one which did not appear on the face of the treaty, but had the full benefit of being included in it. They were the speculators in Texas lands and scrip, now allowed to calculate largely upon their increased value as coming under the flag of the American Union. They were among the original promoters of the Texas annexation, among the most clamorous for war, and among the gratified at the peace. General provisions only were admitted into the treaty in favor of claims and land titles. Upright and disinterested himself, the negotiator sternly repulsed all attempts to get special, or personal provisions to be inserted in behalf of any individuals or companies. The treaty was a singular conclusion of the war. Undertaken to get indemnity for claims, the United States paid those claims herself. Fifteen millions of dollars were the full price of New Mexico and California—the same that was paid for all Louisiana; so that, with the claims assumed, the amount paid for the territories, and the expenses of the war, the acquisitions were made at a dear rate. The same amount paid to Mexico without the war, and by treating her respectfully in treating with her for a boundary which would include Texas, might have obtained the same cessions; for every Mexican knew

that Texas was gone, and that New Mexico and Upper California were going the same way, both inhabited and dominated by American citizens, and the latter actually severed from Mexico by a successful revolution before the war was known of, and for the purpose of being transferred to the United States.

The treaty was a fortunate event for the United States, and for the administration which had made it. The war had disappointed the calculation on which it began. Instead of brief, cheap, and bloodless, it had become long, costly, and sanguinary: instead of getting a peace through the restoration of Santa Anna, that formidable chieftain had to be vanquished and expelled, before negotiations could be commenced with those who would always have treated fairly, if their national feelings had not been outraged by the aggressive and defiant manner in which Texas had been incorporated. Great discontent was breaking out at home. The Congress elections were going against the administration, and the aspirants for the presidency in the cabinet were struck with terror at the view of the great military reputations which were growing up. Peace was the only escape from so many dangers, and it was gladly seized upon to terminate a war which had disappointed all calculations, and the very successes of which were becoming alarming to them.

Mr. Trist signed his treaty in the beginning of February, and it stands on the statute-book, as it was in fact, the sole work on the American side, of that negotiator. Two ministers plenipotentiary and envoys extraordinary were sent out to treat after he had been recalled. They arrived after the work was done, and only brought home what he had finished. His name alone is signed to the treaty on the American side, against three on the Mexican side: his name alone appears on the American side in the enumeration of the ministers in the preamble to the treaty. In that preamble he is characterized as the "*plenipotentiary*" of the United States, and by that title he was described in the commission given him by the President. His work was accepted, communicated to the Senate, ratified; and became a supreme law of the land: yet he himself was rejected! recalled and dismissed, without the emoluments of plenipotentiary; while two others received those emoluments in full for bringing home a treaty in which their names do not appear. Certainly those who served the government well in that war with Mexico, fared badly with the administration. Taylor, who had vanquished at Palo Alto, Resaca de la Palma, Monterey, and Buena Vista, was quarrelled with: Scott, who removed the obstacles to peace, and subdued the Mexican mind to peace, was superseded in the command of the army: Frémont, who had snatched California out of the hands of the British, and handed it over to the United States, was court-martialled: and Trist, who made the treaty which secured the objects of the war, and released the administration from its dangers, was recalled and dismissed.

174. Oregon Territorial Government: Anti-Slavery Ordinance Of 1787 Applied To Oregon Territory: Missouri Compromise Line Of 1820, And The Texas Annexation Renewal Of It In 1845, Affirmed

It was on the bill for the establishment of the Oregon territorial government that Mr. Calhoun first made trial of his new doctrine of, "No power in Congress to abolish slavery in territories;" which, so far from maintaining, led to the affirmation of the contrary doctrine, and to the discovery of his own, early as well as late support, of what he now condemned as a breach of the constitution, and justifiable cause for a separation of the slave from the free States. For it was on this occasion that Senator Dix, of New York, produced the ample proofs that Mr. Calhoun, as a member of Mr. Monroe's cabinet, supported the constitutionality of the Missouri compromise at the time it was made; and his own avowals eighteen years afterwards proved the same thing—all to be confirmed by subsequent authentic acts. On the motion of Mr. Hale, in the Senate, the bill (which had come up from the House without any provision on the subject of slavery) was amended so as to extend the principle of the anti-slavery clause of the ordinance of '87 to the bill. Mr. Douglass moved to amend by inserting a provision for the extension of the Missouri compromise line to the Pacific Ocean. His proposed amendment was specific, and intended to be permanent, and to apply to the organization of all future territories established in the West. It was in these words:

"That the line of thirty-six degrees and thirty minutes of north latitude, known as the Missouri compromise line, as defined by the eighth section of an act entitled 'An act to authorize the people of the Missouri territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain territories, approved March 6, 1820,' be, and the same is hereby, declared to extend to the Pacific Ocean; and the said eighth section, together with the compromise therein effected, is hereby revived, and declared to be in full force and binding, for the future organization of the territories of the United States, in the same sense, and with the same understanding, with which it was originally adopted."

The yeas and nays were demanded on the adoption of this amendment, and resulted, 33 for it, 22 against it. They were:

"Yeas—Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, Bright, Butler, Calhoun, Cameron, Davis of Mississippi, Dickinson, Douglass, Downs, Fitzgerald, Foote, Hannegan, Houston, Hunter, Johnson of Maryland, Johnson of Louisiana, Johnson of Georgia, King, Lewis, Mangum, Mason, Metcalfe, Pearce, Sebastian, Spruance, Sturgeon, Turney, Underwood.

"Nays—Messrs. Allen, Atherton, Baldwin, Bradbury, Breese, Clark, Corwin, Davis of Massachusetts, Dayton, Dix, Dodge, Felch, Greene, Hale, Hamlin, Miller, Niles, Phelps, Upham, Walker, Webster."

The vote here given by Mr. Calhoun was in contradiction to his new doctrine, and excused upon some subtle distinction between a vote for an amendment, and a bill, and upon a reserved intent to vote against the bill itself if adopted. Considering that his objections to the matter of the amendment were constitutional and not expedient, and that the votes of others might pass the bill with the clause in it without his help, it is impossible to see the validity of

the distinction with which he satisfied himself. His language was that, “though he had voted for the introduction of the Missouri compromise, he could not vote for the bill which he regarded as artificial.” Eventually the bill passed through both Houses with the anti-slavery principle of the ordinance embraced in it; whereat Mr. Calhoun became greatly excited, and assuming to act upon the new doctrine that he had laid down, that the exclusion of slavery from any territory was a subversion of the Union, openly proclaimed the strife between the North and the South to be ended, and the separation of the States accomplished; called upon the South to do her duty to herself, and denounced every Southern representative who would not follow the same course that he did. He exclaimed:

“The great strife between the North and the South is ended. The North is determined to exclude the property of the slaveholder, and of course the slaveholder himself, from its territory. On this point there seems to be no division in the North. In the South, he regretted to say, there was some division of sentiment. The effect of this determination of the North was to convert all the Southern population into slaves; and he would never consent to entail that disgrace on his posterity. He denounced any Southern man who would not take the same course. Gentlemen were greatly mistaken if they supposed the presidential question in the South would override this more important one. The separation of the North and the South is completed. The South has now a most solemn obligation to perform—to herself—to the constitution—to the Union. She is bound to come to a decision not to permit this to go on any further, but to show that, dearly as she prizes the Union, there are questions which she regards as of greater importance than the Union. She is bound to fulfil her obligations as she may best understand them. This is not a question of territorial government, but a question involving the continuance of the Union. Perhaps it was better that this question should come to an end, in order that some new point should be taken.”

This was an open invocation to disunion, and from that time forth the efforts were regular to obtain a meeting of the members from the slave States, to unite in a call for a convention of the slave States to redress themselves. Mr. Benton and General Houston, who had supported the Oregon bill, were denounced by name by Mr. Calhoun after his return to South Carolina, “as traitors to the South:” a denunciation which they took for a distinction; as, what he called treason to the South, they knew to be allegiance to the Union. The President, in approving the Oregon bill, embraced the opportunity to send in a special message on the slavery agitation, in which he showed the danger to the Union from the progress of that agitation, and the necessity of adhering to the principles of the ordinance of 1787—the terms of the Missouri compromise of 1820—and the Texas compromise (as he well termed it) of 1845, as the means of averting the danger. These are his warnings:

“The fathers of the constitution—the wise and patriotic men who laid the foundation of our institutions—foreseeing the danger from this quarter, acted in a spirit of compromise and mutual concession on this dangerous and delicate subject; and their wisdom ought to be the guide of their successors. Whilst they left to the States exclusively the question of domestic slavery within their respective limits, they provided that slaves, who might escape into other States not recognizing the institution of slavery, shall ‘be delivered up on the claim of the party to whom such service or labor may be due.’ Upon this foundation the matter rested until the Missouri question arose. In December, 1819, application was made to Congress by the people of the Missouri territory for admission into the Union as a State. The discussion upon the subject in Congress involved the question of slavery, and was prosecuted with such violence as to produce excitements alarming to every patriot in the Union. But the good genius of conciliation which presided at the birth of our institutions finally prevailed, and the Missouri compromise was adopted. This compromise had the effect of calming the troubled waves, and restoring peace and good-will throughout the States of the Union. I do not doubt

that a similar adjustment of the questions which now agitate the public mind would produce the same happy results. If the legislation of Congress on the subject of the other territories shall not be adopted in a spirit of conciliation and compromise, it is impossible that the country can be satisfied, or that the most disastrous consequences shall fail to ensue. When Texas was admitted into our Union, the same spirit of compromise which guided our predecessors in the admission of Missouri, a quarter of a century before, prevailed without any serious opposition. The 'joint-resolution for annexing Texas to the United States,' approved March the first, one thousand eight hundred and forty-five, provides that 'such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of the Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited. The territory of Oregon lies far north of thirty-six degrees thirty minutes, the Missouri and Texas compromise line. Its southern boundary is the parallel of forty-two, leaving the intermediate distance to be three hundred and thirty geographical miles. And it is because the provisions of this bill are not inconsistent with the terms of the Missouri compromise, if extended from the Rio Grande to the Pacific Ocean, that I have not felt at liberty to withhold my sanction. Had it embraced territories south of that compromise, the question presented for my consideration would have been of a far different character, and my action upon it must have corresponded with my convictions.

"Ought we now to disturb the Missouri and Texas compromises? Ought we at this late day, in attempting to annul what has been so long established and acquiesced in, to excite sectional divisions and jealousies; to alienate the people of different portions of the Union from each other; and to endanger the existence of the Union itself?"

To the momentous appeals with which this extract concludes, a terrible answer has just been given. To the question—Will you annul these compromises, and excite jealousies and divisions, sectional alienations, and endanger the existence of this Union? the dreadful answer has been given—WE WILL! And in recording that answer, History performs her sacred duty in pointing to its authors as the authors of the state of things which now alarms and afflicts the country, and threatens the calamity which President Polk foresaw and deprecated.

175. Mr. Calhoun's New Dogma On Territorial Slavery: Self-Extension Of The Slavery Part Of The Constitution To The Territories

The resolutions of 1847 went no further than to deny the power of Congress to prohibit slavery in a territory, and that was enough while Congress alone was the power to be guarded against: but it became insufficient, and even a stumbling-block, when New Mexico and California were acquired, and where no Congress prohibition was necessary because their soil was already free. Here the dogma of '47 became an impediment to the territorial extension of slavery; for, in denying power to legislate upon the subject, the denial worked both ways—both against the admission and exclusion. It was on seeing this consequence as resulting from the dogmas of 1847, that Mr. Benton congratulated the country upon the approaching cessation of the slavery agitation—that the Wilmot Proviso being rejected as unnecessary, the question was at an end, as the friends of slavery extension could not ask Congress to pass a law to carry it into a territory. The agitation seemed to be at an end, and peace about to dawn upon the land. Delusive calculation! A new dogma was invented to fit the case—that of the transmigration of the constitution—(the slavery part of it)—into the territories, overriding and overruling all the anti-slavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication either by Congress or the people of the territory. Before this dogma was proclaimed efforts were made to get the constitution extended to these territories by act of Congress: failing in those attempts, the difficulty was leaped over by boldly assuming that the constitution went of itself—that is to say, the slavery part of it. In this exigency Mr. Calhoun came out with his new and supreme dogma of the transmigratory function of the constitution in the *ipso facto*, and the instantaneous transportation of itself in its slavery attributes, into all acquired territories. This dogma was thus broached by its author in his speech upon the Oregon territorial bill:

"*But I deny that the laws of Mexico can have the effect attributed to them (that of keeping slavery out of New Mexico and California). As soon as the treaty between the two countries is ratified, the sovereignty and authority of Mexico in the territory acquired by it become extinct, and that of the United States is substituted in its place, carrying with it the constitution, with its overriding control over all the laws and institutions of Mexico inconsistent with it.*"

History cannot class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the constitution. The constitution does nothing of itself—not even in the States, for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a territory unless imparted to it by act of Congress. Slavery, as a local institution, can only be established by a local legislative authority. It cannot transmigrate—cannot carry along with it the law which protects it: and if it could, what law would it carry? The code of the State from which the emigrant went? Then there would be as many slavery codes in the territory as States furnishing emigrants, and these codes all varying more or less; and some of them in the essential nature of the property—the slave, in many States, being only a chattel interest, governed by the laws applicable to chattels—in others, as in Louisiana and Kentucky, a real-estate interest, governed by the laws which apply to landed property. In a word, this dogma of the self-extension of the slavery part of the constitution to a territory is impracticable and preposterous, and as novel as unfounded.

It was in this same debate, on the Oregon territorial bill, that Mr. Calhoun showed that he had forgotten the part which he had acted on the Missouri compromise question, and also forgotten its history, and first declared that he held that compromise to be unconstitutional and void. Thus:

"After an arduous struggle of more than a year, on the question whether Missouri should come into the Union, with or without restrictions prohibiting slavery, a compromise line was adopted between the North and the South; but it was done under circumstances which made it nowise obligatory on the latter. It is true, it was moved by one of her distinguished citizens (Mr. Clay), but it is equally so, that it was carried by the almost united vote of the North against the almost united vote of the South; and was thus imposed on the latter by superior numbers, in opposition to her strenuous efforts. The South has never given her sanction to it, or assented to the power it asserted. She was voted down, and has simply acquiesced in an arrangement which she has not had the power to reverse, and which she could not attempt to do without disturbing the peace and harmony of the Union—to which she has ever been adverse."

All this is error, and was immediately shown to be so by Senator Dix of New York, who produced the evidence that Mr. Monroe's cabinet, of which Mr. Calhoun was a member, had passed upon the question of the constitutionality of that compromise, and given their opinions in its favor. It has also been seen since that, as late as 1838, Mr. Calhoun was in favor of that compromise, and censured Mr. Randolph for being against it; and, still later, in 1845, he acted his part in re-enacting that compromise, and re-establishing its line, in that part of it which had been abrogated by the laws and constitution of Texas, and which, if not re-established, would permit slavery in Texas, to spread south of 36° 30'. Forgetting his own part in that compromise, Mr. Calhoun equally forgot that of others. He says Mr. Clay moved the compromise—a clear mistake, as it came down to the House from the Senate, as an amendment to the House restrictive bill. He says it was carried by the almost united voice of the North against the almost united voice of the South—a clear mistake again, for it was carried in the Senate by the united voice of the South, with the aid of a few votes from the North; and in the House, by a majority of votes from each section, making 134 to 42. He says it was imposed on the South: on the contrary, it was not only voted for, but invoked and implored by its leading men—by all in the Senate, headed by Mr. Pinkney of Maryland; by all in the House, headed by Mr. Lowndes, with the exception of Mr. Randolph, whom Mr. Calhoun has since authentically declared he blamed at the time for his opposition. So far from being imposed on the South, she re-established it when she found it down at the recovery of Texas. Every member of Congress that voted for the legislative admission of Texas in 1845, voted for the re-establishment of the prostrate Missouri compromise line: and that vote comprehended the South, with Mr. Calhoun at its head—not as a member of Congress, but as Secretary of State, promoting that legislative admission of Texas, and seizing upon it in preference to negotiation, to effect the admission. This was on the third day of March, 1845; so that up to that day, which was only two years before the invention of the "no power" dogma, Mr. Calhoun is estopped by his own act from denying the constitutionality of the Missouri compromise: and in that estoppel is equally included every member of Congress that then voted for that admission. He says the South never gave her sanction to it: on the contrary, she did it twice—at its enactment in 1820, and at its re-establishment in 1845. He says she was voted down: on the contrary, she was voted up, and that twice, and by good help added to her own exertions—and for which she was duly grateful both times. All this the journals and legislative history of the times will prove, and which any person may see that will take the trouble to look. But admit all these errors of fact, Mr. Calhoun delivered a sound and patriotic sentiment which his disciples have disregarded and violated: He would

not attempt to reverse the Missouri compromise, because it would disturb the peace and harmony of the Union. What he would not attempt, they have done: and the peace and harmony of the Union are not only disturbed, but destroyed.

In the same speech the dogma of squatter sovereignty was properly repudiated and scouted, though condemnation was erroneously derived from a denial, instead of an assertion, of the power of Congress over it. “Of all the positions ever taken on the subject, he declared this of squatter sovereignty to be the most absurd:” and, going on to trace the absurdity to its consequences, he said:

“The first half-dozen of squatters would become the sovereigns, with full dominion and sovereignty over the territories; and the conquered people of New Mexico and California would become the sovereigns of the country as soon as they become territories of the United States, vested with the full right of excluding even their conquerors.”

Mr. Calhoun concluded this speech on the Oregon bill, in which he promulgated his latest dogmas on slavery, with referring the future hypothetical dissolution of the Union, to three phases of the slavery question: 1. The ordinance of ‘87. 2. The compromise of 1820. 3. The Oregon agitation of that day, 1848. These were his words:

“Now, let me say, Senators, if our Union and system of government are doomed to perish, and we to share the fate of so many great people who have gone before us, the historian, who, in some future day, may record the events tending to so calamitous a result, will devote his first chapter to the ordinance of 1787, as lauded as it and its authors have been, as the first in that series which led to it. His next chapter will be devoted to the Missouri compromise, and the next to the present agitation. Whether there will be another beyond, I know not. It will depend on what we may do.”

These the three causes: The ordinance of 1787, which was voted for by every slave State then in existence: The compromise of 1820, supported by himself, and the power of the South: The Oregon agitation of 1848, of which he was the sole architect—for he was the founder of the opposition to free soil in Oregon. But the historian will have to say that neither of these causes dissolved the Union: and that historian may have to relate that a fourth cause did it—and one from which Mr. Calhoun recoiled, “*because it could not be attempted without disturbing the peace and the harmony of the Union*.”

176. Court-Martial On Lieutenant-Colonel Fremont

Columbus, the discoverer of the New World, was carried home in chains, from the theatre of his discoveries, to expiate the crime of his glory: Frémont, the explorer of California and its preserver to the United States, was brought home a prisoner to be tried for an offence, of which the penalty was death, to expiate the offence of having entered the army without passing through the gate of the Military Academy.

The governor of the State of Missouri, Austin A. King, Esq., sitting at the end of a long gallery at Fort Leavenworth, in the summer of 1846, where he had gone to see a son depart as a volunteer in General Kearney's expedition to New Mexico, heard a person at the other end of the gallery speaking of Frémont in a way that attracted his attention. The speaker was in the uniform of a United States officer, and his remarks were highly injurious to Frémont. He inquired the name of the speaker, and was told it was Lieutenant Emory, of the Topographical corps; and he afterwards wrote to a friend in Washington that Frémont was to have trouble when he got among the officers of the regular army: and trouble he did have: for he had committed the offence for which, in the eyes of many of these officers, there was no expiation except in ignominious expulsion from the army. He had not only entered the army intrusively, according to their ideas, that is to say, without passing through West Point, but he had done worse: he had become distinguished. Instead of seeking easy service about towns and villages, he had gone off into the depths of the wilderness, to extend the boundaries of science in the midst of perils and sufferings, and to gain for himself a name which became known throughout the world. He was brought home to be tried for the crime of mutiny, expanded into many specifications, of which one is enough to show the monstrosity of the whole. At page 11 of the printed record of the trial, under the head of "Mutiny" stands this specification, numbered 6:

"In this, that he, Lieutenant-colonel John C. Frémont, of the regiment of mounted riflemen, United States army, did, at Ciudad de los Angeles, on the second of March, 1847, in contempt of the lawful authority of his superior officer, Brigadier-general Kearney, assume to be and act as governor of California, in executing a deed or instrument of writing in the following words, to wit: '*In consideration of Francis Temple having conveyed to the United States a certain island, commonly called White, or Bird Island, situated near the mouth of San Francisco Bay, I, John C. Frémont, Governor of California, and in virtue of my office as aforesaid, hereby oblige myself as the legal representative of the United States, and my successors in office, to pay the said Francis Temple, his heirs or assigns, the sum of $5,000, to be paid at as early a day as possible after the receipt of funds from the United States. In witness whereof, I have hereunto set my hand, and caused the seal of the Territory of California to be affixed, at Ciudad de los Angeles, the capital of California, this 2d day of March, A. D. 1847.—John C. Frémont*.'"

And of this specification, as well as of all the rest, two dozen in number, Frémont was duly found guilty by a majority of the court. Now this case of mutiny consisted in this: That there being an island of solid rock, of some hundred acres extent, in the mouth of the San Francisco bay, formed by nature to command the bay, and on which the United States are now constructing forts and a light-house to cost millions, which island had been granted to a British subject and was about to be sold to a French subject, Colonel Frémont bought it for the United States, subject to their ratification in paying the purchase money: all which appears upon the face of the papers. Upon this transaction (as upon all the other specifications) the majority of the court found the accused guilty of "mutiny," the appropriate

punishment for which is death; but the sentence was moderated down to dismission from the service. The President disapproved the absurd findings (seven of them) under the mutiny charge, but approved the finding and sentence on inferior charges; and offered a pardon to Frémont: which he scornfully refused. Since then the government has taken possession of that island by military force, without paying any thing for it; Frémont having taken the purchase on his own account since his conviction for "mutiny" in having purchased it for the government—a conviction about equal to what it would have been on a specification for witchcraft, heresy, or "flat burglary." And now annual appropriations are made for forts and the light-house upon it, under the name of Alcatraz, or Los Alcatrazes—that is to say, Pelican Island; so called from being the resort of those sea birds.

Justice to the dead requires it to be told that these charges, so preposterously wicked, were not the work of General Kearney, but had been altered from his. At page 64 of the printed record, and not in answer to any question on that point, but simply to place himself right before the court, and the country, General Kearney swore in these words, and signed them: "*The charges upon which Colonel Frémont is now arraigned, are not my charges. I preferred a single charge against Lieutenant-colonel Frémont. These charges, upon which he is now arraigned, have been changed from mine.*" The change was from one charge to three, and from one or a few specifications to two dozen—whereof this island purchase is a characteristic specimen. No person has ever acknowledged the authorship of the change, but the caption to the charges (page 4 of the record) declares them to have been preferred by order of the War Department. The caption runs thus: "*Charges against Lieutenant-colonel Frémont, of the regiment of mounted riflemen, United States army, preferred against him by order of the War Department, on information of Brigadier-general Kearney.*" The War Department, at that time, was William L. Marcy, Esq.; in consequence of which Senator Benton, chairman for twenty years of the Senate's committee on Military Affairs, refused to remain any longer at the head of that committee, because he would not hold a place which would put him in communication with that department.

The gravamen of the charge was, that Frémont had mutinied because Kearney would not appoint him governor of California; and the answer to that was, that Commodore Stockton, acting under full authority from the President, had already appointed him to that place before Kearney left Santa Fé for New Mexico: and the proof was ample, clear, and pointed to that effect: but more has since been found, and of a kind to be noticed by a court of West Point officers, as it comes from graduates of the institution. It so happens that two of General Kearney's officers (Captain Johnston, of the First Dragoons, and Lieutenant Emory, of the Topographical corps), both kept journals of the expedition, which have since been published, and that both these journals contain the same proof—one by a plain and natural statement—the other by an unnatural suppression which betrays the same knowledge. The journal of Captain Johnston, of the first dragoons, under the date of October 6th, 1846, contains this entry:

"Marched at 9, after having great trouble in getting some ox carts from the Mexicans: after marching about three miles we met Kit Carson, direct on express from California, with a mail of public letters for Washington. He informs us that Colonel Frémont is probably civil and military governor of California, and that about forty days since, Commodore Stockton with the naval forces, and Colonel Frémont, acting in concert, commenced to revolutionize that country, and place it under the American flag: that in about ten days this was done, and Carson having received the rank of lieutenant, was despatched across the country by the Gila, with a party to carry the mail. The general told him that he had just passed over the country which we were to traverse, and he wanted him to go back with him as a guide: he replied that he had pledged himself to go to Washington, and he could not think of not fulfilling his

promise. The general told him he would relieve him of all responsibility, and place the mail in the hands of a safe person to carry it on. He finally consented, and turned his face towards the West again, just as he was on the eve of entering the settlements, after his arduous trip, and when he had set his hopes on seeing his family. It requires a brave man to give up his private feelings thus for the public good; but Carson is one: such honor to his name for it."

This is a natural and straightforward account of this meeting with Carson, and of the information he gave, that California was conquered by Stockton and Frémont, and the latter governor of it; and the journal goes on to show that, in consequence of this information, General Kearney turned back the body of his command, and went on with an escort only of one hundred dragoons. Lieutenant Emory's journal of the same date opens in the same way, with the same account of the difficulty of getting some teams from the Mexicans, and then branches off into a dissertation upon peonage, and winds up the day with saying: "*Came into camp late, and found Carson with an express from California, bearing intelligence that the country had surrendered without a blow, and that the American flag floated in every part.*" This is a lame account, not telling to whom the country had surrendered, eschewing all mention of Stockton and Frémont, and that governorship which afterwards became the point in the court-martial trial. The next day's journal opens with Carson's news, equally lame at the same point, and redundant in telling something in New Mexico, under date of Oct. 7th, 1846, which took place the next year in old Mexico, thus: "*Yesterday's news caused some changes in our camp: one hundred dragoons, officered, &c., formed the party for California. Major Sumner, with the dragoons, was ordered to retrace his steps.*" Here the news brought by Carson is again referred to, and the consequence of receiving it is stated; but still no mention of Frémont and Stockton, and that governorship, the question of which became the whole point in the next year's trial for mutiny. But the lack of knowledge of what took place in his presence is more than balanced by a foresight into what took place afterwards and far from him—exhibited thus in the journal: "*Many friends here parted that were never to meet again: some fell in California, some in New Mexico, and some at Cerro Gordo.*" Now, no United States troops fell in New Mexico until after Lieutenant Emory left there, nor in California until he got there, nor at Cerro Gordo until April of the next year, when he was in California, and could not know it until after Frémont was fixed upon to be arrested for that mutiny of which the governorship was the point. It stands to reason, then, that this part of the journal was altered nearly a year after it purports to have been written, and after the arrest of Frémont had been resolved upon; and so, while absolutely proving an alteration of the journal, explains the omission of all mention of all reference to the governorship, the ignoring of which was absolutely essential to the institution of the charge of mutiny.—Long afterwards, and without knowing a word of what Captain Johnston had written, or Lieutenant Emory had suppressed, Carson gave his own statement of that meeting with General Kearney, the identity of which with the statement of Captain Johnston, is the identity of truth with itself. Thus:

"I met General Kearney, with his troops, on the 6th of October, about —— miles below Santa Fé. I had heard of their coming, and when I met them, the first thing I told them was that they were 'too late'—that California was conquered, and the United States flag raised in all parts of the country. But General Kearney said he would go on, and said something about going to establish a civil government. I told him a civil government was already established, and Colonel Frémont appointed governor, to commence as soon as he returned from the north, some time in that very month (October). General Kearney said that made no difference—that he was a friend of Colonel Frémont, and he would make him governor himself. He began from the first to insist on my turning back to guide him into California. I told him I could not turn back—that I had pledged myself to Commodore Stockton and

Colonel Frémont to take their despatches through to Washington City, and to return with despatches as far as New Mexico, where my family lived, and to carry them all the way back if I did not find some one at Santa Fé that I could trust as well as I could myself—that I had promised them I would reach Washington in sixty days, and that they should have return despatches from the government in 120 days. I had performed so much of the journey in the appointed time, and in doing so had already worn out and killed thirty-four mules—that Stockton and Frémont had given me letters of credit to persons on the way to furnish me with all the animals I needed, and all the supplies to make the trip to Washington and back in 120 days; and that I was pledged to them, and could not disappoint them; and besides, that I was under more obligations to Colonel Frémont than to any other man alive. General Kearney would not hear of any such thing as my going on. He told me he was a friend to Colonel Frémont and Colonel Benton, and all the family, and would send on the despatches by Mr. Fitzpatrick, who had been with Colonel Frémont in his exploring party, and was a good friend to him, and would take the despatches through, and bring back despatches as quick as I could. When he could not persuade me to turn back, he then told me that he had a right to make me go with him, and insisted on his right; and I did not consent to turn back till he had made me believe that he had a right to order me; and then, as Mr. Fitzpatrick was going on with the despatches and General Kearney seemed to be such a good friend of the colonel's, I let him take me back; and I guided him through, but went with great hesitation, and had prepared every thing to escape the night before they started, and made known my intention to Maxwell, who urged me not to do so. More than twenty times on the road, General Kearney told me about his being a friend of Colonel Benton and Colonel Frémont, and all their family, and that he intended to make Colonel Frémont the governor of California; and all this of his own accord, as we were travelling along, or in camp, and without my saying a word to him about it. I say, more than twenty times, for I cannot remember how many times, it was such a common thing for him to talk about it."

Such was the statement of Mr. Carson, made to Senator Benton; and who, although rejected for a lieutenancy in the United States army because he did not enter it through the gate of the military academy, is a man whose word will stand wherever he is known, and who is at the head, as a guide, of the principal military successes in New Mexico. But why back his word? The very despatches he was carrying conveyed to the government the same information that he gave to General Kearney, to wit, that California was conquered and Frémont to be governor. That information was communicated to Congress by the President, and also sworn to by Commodore Stockton before the court-martial: but without any effect upon the majority of the members.

Colonel Frémont was found guilty of all the charges, and all the specifications; and in the secrecy which hides the proceedings of courts-martial, it cannot be told how, or whether the members divided in their opinions; but circumstances always leak out to authorize the formation of an opinion, and according to these leakings, on this occasion four members of the court were against the conviction: to wit, Brigadier-general Brooke, President; Lieutenant-colonel Hunt; Lieutenant-colonel Taylor, brother of the afterwards President; and Major Baker, of the Ordnance. The proceedings required to be approved, or disapproved, by the President; and he, although no military man, was a rational man, and common reason told him there was no mutiny in the case. He therefore disapproved that finding, and approved the rest, saying:

"Upon an inspection of the record, I am not satisfied that the facts proved in this case constitute the military crime of 'mutiny.' I am of opinion that the second and third charges are sustained by the proof, and that the conviction upon these charges warrants the sentence of the court. The sentence of the court is therefore approved; but in consideration of the

peculiar circumstances of the case—of the previous meritorious and valuable services of Lieutenant-colonel Frémont, and of the foregoing recommendation of a majority of the court, to the clemency of the President, the sentence of dismissal from the service is remitted. Lieutenant-col. Frémont will accordingly be released from arrest, will resume his sword, and report for duty." (Dated, February 17, 1848.)

Upon the instant of receiving this order, Frémont addressed to the adjutant-general this note:

"I have this moment received the general order, No. 7 (dated the 17th instant), making known to me the final proceedings of the general court-martial before which I have been tried; and hereby send in my resignation of lieutenant-colonel in the army of the United States. In doing this I take the occasion to say, that my reason for resigning is, that I do not feel conscious of having done any thing to deserve the finding of the court; and, this being the case, I cannot, by accepting the clemency of the President, admit the justice of the decision against me."

General Kearney had two misfortunes in this court-martial affair: he had to appear as prosecutor of charges which he swore before the court were not his: and he had been attended by West Point officers envious and jealous of Frémont, and the clandestine sources of poisonous publications against him, which inflamed animosities, and left the heats which they engendered to settle upon the head of General Kearney. Major Cooke and Lieutenant Emory were the chief springs of these publications, and as such were questioned before the court, but shielded from open detection by the secret decisions of the majority of the members.

The secret proceedings of courts-martial are out of harmony with the progress of the age. Such proceedings should be as open and public as any other, and all parties left to the responsibility which publicity involves.

177. Fremont’s Fourth Expedition, And Great Disaster In The Snows At The Head Of The Rio Grande Del Norte: Subsequent Discovery Of The Pass He Sought

No sooner freed from the army, than Frémont set out upon a fourth expedition to the western slope of our continent, now entirely at his own expense, and to be conducted during the winter, and upon a new line of exploration. His views were practical as well as scientific, and tending to the establishment of a railroad to the Pacific, as well as the enlargement of geographical knowledge. He took the winter for his time, as that was the season in which to see all the disadvantages of his route; and the head of the Rio Grande del Norte for his line, as it was the line of the centre, and one not yet explored, and always embraced in his plan of discovery. The mountain men had informed him that there was a good pass at the head of the Del Norte. Besides other dangers and hardships, he had the war ground of the Utahs, Apaches, Navahoes, and other formidable tribes to pass through, then all engaged in hostilities with the United States, and ready to prey upon any party of whites; but 33 of his old companions, 120 picked mules, fine rifles—experience, vigilance and courage—were his reliance; and a trusted security against all evil. Arrived at the *Pueblos* on the Upper Arkansas, the last of November, at the base of the first sierra to be crossed, luminous with snow and stern in their dominating look, he dismounted his whole company, took to their feet, and wading waist-deep in the vast unbroken snow field, arrived on the other side in the beautiful valley of San Luis; but still on the eastern side of the great mountain chain which divided the waters which ran east and west to the rising and the setting sun. At the head of that valley was the pass, described to him by the old hunters. With his glasses he could see the depression in the mountain which marked its place. He had taken a local guide from the Pueblo San Carlos to lead him to that pass. But this precaution for safety was the passport to disaster. He was behind, with his faithful draughtsman, Preuss, when he saw his guide leading off the company towards a mass of mountains to the left: he rode up and stopped them, remonstrated with the guide for two hours; and then yielded to his positive assertion that the pass was there. The company entered a tortuous gorge, following a valley through which ran a head stream of the great river Del Norte. Finally they came to where the ascent was to begin, and the summit range crossed. The snow was deep, the cold intense, the acclivity steep, and the huge rocks projecting. The ascent was commenced in the morning, struggled with during the day, an elevation reached at which vegetation (wood) ceased, and the summit in view, when, buried in snow, exhausted with fatigue, freezing with cold, and incapable of further exertion, the order was given to fall back to the line of vegetation where wood would afford fire and shelter for the night. With great care the animals were saved from freezing, and at the first dawn of day the camp, after a daybreak breakfast, were in motion for the ascent. Precautions had been taken to make it more practicable. Mauls, prepared during the night, were carried by the foremost division to beat down a road in the snow. Men went forward by relieves. Mules and baggage followed in long single file in the track made in the snow. The mountain was scaled: the region of perpetual congelation was entered. It was the winter solstice, and at a place where the summer solstice brought no life to vegetation—no thaw to congelation. The summit of the sierra was bare of every thing but snow, ice and rocks. It was no place to halt. Pushing down the side of the mountain to reach the wood three miles distant, a new and awful danger presented itself: a snow storm raging, the freezing winds beating upon the

exposed caravan, the snow become too deep for the mules to move in, and the cold beyond the endurance of animal life. The one hundred and twenty mules, huddling together from an instinct of self-preservation from each other's heat and shelter, froze stiff as they stood, and fell over like blocks, to become hillocks of snow. Leaving all behind, and the men's lives only to be saved, the discomfited and freezing party scrambled back, recrossing the summit, and finding under the lee of the mountain some shelter from the driving storm, and in the wood that was reached the means of making fires.

The men's lives were now saved, but destitute of every thing, only a remnant of provisions, and not even the resource of the dead mules which were on the other side of the summit; and the distance computed at ten days of their travel to the nearest New Mexican settlement. The guide, and three picked men, were despatched thither for some supplies, and twenty days fixed for their return. When they had been gone sixteen days, Frémont, preyed upon by anxiety and misgiving, set off after them, on foot, snow to the waist, blankets and some morsels of food on the back: the brave Godey, his draughtsman Preuss, and a faithful servant, his only company. When out six days he came upon the camp of his guide, stationary and apparently without plan or object, and the men haggard, wild and emaciated. Not seeing King, the principal one of the company, and on whom he relied, he asked for him. They pointed to an older camp, a little way off. Going there he found the man dead, and partly devoured. He had died of exhaustion, of fatigue, and his comrades fed upon him. Gathering up these three survivors, Frémont resumed his journey, and had not gone far before he fell on signs of Indians—two lodges, implying 15 or 20 men, and some 40 or 50 horses—all recently passed along. At another time this would have been an alarm, one of his fears being that of falling in with a war party. He knew not what Indians they were, but all were hostile in that quarter, and evasion the only security against them. To avoid their course was his obvious resource: on the contrary, he followed it! for such was the desperation of his situation that even a change of danger had an attraction. Pursuing the trail down the Del Norte, then frozen solid over, and near the place where Pike encamped in the winter of 1807-'8, they saw an Indian behind his party, stopped to get water from an air hole. He was cautiously approached, circumvented, and taken. Frémont told his name: the young man, for he was quite young, started, and asked him if he was the Frémont that had exchanged presents with the chief of the Utahs at Las Vegas de Santa Clara three years before? He was answered, yes. Then, said the young man, we are friends: that chief was my father, and I remember you. The incident was romantic, but it did not stop there. Though on a war inroad upon the frontiers of New Mexico, the young chief became his guide, let him have four horses, conducted him to the neighborhood of the settlements, and then took his leave, to resume his scheme of depredation upon the frontier.

Frémont's party reached Taos, was sheltered in the house of his old friend Carson—obtained the supplies needed—sent them back by the brave Godey, who was in time to save two-thirds of the party, finding the other third dead along the road, scattered at intervals as each had sunk exhausted and frozen, or half burnt in the fire which had been kindled for them to die by. The survivors were brought in by Godey, some crippled with frozen feet. Frémont found himself in a situation which tries the soul—which makes the issue between despair and heroism—and leaves no alternative but to sink under fate, or to rise above it. His whole outfit was gone: his valiant mountain men were one-third dead, many crippled: he was penniless, and in a strange place. He resolved to go forward—*nulla vestigia retrorsum*: to raise another outfit, and turn the mountains by the Gila. In a few days it was all done—men, horses, arms, provisions—all acquired; and the expedition resumed. But it was no longer the tried band of mountain men on whose vigilance, skill and courage he could rely to make their way through hostile tribes. They were new men, and to avoid danger, not to overcome it, was his resource.

The Navahoes and Apaches had to be passed, and eluded—a thing difficult to be done, as his party of thirty men and double as many horses would make a trail, easy to be followed in the snow, though not deep. He took an unfrequented course, and relied upon the secrecy and celerity of his movements. The fourth night on the dangerous ground the horses, picketed without the camp, gave signs of alarm: they were brought within the square of fires, and the men put on the alert. Daybreak came without visible danger. The camp moved off: a man lagged a little behind, contrary to injunctions: the crack of some rifles sent him running up. It was then clear that they were discovered, and a party hovering round them. Two Indians were seen ahead: they might be a decoy, or a watch, to keep the party in view until the neighboring warriors could come in. Evasion was no longer possible: fighting was out of the question, for the whole hostile country was ahead, and narrow defiles to be passed in the mountains. All depended upon the address of the commander. Relying upon his ascendant over the savage mind, Frémont took his interpreter, and went to the two Indians. Godey said he should not go alone, and followed. Approaching them, a deep ravine was seen between. The Indians beckoned him to go round by the head of the ravine, evidently to place that obstacle between him and his men. Symptoms of fear or distrust would mar his scheme: so he went boldly round, accosted them confidently, and told his name. They had never heard it. He told them they ought to be ashamed, not to know their best friend; inquired for their tribe, which he wished to see: and took the whole air of confidence and friendship. He saw they were staggered. He then invited them to go to his camp where the men had halted, and take breakfast with him. They said that might be dangerous—that they had shot at one of his men that morning, and might have killed him, and now be punished for it. He ridiculed the idea of their hurting his men, charmed them into the camp, where they ate, and smoked, and told their secret, and became messengers to lead their tribe in one direction, while Frémont and his men escaped by another; and the whole expedition went through without loss, and without molestation. A subsequent winter expedition completed the design of this one, so disastrously frustrated by the mistake of a guide. Frémont went out again upon his own expense—went to the spot where the guide had gone astray—followed the course described by the mountain men—and found safe and easy passes all the way to California, through a good country, and upon the straight line of 38 and 39 degrees. It is the route for the Central Pacific Railroad, which the structure of the country invites, and every national consideration demands.

178. Presidential Election

Party conventions for the nomination of presidential candidates, had now become an institution, and a power in the government; and, so far as the party was concerned, the nomination was the election. No experience of the evils of this new power had yet checked its sway, and all parties (for three of them now appeared in the political field) went into that mode of determining the election for themselves. The democratic convention met, as heretofore, at Baltimore, in the month of May, and was numerously attended by members of Congress, and persons holding office under the federal government, who would be excluded by the constitution from the place of electors, but who became more than electors, having virtually supreme power over the selection of the President, as well as his election, so far as the party was concerned. The two-thirds rule was adopted, and that put the nomination in the hands of the minority, and of the trained intriguers. Every State was to be allowed to give the whole number of its electoral votes, although it was well known, now as heretofore, that there were many of them which could not give a democratic electoral vote at the election. The State of New York was excluded from voting. Two sets of delegates appeared from that State, each claiming to represent the true democracy: the convention settled the question by excluding both sets: and in that exclusion all the States which were confessedly unable to give a democratic vote, were allowed to vote; and most of them voted for the exclusion. Massachusetts, which had never given a democratic vote, now gave twelve votes; and they were for the exclusion of New York, which had voted democratically since the time of Mr. Jefferson; and whose vote often decided the fate of the election. The vote for the exclusion was 157 to 95: and in this collateral vote, as well as in the main one, the delegates generally voted according to their own will, without any regard to the people; and that *will*, with the most active and managing, was simply to produce a nomination which would be most favorable to themselves in the presidential distribution of offices. After four days work a nomination was produced. Mr. Lewis Cass, of Michigan, for President: General Wm. O. Butler, of Kentucky, for Vice-President. The construction of the platform, or party political creed for the campaign, was next entered upon, and one was produced, interminably long, and long since forgotten. The value of all such constructions may be seen in comparing what was then adopted, or rejected as political test, with what has since been equally rejected or adopted for the same purpose. For example: the principle of squatter sovereignty, that is to say, the right of the inhabitants of the *territories* to decide the question of slavery for themselves, was then repudiated, and by a vote virtually unanimous: it is since adopted by a vote equally unanimous. Mr. Yancy, of Alabama, submitted this resolution, as an article of democratic faith to be inserted in the creed; to wit: "*That the doctrine of non-interference with the rights of property of any portion of this confederation, be it in the States or in the Territories, by any other than the parties interested in them, is the true republican doctrine recognized by this body.*" This article of faith was rejected; 246 against 36: so that, up to the month of May, in the year 1848, squatter sovereignty, or the right of the inhabitants of a *territory* to determine the question of slavery for themselves, was rejected and ignored by the democratic party.

The whig nominating convention met in Philadelphia, in the month of June, and selected General Zachary Taylor, and Millard Fillmore, Esq., for their candidates. On their first balloting, the finally successful candidates lacked much of having the requisite number of votes, there being 22 for Mr. Webster, 43 for General Scott, 97 for Mr. Clay, and 111 for General Taylor. Eventually General Taylor received the requisite majority, 171—making his gains from the friends of Mr. Clay, whose vote was reduced to 32. The nomination of

General Taylor was avowedly made on the calculation of availability—setting aside both Mr. Clay and Mr. Webster, in favor of the military popularity of Buena Vista, Monterey, Palo Alto, and Resaca de la Palma. In one respect the whig convention was more democratic than that of the democracy: it acted on the principle of the majority to govern.

But there was a third convention, growing out of the rejection of the Van Buren democratic delegates at the Baltimore democratic convention—for the exclusion, though ostensibly against both, was in reality to get rid of them—which met first at Utica, and afterwards at Buffalo, in the State of New York, and nominated Mr. Van Buren for President, and Mr. Charles Francis Adams (son of the late John Quincy Adams), for Vice-President. This convention also erected its platform, its distinctive feature being an opposition to slave institutions, and a desire to abolish, or restrain slavery wherever it constitutionally could be done. Three principles were laid down: First, That it was the duty of the federal government to abolish slavery wherever it could constitutionally be done. Second, That the States within which slavery existed had the sole right to interfere with it. Thirdly, That Congress alone can prevent the existence of slavery in the territories. By the first of these principles it would be the duty of Congress to abolish slavery in the District of Columbia; by the second, to let it alone in the States; by the third, to restrain and prevent it in the territories then free; the dogma of squatter sovereignty being abjured by this latter principle. The watchwords of the party, to be inscribed on their banner, were: "*Free soil*"—"*Free speech*"—"*Free labor*"—"*Free men*"—from which they incurred the appellation of Free-soilers. It was an organization entirely to be regretted. Its aspect was sectional—its foundation a single idea—and its tendency, to merge political principles in a slavery contention. The Baltimore democratic convention had been dominated by the slavery question, but on the other side of that question, and not openly and professedly: but here was an organization resting prominently on the slavery basis. And deeming all such organization, no matter on which side of the question, as fraught with evil to the Union, this writer, on the urgent request of some of his political associates, went to New York, to interpose his friendly offices to get the Free-soil organization abandoned. The visit was between the two conventions, and before the nominations and proceedings had become final: but in vain. Mr. Van Buren accepted the nomination, and in so doing, placed himself in opposition to the general tenor of his political conduct in relation to slavery, and especially in what relates to its existence in the District of Columbia. I deemed this acceptance unfortunate to a degree far beyond its influence upon persons or parties. It went to impair confidence between the North and the South, and to narrow down the basis of party organization to a single idea; and that idea not known to our ancestors as an element in political organizations. The Free-soil plea was, that the Baltimore democratic convention had done the same; but the answer to that was, that it was a general convention from all the States, and did not make its slavery principles the open test of the election, while this was a segment of the party, and openly rested on that ground. Mr. Van Buren himself was much opposed to his own nomination. In his letter to the Buffalo convention he said: "*You all know, from my letter to the Utica convention, and the confidence you repose in my sincerity, how greatly the proceedings of that body, in relation to myself, were opposed to my earnest wishes.*" Yet he accepted a nomination made against his earnest wishes; and although another would have been nominated if he had refused, yet no other nomination could have given such emphasis to the character of the convention, and done as much harm. Senator Henry Dodge, of Wisconsin, had first been proposed for Vice-President; but, although opposed to the extension of slavery, he could not concur in the Buffalo platform; and declined the nomination. Of the three parties, the whig party, so far as slavery was concerned, acted most nationally; they ignored the subject, and made their nomination on the platform of the constitution, the country, and the character of their candidate.

The issue of the election did not disappoint public expectation. The State of New York could not be spared by the democratic candidate, and it was quite sure that the division of the party there would deprive Mr. Cass of the vote of that State. It did so: and these 36 votes, making a difference of 72, decided the election. The vote was 163 against 127, being the same for the vice-presidential candidates as for their principals. The States voting for General Taylor, were: Massachusetts, 12; Rhode Island 4; Connecticut, 6; Vermont, 7; New York, 36; New Jersey, 7; Pennsylvania, 26; Delaware, 3; Maryland, 8; North Carolina, 11; Georgia, 10; Kentucky, 12; Tennessee, 13; Louisiana, 6; Florida, 3. Those voting for Mr. Cass, were: Maine, 9; New Hampshire, 6; Virginia, 17; South Carolina, 9; Ohio, 23; Mississippi, 6; Indiana, 12; Illinois, 9; Alabama, 9; Missouri, 7; Arkansas, 3; Michigan, 5; Texas, 4; Iowa, 4; Wisconsin, 4. The Free-soil candidates received not a single electoral vote.

The result of the election was not without its moral, and its instruction. All the long intrigues to govern it, had miscarried. None of the architects of annexation, or of war, were elected. A victorious general overshadowed them all; and those who had considered Texas their own game, and made it the staple of incessant plots for five years, saw themselves shut out from that presidency which it had been the object of so many intrigues to gain. Even the slavery agitation failed to govern the election; and a soldier was elected, unknown to political machinations, and who had never even voted at an election.

179. Last Message Of Mr. Polk

The message opened with an encomium on the conquest of Mexico, and of the citizen soldiers who volunteered in such numbers for the service, and fought with such skill and courage—saying justly:

“Unlike what would have occurred in any other country, we were under no necessity of resorting to draughts or conscriptions. On the contrary, such was the number of volunteers who patriotically tendered their services, that the chief difficulty was in making selections, and determining who should be disappointed and compelled to remain at home. Our citizen soldiers are unlike those drawn from the population of any other country. They are composed indiscriminately of all professions and pursuits: of farmers, lawyers, physicians, merchants, manufacturers, mechanics, and laborers; and this, not only among the officers, but the private soldiers in the ranks. Our citizen soldiers are unlike those of any other country in other respects. They are armed, and have been accustomed from their youth up to handle and use fire-arms; and a large proportion of them, especially in the western and more newly settled States, are expert marksmen. They are men who have a reputation to maintain at home by their good conduct in the field. They are intelligent, and there is an individuality of character which is found in the ranks of no other army. In battle, each private man, as well as every officer, fights not only for his country, but for glory and distinction among his fellow-citizens when he shall return to civil life.”

And this was the case in a foreign war, in which a march of two thousand miles had to be accomplished before the foe could be reached: how much more so will it be in defensive war—war to defend our own borders—the only kind in which the United States should ever be engaged. That is the kind of war to bring out all the strength and energy of volunteer forces; and the United States have arrived at the point to have the use of that force with a promptitude, a cheapness, and an efficiency, never known before, nor even conceived of by the greatest masters of the art of war. The electric telegraph to summon the patriotic host: the steam car to precipitate them on the point of defence. The whole art of defensive war, in the present condition of the United States, and still more, what it is hereafter to be, is simplified into two principles—accumulation of masses, and the system of incessant attacks. Upon these two principles the largest invading force would be destroyed—shot like pigeons on their roost—by the volunteers and their rifles, before the lumbering machinery of a scientific army could be got into motion.

The large acquisition of new territory was fiercely lighting up the fires of a slavery controversy, and Mr. Polk recommended the extension of the Missouri compromise line to the Pacific Ocean, as the most effectual and easy method of averting the dangers to the Union, which he saw in that question. He said:

“Upon a great emergency, however, and under menacing dangers to the Union, the Missouri compromise line in respect to slavery was adopted. The same line was extended further west on the acquisition of Texas. After an acquiescence of nearly thirty years in the principle of compromise recognized and established by these acts, and to avoid the danger to the Union which might follow if it were now disregarded, I have heretofore expressed the opinion that that line of compromise should be extended on the parallel of thirty-six degrees thirty minutes from the western boundary of Texas, where it now terminates, to the Pacific Ocean. This is the middle line of compromise, upon which the different sections of the Union may meet, as they have hitherto met.”

This was the compromise proposition of the President, but there were arrayed against it parties and principles which repelled its adoption. First, the large party which denied the power of Congress to legislate upon the subject of slavery in territories. Some of that class of politicians, and they were numerous and ardent, though of recent conception, were, from the necessity of their position, compelled to oppose a proposition which involved, to the greatest extent, the exercise of that denied power. Next, the class who believed in the still newer doctrine of the self-extension of slavery into all the territories, by the self-expansion of the constitution over them. This class would have nothing to do with any law upon the subject—equally repulsing congressional legislation, squatter sovereignty, or territorial law. A third class objected to the extension of the Missouri compromise line, because in its extension that line, astronomically the same, became politically different. In all its original extent it passed through territory all slave, and therefore made one side free: in its extension it would pass through territory all free, and therefore make one side slave. This was the reverse of the principle of the previous compromises, and although equal on its face, and to shallow observers the same law, yet the transfer and planting of slavery in regions where it did not exist, involved a breach of principle, and a shock of feeling, in those conscientiously opposed to the extension of slavery, which it was impossible for them to incur. Finally, those who wanted no compromise—no peace—no rest on the slavery question: These were of two classes; first, mere political demagogues on each side of the agitation, who wished to keep the question alive for their own political elevation; next, the abolitionists, who denied the right of property in slaves, and were ready to dissolve the Union to get rid of association with slave States; and the nullifiers, who wished to dissolve the Union, and who considered the slavery question the efficient means of doing it. Among all these parties, the extension of the Missouri compromise line became an impossibility.

The state of the finances, and of the expenditures of the government for the last year of the war, and the first year of peace, was concisely stated by the President, and deserves to be known and considered by all who would study that part of the working of our government. Of the first period it says:

“The expenditures for the same period, including the necessary payment on account of the principal and interest of the public debt, and the principal and interest of the first instalment due to Mexico on the thirtieth of May next, and other expenditures growing out of the war, to be paid during the present year, will amount, including the reimbursement of treasury notes, to the sum of fifty-four millions one hundred and ninety-five thousand two hundred and seventy-five dollars and six cents; leaving an estimated balance in the Treasury on the first of July, 1849, of two millions eight hundred and fifty-three thousand six hundred and ninety-four dollars and eighty-four cents.”

Deducting the three heads of expense here mentioned, and the expenses for the year ending the 30th of June, 1848, were about twenty-five millions of dollars, and about the same sum was estimated to be sufficient for the first fiscal year of entire peace, ending the 30th of June, 1849. Thus:

“The Secretary of the Treasury will present, as required by law, the estimate of the receipts and expenditures for the next fiscal year. The expenditures, as estimated for that year, are thirty-three millions two hundred and thirteen thousand one hundred and fifty-two dollars and seventy-three cents, including three millions seven hundred and ninety-nine thousand one hundred and two dollars and eighteen cents, for the interest on the public debt, and three millions five hundred and forty thousand dollars for the principal and interest due to Mexico on the thirtieth of May, 1850; leaving the sum of twenty-five millions eight hundred and

seventy-four thousand and fifty dollars and thirty-five cents; which, it is believed, will be ample for the ordinary peace expenditures.”

About 25 millions of dollars for the future expenditures of the government: and this the estimate and expenditure only seven years ago. Now, three times that amount, and increasing with frightful rapidity.

180. Financial Working Of The Government Under The Hard Money System

The war of words was over: the test of experiment had come: and the long contest between the hard money and the paper money advocates ceased to rage. The issue of the war with Mexico was as disastrous to the paper money party, as it was to the Mexicans themselves. The capital was taken in each case, and the vanquished submitted in quiet in each case. The virtue of a gold and silver currency had shown itself in its good effects upon every branch of business—upon the entire pursuits of human industry, and above all, in assuring to the working man a solid compensation, instead of a delusive cheat for his day's labor. Its triumph was complete: but that triumph was limited to a home experiment in time of peace. War, and especially war to be carried on abroad, is the great test of currency; and the Mexican war was to subject the restored golden currency of the United States to that supreme test: and here the paper money party—the national bank sound-currency party—felt sure of the victory. The first national bank had been established upon the war argument presented by General Hamilton to President Washington: the second national bank was born of the war of 1812: and the war with Mexico was confidently looked to as the trial which was to show inadequacy of the hard money currency to its exigencies, and the necessity of establishing a national paper currency. Those who had asserted the inadequacy of all the gold and silver in the world to do the business of the United States, were quite sure of the insufficiency of the precious metals to carry on a foreign war in addition to all domestic transactions. The war came: its demands upon the solid currency were not felt in its diminution at home. Government bills were above par! and every loan taken at a premium! and only obtained upon a hard competition! How different from any thing which had ever been seen in our country, or in almost any country before. The last loan authorized (winter of '47-'48) of sixteen millions, brought a premium of about five hundred thousand dollars; and one-half of the bidders were disappointed and chagrined because they could get no part of it. Compare this financial result to that of the war of 1812, during which the federal government was a mendicant for loans, and paid or suffered a loss of forty-six millions of dollars to obtain them, and the virtue of the gold currency will stand vindicated upon the test of war, and foreign war, as well as upon the test of home transactions. The war was conducted upon the hard money basis, and found the basis to be as ample as solid. Payments were regular and real: and, at the return of peace, every public security was above par, the national coffers full of gold; and the government having the money on hand, and anxious to pay its loans before they were due, could only obtain that privilege by paying a premium upon it, sometimes as high as twenty per centum—thus actually giving one dollar upon every five for the five before it was due. And this, more or less, on all the loans, according to the length of time they had yet to run. And this is the crown and seal upon the triumph of the gold currency.

181. Coast Survey: Belongs To The Navy: Converted Into A Separate Department: Expense And Interminability: Should Be Done By The Navy, As In Great Britain: Mr. Bentons Speech: Extract

Mr. Benton. My object, Mr. President, is to return the coast survey to what the law directed it to be, and to confine its execution, after the 30th of June next, to the Navy Department. We have now, both by law and in fact, a bureau for the purpose—that of Ordnance and Hydrography—and to the hydrographical section of this bureau properly belongs the execution of the coast survey. It is the very business of hydrography; and in Great Britain, from whom we borrow the idea of this bureau, the hydrographer, always a naval officer, and operating wholly with naval forces, is charged with the whole business of the coast survey of that great empire. One hydrographer and with only ten vessels until lately, conducts the whole survey of coasts under the laws of that empire—surveys not confined to the British Isles, but to the British possessions in the four quarters of the globe—and not merely to their own possessions, but to the coasts of all countries with which they have commerce, or expect war, and of which they have not reliable charts—even to China and the Island of Borneo. Rear Admiral Beaufort is now the hydrographer, and has been for twenty years; and he has no civil astronomer to do the work for him, or any civil superintendent to overlook and direct him. But he has somebody to overlook him, and those who know what they are about—namely, the Lords of the Admiralty—and something more besides—namely, the House of Commons, through its select committees—and by which the whole work of this hydrographer is most carefully overlooked, and every survey brought to the test of law and expediency in its inception, and of economy and speed in its execution. I have now before me one of the examinations of this hydrographer before a select committee of the House of Commons, made only last year, and which shows that the British House of Commons holds its hydrographer to the track of the law—confines him to his proper business—and that proper business is precisely the work which is required by our acts of 1807 and 1832. Here is the volume which contains, among other things, the examination of Rear Admiral Beaufort [showing a huge folio of more than a thousand pages]. I do not mean to read it. I merely produce it to show that, in Great Britain, the hydrographer, a naval officer, is charged with the whole business of the coast survey, and executes it exclusively with the men and ships of the navy; and having produced it for this purpose, I read a single question from it, not for the sake of the answer, but for the sake of the facts in the question. It relates to the number of assistants retained by the rear admiral, and the late increase in their number. The question is in these words:

“In 1834 and 1835 you had three assistants—one at three pounds a week, and two at two guineas a week; now you have five assistants—one at four pounds a week, three at three pounds, and one at three guineas: why has this increase been made?”

The answer was that these assistants had to live in London, where living was dear, and that they had to do much work—for example, had printed 61,631 charts the year before. I pass over the answer for the sake of the question, and the facts of the question, and to contrast them with something in our own coast survey. The question was, why he had increased the number of the assistants from three to five, and the compensation of the principal one from about $800 to about $1,000, and of the others from about $600 to about $800 a year? And

turning to our Blue Book, under the head of coast survey, I find the number of the assistants of our superintendent rather more than three, or five, and their salaries rather more than six, or eight, or even ten and twelve hundred dollars. They appear thus in the official list: One assistant at $3,500 per annum; one at $2,500; three at $2,000 each; three at $1,500 each; four at $1,300 each; two at $1,000 each; two at $600 each; one draughtsman at $1,500; another at $600; one computer at $1,500; two ditto at $1,000 each; one disbursing officer at $2,000. All this in addition to the superintendent himself at $4,500 as superintendent of coast survey, and $1,500 as superintendent of weights and measures, with an assistant at $2,000 to aid him in that business; with all the paraphernalia of an office besides. I do not know what law fixes either the number or compensation of these assistants, nor do I know that Congress has ever troubled itself to inquire into their existence: but if our superintendent was in England, with his long catalogue of assistants, the question which I have read shows that there would be an inquiry there.

Mr. President, the cost of this coast survey has been very great, and is becoming greater every year, and, expanding as it does, must annually get further from its completion. The direct appropriations out of the Treasury exceed a million and a half of dollars (1,509,725), besides the $186,000 now in the bill which I propose to reduce to $30,000.

These are the direct appropriations; but they are only half, or less than half the actual expense of this survey. The indirect expenses are much greater than the direct appropriations; and without pretending to know the whole extent of them, I think I can show a table which will go as high as $210,000 for the last year. It has been seen, that the superintendent (for I suppose that astronomer is no longer the recognized title, although the legal one) is authorized to get from the Treasury Department *quantum sufficit* of men and ships. Accordingly, for the last year the number of vessels was thirteen—the number of men and officers five hundred and seventy-six—and the cost of supporting the whole about $210,000 a year; and this coming from the naval appropriations proper.

Thus, sir, the navy does a good deal, and pays a good deal, towards this coast survey; and my only objection is, that it does not do the whole, and pay the whole, and get the credit due to their work, instead of being, as they now are, unseen and unnoticed—eclipsed and cast into the shade by the civil superintendent and his civil assistants.

I have shown you that, in Great Britain, the Bureau of Ordnance and Hydrography is charged with the coast survey; we have the same bureau, both by law and in fact; but that bureau has only a divided, and, I believe, subordinate part of the coast survey. We have the expense of it, and that expense should be added to the expense of the coast survey. Great Britain has no civil superintendent for this business. We have her law, but not her practice, and my motion is, to come to her practice. We should save by it the whole amount of the direct appropriations, saving and excepting the small appropriations for the extra expense which it would bring upon the navy. The men and officers are under pay, and would be glad to have the work to do. Our naval establishment is now very large, and but little to do. The ships, I suppose, are about seventy; the men and officers some ten thousand: the expense of the whole establishment between eight and nine millions of dollars a year. We are in a state of profound peace, and no way to employ this large naval force. Why not put it upon the coast survey? I know that officers wish it—that they feel humiliated at being supposed incompetent to it—and if found to be so, are willing to pay the penalty, by being dismissed the service. Incompetency is the only ground upon which a civil superintendent and a list of civil assistants can be placed over them. And is that objection well founded? Look to Maury, whose name is the synonym of nautical and astronomical science. Look to that Dr. Locke, once on the medical staff of the navy, and now pursuing a career of science in the West, from

which has resulted that discovery of the magnetic clock and telegraph register which the coast survey now uses, and which an officer of the navy (Captain Wilkes) was the first to apply to the purposes for which it is now used.

And are we to presume our naval officers incompetent to the conduct of this coast survey, when it has produced such men as these—when it may contain in its bosom we know not how many more such? In 1807 we had no navy—we may say none, for it was small, and going down to nothing. Then, it might be justifiable to employ an astronomer. In 1832, the navy had fought itself into favor; but Mr. Hassler, the father of the coast survey, was still alive, and it was justifiable to employ him as an astronomer. But now there is no need for a civil astronomer, much less for a civil superintendent; and the whole work should go to the navy. We have naval schools now for the instruction of officers; we have officers with the laudable ambition to instruct themselves. The American character, ardent in every thing, is pre-eminently ardent in the pursuit of knowledge. In every walk of life, from the highest to the lowest, from the most humble mechanical to the highest professional employment, knowledge is a pursuit, and a laudable object of ambition with a great number. We are ardent in the pursuit of wealth—equally so in the pursuit of science. The navy partakes of this laudable ambition. You will see an immense number of the naval officers, of all ages and of all ranks, devoting themselves, with all the ardor of young students, for the acquisition of knowledge: and are all these—the whole naval profession—to be told that none of them are able to conduct the coast survey, none of them able to execute the act of 1807, none of them able to find shoals and islands within twenty leagues of the coast, to sound a harbor, to take the distance and bearings of headlands and capes—and all this within sixty miles of the shore? Are they to be told this? If they are, and it could be told with truth, it would be time to go to reducing. But it cannot be said with truth. The naval officers can not only execute the act of 1807 but they can do any thing, if it was proper to do it, which the present coast survey is engaged in over and beyond that act. They can do any thing that the British officers can do; and the British naval officers conduct the coast survey of that great empire. We have many that can do any thing that Rear Admiral Beaufort can do, and he has conducted the British coast survey for twenty years, and has stood examinations before select committees of the British House of Commons, which have showed that no civil superintendent was necessary to guide him.

Mr. President, we have a large, and almost an idle navy at present. We have a home squadron, like the British, though we do not live on an island, nor in times subject to a descent, like England from Spain in the time of the Invincible Armada, or from the Baltic in the times of Canute and Hardicanute. Our home squadron has nothing to do, unless it can be put on the coast survey. We have a Mediterranean squadron; but there are no longer pirates in the Mediterranean to be kept in check. We have a Pacific squadron, and it has no enemy to watch in the Pacific Ocean. Give these squadrons employment—a part of them at least. Put them on the coast survey, as many as possible, and have the work finished—finished for the present age as well as for posterity. We have been forty years about it; and, the way we go on, may be forty more. The present age wants the benefit of these surveys, and let us accelerate them by turning the navy upon them—as much of it as can be properly employed. Let us put the whole work in the hands of the navy, and try the question whether or not they are incompetent to it.

182. Proposed Extension Of The Constitution Of The United States To The Territories, With A View To Make It Carry Slavery Into California, Utah And New Mexico

The treaty of peace with Mexico had been ratified in the session of 1847-'48, and all the ceded territory became subject to our government, and needing the immediate establishment of territorial governments: but such were the distractions of the slavery question, that no such governments could be formed, nor any law of the United States extended to these newly acquired and orphan dominions. Congress sat for six months after the treaty had been ratified, making vain efforts to provide government for the new territories, and adjourning without accomplishing the work. Another session had commenced, and was coming to a close with the same fruitless result. Bills had been introduced, but they only gave rise to heated discussion. In the last days of the session, the civil and diplomatic appropriation bill, commonly called the general appropriation bill—the one which provides annually for the support of the government, and without the passage of which the government would stop, came up from the House to the Senate. It had received its consideration in the Senate, and was ready to be returned to the House, when Mr. Walker, of Wisconsin, moved to attach to it, under the name of amendment, a section providing a temporary government for the ceded territories, and extending an enumerated list of acts of Congress to them. It was an unparliamentary and disorderly proposition, the proposed amendment being incongruous to the matter of the appropriation bill, and in plain violation of the obvious principle which forbade extraneous matter, and especially that which was vehemently contested, from going into a bill upon the passage of which the existence of the government depended. The proposition met no favor: it would have died out if the mover had not yielded to a Southern solicitation to insert the extension of the constitution into his amendment, so as to extend that fundamental law to those for whom it was never made, and where it was inapplicable, and impracticable. The novelty and strangeness of the proposition called up Mr. Webster, who said:

"It is of importance that we should seek to have clear ideas and correct notions of the question which this amendment of the member from Wisconsin has presented to us; and especially that we should seek to get some conception of what is meant by the proposition, in a law, to 'extend the constitution of the United States to the territories.' Why, sir, the thing is utterly impossible. All the legislation in the world, in this general form, could not accomplish it. There is no cause for the operation of the legislative power in such a manner as that. The constitution—what is it? We extend the constitution of the United States by law to territory! What is the constitution of the United States? Is not its very first principle, that all within its influence and comprehension shall be represented in the legislature which it establishes, with not only a right of debate and a right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice-President? And can we by law extend these rights, or any of them, to a territory of the United States? Every body will see that it is altogether impracticable. It comes to this, then, that the constitution is to be extended as far as practicable; but how far that is, is to be decided by the President of the United States, and therefore he is to have absolute and despotic power. He is the judge of what is suitable, and what is unsuitable; and what he thinks suitable is suitable, and what he thinks unsuitable is unsuitable. He is '*omnis in hoc*;' and what is this but to say, in general terms, that the

President of the United States shall govern this territory as he sees fit till Congress makes further provision. Now, if the gentleman will be kind enough to tell me what principle of the constitution he supposes suitable, what discrimination he can draw between suitable and unsuitable which he proposes to follow, I shall be instructed. Let me say, that in this general sense there is no such thing as extending the constitution. The constitution is extended over the United States, and over nothing else. It cannot be extended over any thing except over the old States and the new States that shall come in hereafter, when they do come in. There is a want of accuracy of ideas in this respect that is quite remarkable among eminent gentlemen, and especially professional and judicial gentlemen. It seems to be taken for granted that the right of trial by jury, the *habeas corpus*, and every principle designed to protect personal liberty, is extended by force of the constitution itself over every new territory. That proposition cannot be maintained at all. How do you arrive at it by any reasoning or deduction? It can be only arrived at by the loosest of all possible constructions. It is said that this must be so, else the right of the *habeas corpus* would be lost. Undoubtedly these rights must be conferred by law before they can be enjoyed in a territory."

It was not Mr. Walker, of Wisconsin, the mover of the proposition, that replied to Mr. Webster: it was the prompter of the measure that did it, and in a way to show immediately that this extension of the constitution to territories was nothing but a new scheme for the extension of slavery. Denying the power of Congress to legislate upon slavery in territories—finding slavery actually excluded from the ceded territories, and desirous to get it there—Mr. Calhoun, the real author of Mr. Walker's amendment, took the new conception of carrying the constitution into them; which arriving there, and recognizing slavery, and being the supreme law of the land, it would over-ride the anti-slavery laws of the territory, and plant the institution of slavery under its Ægis, and above the reach of any territorial law, or law of Congress to abolish it. He, therefore, came to the defence of his own proposition, and thus replied to Mr. Webster:

"I rise, not to detain the Senate to any considerable extent, but to make a few remarks upon the proposition first advanced by the senator from New Jersey, fully endorsed by the senator from New Hampshire, and partly endorsed by the senator from Massachusetts, that the constitution of the United States does not extend to the territories. That is the point. I am very happy, sir, to hear this proposition thus asserted, for it will have the effect of narrowing very greatly the controversy between the North and the South as it regards the slavery question in connection with the territories. It is an implied admission on the part of those gentlemen, that, if the constitution does extend to the territories, the South will be protected in the enjoyment of its property—that it will be under the shield of the constitution. You can put no other interpretation upon the proposition which the gentlemen have made, than that the constitution does not extend to the territories. Then the simple question is, does the constitution extend to the territories, or does it not extend to them? Why, the constitution interprets itself. It pronounces itself to be the supreme law of the land."

When Mr. Webster heard this syllogistic assertion, that the constitution being the supreme law of the land, and the territories being a part of the land, *ergo* the constitution being extended to them would be their supreme law: when he heard this, he called out from his seat—"*What land?*" Mr. Calhoun replied, saying:

"The land; the territories of the United States are a part of the land. It is the supreme law, not within the limits of the States of this Union merely, but wherever our flag waves—wherever our authority goes, the constitution in part goes, not all its provisions certainly, but all its suitable provisions. Why, can we have any authority beyond the constitution? I put the question solemnly to gentlemen; if the constitution does not go there, how are we to have any

authority or jurisdiction whatever? Is not Congress the creature of the constitution; does it not hold its existence upon the tenure of the continuance of the constitution; and would it not be annihilated upon the destruction of that instrument, and the consequent dissolution of this confederacy? And shall we, the creature of the constitution, pretend that we have any authority beyond the reach of the constitution? Sir, we were told, a few days since, that the courts of the United States had made a decision that the constitution did not extend to the territories without an act of Congress. I confess that I was incredulous, and am still incredulous that any tribunal, pretending to have a knowledge of our system of government, as the courts of the United States ought to have, could have pronounced such a monstrous judgment. I am inclined to think that it is an error which has been unjustly attributed to them; but if they have made such a decision as that, I for one say, that it ought not and never can be respected. The territories belong to us; they are ours; that is to say, they are the property of the thirty States of the Union; and we, as the representatives of those thirty States, have the right to exercise all that authority and jurisdiction which ownership carries with it."

Mr. Webster replied, with showing that the constitution was made for States, not territories—that no part of it went to a territory unless specifically extended to it by act of Congress—that the territories from first to last were governed as Congress chose to govern them, independently of the constitution and often contrary to it, as in denying them representatives in Congress, a vote for President and Vice-President, the protection of the Supreme Court—that Congress was constantly doing things in the territories without constitutional objection (as making mere local roads and bridges) which could not be attempted in a State. He argued:

"The constitution as the gentleman contends, extends over the territories. How does it get there? I am surprised to hear a gentleman so distinguished as a strict constructionist affirming that the constitution of the United States extends to the territories, without, showing us any clause in the constitution in any way leading to that result; and to hear the gentleman maintaining that position without showing us any way in which such a result could be inferred, increases my surprise.

"One idea further upon this branch of the subject. The constitution of the United States extending over the territories, and no other law existing there! Why, I beg to know how any government could proceed, without any other authority existing there than such as is created by the constitution of the United States? Does the constitution of the United States settle titles to land? Does it regulate the rights of property? Does it fix the relations of parent and child, guardian and ward? The constitution of the United States establishes what the gentleman calls a confederation for certain great purposes, leaving all the great mass of laws which is to govern society to derive their existence from State enactments. That is the just view of the state of things under the constitution. And a State or territory that has no law but such as it derives from the constitution of the United States, must be entirely without any State or territorial government. The honorable senator from South Carolina, conversant with the subject as he must be, from his long experience in different branches of the government, must know that the Congress of the United States have established principles in regard to the territories that are utterly repugnant to the constitution. The constitution of the United States has provided for them an independent judiciary; for the judge of every court of the United States holds his office upon the tenure of good behavior. Will the gentleman say that in any court established in the territories the judge holds his office in that way? He holds it for a term of years, and is removable at Executive discretion. How did we govern Louisiana before it was a State? Did the writ of *habeas corpus* exist in Louisiana during its territorial existence? Or the right to trial by jury? Who ever heard of trial by jury there before the law creating the territorial government gave the right to trial by jury? No one. And I do not believe that there is any new light now to be thrown upon the history of the proceedings of

this government in relation to that matter. When new territory has been acquired it has always been subject to the laws of Congress, to such laws as Congress thought proper to pass for its immediate government, for its government during its territorial existence, during the preparatory state in which it was to remain until it was ready to come into the Union as one of the family of States."

All this was sound constitutional law, or, rather, was veracious history, showing that Congress governed as it pleased in the territories independently of the constitution, and often contrary to it; and consequently that the constitution did not extend to it. Mr. Webster then showed the puerility of the idea that the constitution went over the territories because they were "*land*," and exposed the fallacy of the supposition that the constitution, even if extended to a territory, could operate there of itself, and without a law of Congress made under it. This fallacy was exposed by showing that Mr. Calhoun, in quoting the constitution as the supreme law of the land, had omitted the essential words which were part of the same clause, and which couples with that supremacy the laws of Congress made in pursuance of the constitution. Thus:

"The honorable senator from South Carolina argues that the constitution declares itself to be the law of the land, and that, therefore, it must extend over the territories. 'The land,' I take it, means the land over which the constitution is established, or, in other words, it means the States united under the constitution. But does not the gentleman see at once that the argument would prove a great deal too much? The constitution no more says that the constitution itself shall be the supreme law of the land, than it says that the laws of Congress shall be the supreme law of the land. It declares that the constitution and the law of Congress passed under it shall be the supreme law of the land."

The question took a regular slavery turn, Mr. Calhoun avowing his intent to be to carry slavery into the territories under the wing of the constitution, and openly treated as enemies to the South all that opposed it. Having taken the turn of a slavery question, it gave rise to all the dissension of which that subject had become the parent since the year 1835. By a close vote, and before the object had been understood by all the senators, the amendment was agreed to in the Senate, but immediately disagreed to in the House, and a contest brought on between the two Houses by which the great appropriation bill, on which the existence of the government depended, was not passed until after the constitutional expiration of the Congress at midnight of the third of March, and was signed by Mr. Polk (after he had ceased to be President) on the 4th of March—the law and his approval being antedated of the 3d, to prevent its invalidity from appearing on the face of the act. Great was the heat which manifested itself, and imminent the danger that Congress would break up without passing the general appropriation bill; and that the government would stop until a new Congress could be assembled—many of the members of which remained still to be elected. Many members refused to vote after midnight—which it then was. Mr. Cass said:

"As I am among those who believe that the term of this session has expired, and that it is incompetent for us now to do business, I cannot vote upon any motion. I have sat here as a mere looker on. I merely desire to explain why I took no part in the proceedings."

Mr. Yulee, of Florida, moving an adjournment, said:

"I should be very sorry, indeed, to make any proposition which may in any degree run counter to the general sentiment of the Senate; but I feel bound, laboring under the strong conviction that I do, to arrest at every step, and by every means, any recorded judgment of the Senate at a time when we are not legally engaged in the discharge of our senatorial duties. I agree entirely in the view taken by the senator from Michigan."

Mr. Turney, of Tennessee, said:

"I am one of those who believe that we have no right to sit here. The time has expired; one-third of this body are not present at all, and the others have no right to sit here as a part of Congress. But a motion has been made for adjournment, and the presiding officer has refused to entertain that motion. This being the case, I must regard all that is done as done in violation of the constitution, or, rather, not in pursuance of it. It appears to me that we sit here more in the character of a town meeting than as the Senate of the United States, and that what we do is no more binding on the American people than if we did it at a town meeting. I shall express no opinion by saying yea or nay on the question before the Senate. At the same time, I protest against it, as being no part of the constitutional proceedings of the Senate of the United States."

Mr. Benton, and many others, declined to vote. The House of Representatives had ceased to act, and sent to the Senate the customary message of adjournment. The President who, according to the usage, had remained in the capitol till midnight to sign bills, had gone home. It was four o'clock in the morning of the fourth, and the greatest confusion and disorder prevailed. Finally, Mr. Webster succeeded in getting a vote, by which the Senate receded from the amendment it had adopted, extending the constitution to the territories; and that recession leaving the appropriation bill free from the encumbrance of the slavery question, it was immediately passed.

This attempt, pushed to the verge of breaking up the government in pursuit of a newly invented slavery dogma, was founded in errors too gross for misapprehension. In the first place as fully shown by Mr. Webster, the constitution was not made for territories, but for States. In the second place, it cannot operate any where, not even in the States for which it was made without acts of Congress to enforce it. This is true of the constitution in every particular. Every part of it is inoperative until put into action by a statute of Congress. The constitution allows the President a salary: he cannot touch a dollar of it without an act of Congress. It allows the recovery of fugitive slaves: you cannot recover one without an act of Congress. And so of every clause it contains. The proposed extension of the constitution to territories, with a view to its transportation of slavery along with it, was then futile and nugatory, until an act of Congress should be passed to vitalize slavery under it. So that, if the extension had been declared by law, it would have answered no purpose except to widen the field of the slavery agitation—to establish a new point of contention—to give a new phase to the embittered contest—and to alienate more and more from each other the two halves of the Union. But the extension was not declared. Congress did not extend the constitution to the Territories. The proposal was rejected in both Houses; and immediately the crowning dogma is invented, that the constitution goes of itself to the territories without an act of Congress, and executes itself, so far as slavery is concerned, not only without legislative aid, but in defiance of Congress and the people of the territory. This is the last slavery creed of the Calhoun school, and the one on which his disciples now stand—and not with any barren foot. They apply the doctrine to existing territories, and make acquisitions from Mexico for new applications. It is impossible to consider such conduct as any thing else than as one of the devices for "*forcing the issue with the North*," which Mr. Calhoun in his confidential letter to the member of the Alabama legislature avows to have been his policy since 1835, and which he avers he would then have effected if the members from the slave States had stood by him.

183. Progress Of The Slavery Agitation: Meeting Of Members From The Slave States: Inflammatory Address To The Southern States

The last days of Mr. Polk's administration were witness to an ominous movement—nothing less than nightly meetings of large numbers of members from the slave States to consider the state of things between the North and the South—to show the aggressions and encroachments (as they were called), of the former upon the latter—to show the incompatibility of their union—and to devise measures for the defence and protection of the South. Mr. Calhoun was at the bottom of this movement, which was conducted with extraordinary precautions to avoid publicity. None but slave State members were admitted. No reporters were permitted to be present; nor any spectators, or auditors. As many as seventy or eighty were assembled; but about one half of this number were inimical to the meeting, and only attended to prevent mischief to the Union, and mostly fell off from their attendance before the work was concluded. At the first meeting a grand committee of 15 (Mr. Calhoun one) were appointed to consider of resolutions: when they met, a sub-committee of five (Mr. Calhoun at their head) was carved out of the 15 to report an address to the slave States: and when they met, Mr. Calhoun produced the address ready written. So that the whole contrivance of the grand and petty committees was a piece of machinery to get Mr. Calhoun's own manifesto before the public with the sanction of a meeting. Mr. Calhoun's manifesto, sanctioned by the sub-committee, was only saved from condemnation in the committee of 15 by one vote, and that vote his own. Saved by one vote, and got before the meeting itself, it there underwent condemnation, and was recommitted for amendment. Four of the grand committee, consisting of those who were averse to the whole proceeding, were excused upon their own request from serving longer upon it. Got back into the grand committee, it was superseded *in toto* by an entire new address, not to the slave States, but to the people of the whole Union, and addressed not to their angry, but to their good feelings. That address was reported to an adjourned meeting of the members; and those opposed to the whole proceeding having nearly ceased to attend, the original manifesto of Mr. Calhoun was adopted in place of it: and thus, after a tedious and painful process, and defeated half the time, and only succeeding when the meeting had become thin and nearly reduced to his own partisans, that gentleman succeeded in getting his inflammatory composition before the public as the voice of the Southern members. But even then not as he first drew it up. In the primitive draft the introductory clause asserted that the present wrongs of the North upon the South were equal to those which produced the separation of these States, when colonies, from the British empire: that clause was softened down, and generalized in the amended and adopted manifesto into the assertion of a dangerous conflict between the two sections of the Union, and the perpetration of encroachments and aggressions upon the slave States which their safety would no longer allow them to stand, and for which a cure must be found. In the original it stood thus: "*Not excepting the declaration which separated you and the United Colonies from the parent country. That involved your independence; but this your all, not excepting your safety.*" As softened it ran thus:

"We, whose names are hereunto annexed, address you in the discharge of what we believe to be a solemn duty on the most important subject ever presented for your consideration. We allude to the conflict between the two great sections of the Union, growing out of a difference of feeling and opinion in reference to the relation existing between the two races, the

European and African, which inhabit the Southern section, and the acts of aggression and encroachment to which it has led. The conflict commenced not long after the acknowledgment of our Independence, and has gradually increased until it has arrayed the great body of the North against the South on this most vital subject. In the progress of this conflict, aggression has followed aggression, and encroachment encroachment, until they have reached a point when a regard for peace and safety will not permit us to remain longer silent. The object of this address is to give you a clear, correct, but brief account of the whole series of aggression and encroachments on your rights, with a statement of the dangers to which they expose you. Our object in making it, is not to cause excitement, but to put you in full possession of all the facts and circumstances necessary to a full and just conception of a deep-seated disease, which threatens great danger to you and the whole body politic. We act on the impression, that in a popular government like ours, a true conception of the actual character and state of a disease is indispensable to effecting a cure."

The manifesto was modelled upon that of the Declaration of the Independence of the United States; and, by its authors, was soon saluted as the second Declaration of Independence. After the motive clause, showing the inducements to the act, followed a long list of grievances, as formidable in number as those which had impelled the separation from Great Britain, but so frivolous and imaginary in substance, that no one could repeat them now without recourse to the paper. Strange to see, they have become more remarkable for what they omitted than contained. That Missouri compromise, since become an outrage which the constitution and the slave States could no longer endure, was then a good thing, of which the slave States wished more, and claimed its extension to the Pacific Ocean. The Wilmot proviso, which had been the exasperation of the slave States for three years, was skipped over, the great misfortune having happened to the South which had been deprecated in the letter to the Alabama member of the General Assembly: it had been defeated! and for the express purpose of taking a handle of agitation out of the hands of the enemies of the Union: but without benefit, as others were seized upon immediately, and the slavery contention raged more furiously than ever. But past, or present, "encroachments and aggressions" were too light and apocryphal to rouse a nation. Something more stirring was wanted; and for that purpose, Time, and Imagination—the Future, and Invention—were to be placed in requisition. The abolition of slavery in the States—the emancipation of slaves, all over the South—the conflict between the white and the black races—the prostration of the white race, as in San Domingo: the whites the slaves of the blacks: such were the future terrors and horrors to be visited upon the slave States if not arrested by an instant and adequate remedy. Some passages from this conglomeration of invented horrors will show the furious zeal of the author, and the large calculation which he made upon the gullibility of the South when a slavery alarm was to be propagated:

"Such, then, being the case, it would be to insult you to suppose you could hesitate. To destroy the existing relation between the free and servile races at the South would lead to consequences unparalleled in history. They cannot be separated, and cannot live together in peace or harmony, or to their mutual advantage, except in their present relation. Under any other, wretchedness, and misery, and desolation would overspread the whole South. The example of the British West Indies, as blighting as emancipation has proved to them, furnishes a very faint picture of the calamities it would bring on the South. The circumstances under which it would take place with us would be entirely different from those which took place with them, and calculated to lead to far more disastrous results. There, the government of the parent country emancipated slaves in her colonial possessions—a government rich and powerful, and actuated by views of policy (mistaken as they turned out to be) rather than fanaticism. It was, besides, disposed to act justly towards the owners, even in the act of

emancipating their slaves, and to protect and foster them afterwards. It accordingly appropriated nearly $100,000,000 as a compensation to them for their losses under the act, which sum, although it turned out to be far short of the amount, was thought at that time to be liberal. Since the emancipation it has kept up a sufficient military and naval force to keep the blacks in awe, and a number of magistrates, and constables, and other civil officers, to keep order in the towns and plantations, and enforce respect to their former owners. It can only be effected by the prostration of the white race; and that would necessarily engender the bitterest feelings of hostility between them and the North. But the reverse would be the case between the blacks of the South and the people of the North. Owing their emancipation to them, they would regard them as friends, guardians, and patrons, and centre, accordingly, all their sympathy in them. The people of the North would not fail to reciprocate and to favor them, instead of the whites. Under the influence of such feelings, and impelled by fanaticism and love of power, they would not stop at emancipation. Another step would be taken—to raise them to a political and social equality with their former owners, by giving them the right of voting and holding public offices under the federal government. But when once raised to an equality, they would become the fast political associates of the North, acting and voting with them on all questions, and by this political union between them, holding the white race at the South in complete subjection. The blacks, and the profligate whites that might unite with them, would become the principal recipients of federal offices and patronage, and would, in consequence, be raised above the whites of the South in the political and social scale. We would, in a word, change conditions with them—a degradation greater than has ever yet fallen to the lot of a free and enlightened people, and one from which we could not escape, should emancipation take place (which it certainly will if not prevented), but by fleeing the homes of ourselves and ancestors, and by abandoning our country to our former slaves, to become the permanent abode of disorder, anarchy, poverty, misery and wretchedness."

Emancipation, with all these accumulated horrors, is here held to be certain, "if not prevented:" certain, so far as it depended upon the free States, which were rapidly becoming the majority; and only to be prevented by the slave States themselves. Now, this certain emancipation of slaves in the States, was a pure and simple invention of Mr. Calhoun, not only without evidence, but against evidence—contradicted by every species of human action, negative and positive, before and since. Far from attacking slavery in the States, the free States have co-operated to extend the area of slavery within such States: witness the continued extinctions of Indian title which have so largely increased the available capacity of the slave States. So far from making war upon slave States, several such States have been added to the Union, as Texas and Florida, by the co-operation of free States. Far from passing any law to emancipate slaves in the States no Congress has ever existed that has seen a man that would make such a motion in the House; or, if made, would not be as unanimously rejected by one side of the House as the other—as if the unanimity would not be the same whether the whole North went out, and let the South vote alone! or the whole South went out, and let the North alone vote. Yet, this incendiary cry of abolishing slavery in the States has become the staple of all subsequent agitators. Every little agitator now jumps upon it—jumps into a State the moment a free territory is mentioned—and repeats all the alarming stuff invented by Mr. Calhoun; and as much more as his own invention can add to it. In the mean time events daily affix the brand of falsehood on these incendiary inventions. Slave State Presidents are continually elected by free State votes: the price of slaves themselves, instead of sinking, as it would if there was any real danger, is continually augmenting, and, in fact, has reached a height the double of what it was before the alarming story of emancipation had begun.

Assuming this emancipation of the slaves in the States to be certain and inevitable, with all its dreadful consequences, unless prevented by the slave States, the manifesto goes on seriously to bring the means of prevention most closely to the consideration of the slave States—to urge their unity and concert of action on the slavery question—to make it the supreme object of their labors, before which all other subjects are to give way—to take the attitude of self-defence; and, braving all consequences, throw the responsibility on the other side. Thus:

"With such a prospect before us, the gravest and most solemn question that ever claimed the attention of a people is presented for your consideration: What is to be done to prevent it? It is a question belonging to you to decide. All we propose is to give you our opinion. We, then, are of the opinion that the first and indispensable step, without which nothing can be done, and with which every thing may be, is to be united among yourselves on this great and most vital question. The want of union and concert in reference to it has brought the South, the Union, and our system of government to their present perilous condition. Instead of placing it above all others, it has been made subordinate not only to mere questions of policy, but to the preservation of party ties and insuring of party success. As high as we hold a due respect for these, we hold them subordinate to that and other questions involving our safety and happiness. Until they are so held by the South, the North will not believe that you are in earnest in opposition to their encroachments, and they will continue to follow, one after another, until the work of abolition is finished. To convince them that you are, you must prove by your acts that you hold all other questions subordinate to it. If you become united, and prove yourselves in earnest, the North will be brought to a pause, and to a calculation of consequences; and that may lead to a change of measures, and to the adoption of a course of policy that may quietly and peaceably terminate this long conflict between the two sections. If it should not, nothing would remain for you but to stand up immovably in defence of rights involving your all—your property, prosperity, equality, liberty, and safety. As the assailed, you would stand justified by all laws human and divine, in repelling a blow so dangerous, without looking to consequences, and to resort to all means necessary for that purpose. Your assailants, and not you, would be responsible for consequences. Entertaining these opinions, we earnestly entreat you to be united, and for that purpose adopt all necessary measures. Beyond this, we think it would not be proper to go at present."

The primitive draft of the manifesto went further, and told what was to be done: opinions and counsels are as far as the signers thought it proper to go then. But something further was intimated; and that soon came in the shape of a Southern convention to dissolve the Union, and a call from the legislatures of two of the most heated States (South Carolina and Mississippi), for the assembling of a "Southern Congress," to put the machinery of the "United States South" into operation: but of this hereafter. Following the Declaration of Independence in its mode of adoption, as well in its exposition of motives as in its enumeration of grievances, the manifesto was left with the secretary of the meeting for the signature of the slave-holding members who concurred in it. The signers were the following:

"Messrs. Atchison of Missouri; Hunter and Mason of Virginia; Calhoun and Butler of South Carolina; Downs of Louisiana; Foote and Jefferson Davis of Mississippi; Fitzpatrick of Alabama; Borland and Sebastian of Arkansas; Westcott and Yulee of Florida; Atkinson, Bayley, Bedinger, Bocock, Beale, W. G. Brown, Meade, R. A. Thompson of Virginia; Daniel, Venable of North Carolina; Burt, Holmes, Rhett, Simpson, Woodward of South Carolina; Wallace, Iverson, Lumpkin of Georgia; Bowdon, Gayle, Harris of Alabama; Featherston, I. Thompson of Mississippi; La Sere, Morse of Louisiana; R. W. Johnson of Arkansas; Santon of Kentucky."

184. Inauguration Of President Taylor: His Cabinet

On the 4th of March the new President was inaugurated with the customary formalities, Chief Justice Taney administering the oath of office. He delivered an address, as use and propriety required, commendably brief, and confined to a declaration of general principles. Mr. Millard Fillmore, the Vice-President elect, was duly installed as President of the Senate, and delivered a neat and suitable address on taking the chair. Assembled in extraordinary session, the Senate received and confirmed the several nominations for the cabinet. They were: John M. Clayton, of Delaware, to be Secretary of State; William M. Meredith, of Pennsylvania, to be Secretary of the Treasury; George W. Crawford, of Georgia, to be Secretary at War; William Ballard Preston, of Virginia, to be Secretary of the Navy; Thomas Ewing, of Ohio, to be Secretary of the Home Department—a new department created at the preceding session of Congress; Jacob Collamer, of Vermont, to be Postmaster General; Reverdy Johnson, of Maryland, to be Attorney General. The whole cabinet were, of course, of the whig party.

185. Death Of Ex-President Polk

He died at Nashville, Tennessee, soon after he returned home, and within three months after his retirement from the presidency. He was an exemplary man in private life, moral in all his deportment, and patriotic in his public life, aiming at the good of his country always. It was his misfortune to have been brought into the presidency by an intrigue, not of his own, but of others, and the evils of which became an inheritance of his position, and the sole cause of all that was objectionable in his administration. He was the first President put upon the people without their previous indication—the first instance in which a convention assumed the right of disposing of the presidency according to their own will, and of course with a view to their own advantage. The scheme of these intriguers required the exclusion of all independent and disinterested men from his councils and confidence—a thing easily effected by representing all such men as his enemies, and themselves as his exclusive friends. Hence the ejection of the Globe newspaper from the organship of the administration, and the formation of a cabinet too much dominated by intrigue and selfishness. All the faults of his administration were the faults of his cabinet: all its merits were his own, in defiance of them. Even the arrangement with the Calhoun and Tyler interest by which the Globe was set aside before the cabinet was formed, was the work of men who were to be of the cabinet. His own will was not strong enough for his position, yet he became firm and absolute where his judgment was convinced and patriotism required decision. Of this he gave signal proof in overruling his whole cabinet in their resolve for the sedentary line in Mexico, and forcing the adoption of the vigorous policy which carried the American arms to the city of Mexico, and conquered a peace in the capital of the country. He also gave a proof of it in falling back upon the line of 49° for the settlement of the Oregon boundary with Great Britain, while his cabinet, intimidated by their own newspapers, and alarmed at the storm which themselves had got up, were publicly adhering to the line of 54° 40', with the secret hope that others would extricate them from the perils of that forlorn position. The Mexican war, under the impulse of speculators, and upon an intrigue with Santa Anna, was the great blot upon his administration; and that was wholly the work of the intriguing part of his cabinet, into which he entered with a full belief that the intrigue was to be successful, and the war finished in "ninety or one hundred and twenty days;" and without firing another gun after it should be declared. He was sincerely a friend to the Union, and against whatever would endanger it, especially that absorption of the whole of Mexico which had advocates in those who stood near him; and also against the provisional line which was to cover Monterey and Guaymas, when he began to suspect the ultimate object of that line. The acquisition of New Mexico and California were the distinguishing events of his administration—fruits of the war with Mexico; but which would have come to the United States without that war if the President had been surrounded by a cabinet free from intrigue and selfishness, and wholly intent upon the honor and interest of the country.

186. Thirty-First Congress: First Session: List Of Members: Organization Of The House

The Senate, now consisting of sixty members was composed as follows:

Maine.—Hannibal Hamlin, James W. Bradbury.

New Hampshire.—John P. Hale, Moses Norris, jr.

Massachusetts.—Daniel Webster, John Davis.

Rhode Island.—Albert C. Greene, John H. Clarke.

Connecticut.—Roger S. Baldwin, Truman Smith.

Vermont.—Samuel S. Phelps, William Upham.

New York.—Daniel S. Dickinson, William H. Seward.

New Jersey.—William L. Dayton, Jacob W. Miller.

Pennsylvania.—Daniel Sturgeon, James Cooper.

Delaware.—John Wales, Presley Spruance.

Maryland.—David Stuart, James A. Pearce.

Virginia.—James M. Mason, Robert M. T. Hunter.

North Carolina.—Willie P. Mangum, George E. Badger.

South Carolina.—John C. Calhoun, Arthur P. Butler.

Georgia.—John M. Berrien, William C. Dawson.

Kentucky.—Joseph R. Underwood, Henry Clay.

Tennessee.—Hopkins L. Turney, John Bell.

Ohio.—Thomas Corwin, Salmon P. Chase.

Louisiana.—Solomon W. Downs, Pierre Soulé.

Indiana.—Jesse D. Bright, James Whitcomb.

Mississippi.—Jefferson Davis, Henry S. Foote.

Illinois.—Stephen A. Douglass, James Shields.

Alabama.—Jeremiah Clemens, William R. King.

Missouri.—Thomas H. Benton, David R. Atchison.

Arkansas.—William R. Sebastian, Solon Borland.

Florida.—David L. Yulee, Jackson Morton.

Michigan.—Lewis Cass, Alpheus Felch.

Texas.—Thomas J. Rusk, Sam Houston.

Wisconsin.—Henry Dodge, Isaac P. Walker.

Iowa.—George W. Jones, Augustus C. Dodge.

In this list the reader will not fail to remark the names of Mr. Clay, Mr. Webster, and Mr. Calhoun, all of whom, commencing their congressional career nearly a generation before, and after several retirings, had met again, and towards the close of their eventful lives, upon this elevated theatre of their long and brilliant labors. The House, consisting of two hundred and thirty members, was thus composed:

Maine.—Thomas J. D. Fuller, Elbridge Gerry, Rufus K. Goodenow, Nathaniel S. Littlefield, John Otis, Cullen Sawtelle, Charles Stetson.

New Hampshire.—Harry Hibbard, Charles H. Peaslee, Amos Tuck, James Wilson.

Vermont.—William Hebard, William Henry, James Meacham, Lucius B. Peck.

Massachusetts.—Charles Allen, George Ashmun, James H. Duncan, Orin Fowler, Joseph Grinnell, Daniel P. King, Horace Mann, Julius Rockwell, Robert C. Winthrop, Daniel Webster.

Rhode Island.—Nathan F. Dixon, George G. King.

Connecticut.—Walter Booth, Thomas B. Butler, Chauncey F. Cleveland, Loren P. Waldo.

New York.—Henry P. Alexander, George R. Andrews, Henry Bennett, David A. Bokee, George Briggs, James Brooks, Lorenzo Burrows, Charles E. Clarke, Harmon S. Conger, William Duer, Daniel Gott, Herman D. Gould, Ransom Halloway, William T. Jackson, John A. King, Preston King, Orsamus B. Matteson, Thomas McKissock, William Nelson, J. Phillips Phœnix, Harvey Putnam, Gideon Reynolds, Elijah Risley, Robert L. Rose, David Rumsey, jr., William A. Sackett, Abraham M. Schermerhorn, John L. Schoolcraft, Peter H. Silvester, Elbridge G. Spaulding, John R. Thurman, Walter Underhill, Hiram Walden, Hugh White.

New Jersey.—Andrew K. Hay, James G. King, William A. Newell, John Van Dyke, Isaac Wildrick.

Pennsylvania.—Chester Butler, Samuel Calvin, Joseph Casey, Joseph R. Chandler, Jesse C. Dickey, Milo M. Dimmick, John Freedley, Alfred Gilmore, Moses Hampton, John W. Howe, Lewis C. Levin, Job Mann, James X. McLanahan, Henry D. Moore, Henry Nes, Andrew J. Ogle, Charles W. Pitman, Robert R. Reed, John Robbins, jr., Thomas Ross, Thaddeus Stevens, William Strong, James Thompson, David Wilmot.

Delaware.—John W. Houston.

Maryland.—Richard I. Bowie, Alexander Evans, William T. Hamilton, Edward Hammond, John B. Kerr, Robert M. McLane.

Virginia.—Thomas H. Averett, Thomas H. Bayly, James M. H. Beale, Thomas S. Bocock, Henry A. Edmundson, Thomas S. Haymond, Alexander R. Holladay, James McDowell, Fayette McMullen, Richard K. Meade, John S. Millson, Jeremiah Morton, Richard Parker, Paulus Powell, James A. Seddon.

North Carolina.—William S. Ashe, Joseph P. Caldwell, Thomas L. Clingman, John R. J. Daniel, Edmund Deberry, David Outlaw, Augustine H. Shepperd, Edward Stanly, Abraham W. Venable.

South Carolina.—Armistead Burt, William F. Colcock, Isaac E. Holmes, John McQueen, James L. Orr, Daniel Wallace, Joseph A. Woodward.

Georgia.—Howell Cobb, Thomas C. Hackett, Hugh A. Haralson, Thomas Butler King, Allen F. Owen, Alexander H. Stephens, Robert Toombs, Marshall J. Wellborn.

Alabama.—Albert J. Alston, Franklin W. Bowdon, Williamson R. W. Cobb, Sampson W. Harris, Henry W. Hilliard, David Hubbard, Samuel W. Inge.

Mississippi.—Albert G. Brown, Winfield S. Featherston, William McWillie, Jacob Thompson.

Louisiana.—Charles M. Conrad, John H. Harmanson, Emile La Sère, Isaac E. Morse.

Ohio.—Joseph Cable, Lewis D. Campbell, David K. Carter, Moses B. Corwin, John Crowell, David T. Disney, Nathan Evans, Joshua R. Giddings, Moses Hoagland, William F. Hunter, John K. Miller, Jonathan D. Morris, Edson B. Olds, Emery D. Potter, Joseph M. Root, Robert C. Schenck, Charles Sweetser, John L. Taylor, Samuel F. Vinton, William A. Whittlesey, Amos E. Wood.

Kentucky.—Linn Boyd, Daniel Breck, Geo A. Caldwell, James L. Johnson, Humphrey Marshall, John C. Mason, Finis E. McLean, Charles S. Morehead, Richard H. Stanton, John B. Thompson.

Tennessee.—Josiah M. Anderson, Andrew Ewing, Meredith P. Gentry, Isham G. Harris, Andrew Johnson, George W. Jones, John H. Savage, Frederick P. Stanton, Jas. H. Thomas, Albert G. Watkins, Christopher H. Williams.

Indiana.—Nathaniel Albertson, William J. Brown, Cyrus L. Dunham, Graham N. Fitch, Willis A. Gorman, Andrew J. Harlan, George W. Julian, Joseph E. McDonald, Edward W. McGaughey, John L. Robinson.

Illinois.—Edward D. Baker, William H. Bissell, Thomas L. Harris, John A. McClernand, William A. Richardson, John Wentworth, Timothy R. Young.

Missouri.—William V. N. Bay, James B. Bowlin, James S. Green, Willard P. Hall, John S. Phelps.

Arkansas.—Robert W. Johnson.

Michigan.—Kinsley S. Bingham, Alexander W. Buel, William Sprague.

Florida.—E. Carrington Cabell.

Texas.—Volney E. Howard, David S. Kaufman.

Iowa.—Shepherd Leffler, William Thompson.

Wisconsin.—Orsamus Cole, James D. Doty, Charles Durkee.

Delegates from Territories.

Oregon.—S. R. Thurston.

Minnesota.—Henry S. Sibley.

The election of a Speaker is the first business of a new Congress, and the election which decided the political character of the House while parties divided on political principles. Candidates from opposite parties were still put in nomination at this commencement of the Thirty-first Congress, but it was soon seen that the slavery question mingled with the election, and gave it its controlling character. Mr. Robert Winthrop, of Massachusetts (whig), and Mr. C. Howell Cobb, of Georgia (democratic), were the respective candidates; and in the vain struggle to give either a majority of the House near three weeks of time was wasted, and above sixty ballotings exhausted. Deeming the struggle useless, resort was had to the plurality rule, and Mr. Cobb receiving 102 votes to the 99 for Mr. Winthrop—about twenty votes being thrown away—he was declared elected, and led to the chair most courteously by

his competitor, Mr. Winthrop, and Mr. James McDowell, of Virginia. Mr. Thomas I. Campbell was elected clerk, and upon his death during the session, Richard M. Young, Esq., of Illinois, was elected in his place.

187. First And Only Annual Message Of President Taylor

This only message of one of the American Presidents, shows that he comprehended the difficulties of his position, and was determined to grapple with them—that he saw where lay the dangers to the harmony and stability of the Union, and was determined to lay these dangers bare to the public view—and, as far as depended on him, to apply the remedies which their cure demanded. The first and the last paragraphs of his message looked to this danger, and while the first showed his confidence in the strength of the Union, the latter admitted the dangers to it, and averred his own determination to stand by it to the full extent of his obligations and powers. It was in these words:

"But attachment to the Union of the States should be habitually fostered in every American heart. For more than half a century, during which kingdoms and empires have fallen, this Union has stood unshaken. The patriots who formed it have long since descended to the grave; yet still it remains the proudest monument to their memory, and the object of affection and admiration with every one worthy to bear the American name. In my judgment its dissolution would be the greatest of calamities, and to avert that should be the study of every American. Upon its preservation must depend our own happiness, and that of countless generations to come. Whatever dangers may threaten it, I shall stand by it, and maintain it in its integrity, to the full extent of the obligations imposed and the power conferred upon me by the constitution."

This paragraph has the appearance where it occurs of being an addition to the message after it had been written: and such it was. It was added in consequence of a visit from Mr. Calhoun to the Department of State, and expressing a desire that nothing should be said in the message about the point to which it relates. The two paragraphs were then added—the one near the beginning, the other at the end of the message; and it was in allusion to these passages that Mr. Calhoun's last speech, read in the Senate by Mr. Mason, of Virginia, contained those memorable words, so much noted at the time:

"*It (the Union) cannot, then, be saved by eulogies on it, however splendid or numerous. The cry of 'Union, Union, the glorious Union!' can no more prevent disunion than the cry of 'Health, Health, glorious Health!' on the part of the physician can save a patient from dying that is lying dangerously ill.*"

President Taylor surveyed the difficulties before him, and expressed his opinion of the remedies they required. California, New Mexico, and Utah had been left without governments: Texas was asserting a claim to one half of New Mexico—a province settled two hundred years before Texian independence, and to which no Texian invader ever went except to be killed or taken, to the last man. Each of these presented a question to be settled, in which the predominance of the slavery agitation rendered settlement difficult and embarrassing. President Taylor frankly and firmly presented his remedy for each one. California, having the requisite population for a State, and having formed her constitution, and prepared herself for admission into the Union, was favorably recommended for that purpose to Congress:

"No civil government having been provided by Congress for California, the people of that territory, impelled by the necessities of their political condition, recently met in convention, for the purpose of forming a constitution and State government, which the latest advices give

me reason to suppose has been accomplished; and it is believed they will shortly apply for the admission of California into the Union as a sovereign State. Should such be the case, and should their constitution be conformable to the requisitions of the constitution of the United States, I recommend their application to the favorable consideration of Congress."

New Mexico and Utah, without mixing the slavery question with their territorial governments, were recommended to be left to ripen into States, and then to settle that question for themselves in their State constitutions—saying:

"By awaiting their action, all causes of uneasiness may be avoided, and confidence and kind feeling preserved. With the view of maintaining the harmony and tranquillity so dear to all, we should abstain from the introduction of those exciting topics of a sectional character which have hitherto produced painful apprehensions in the public mind; and I repeat the solemn warning of the first and most illustrious of my predecessors, against furnishing 'any ground for characterizing parties by geographical discriminations!'"

This reference to Washington was answered by Calhoun in the same speech read by Mr. Mason, denying that the Union could be saved by invoking his name, and averring that there was "*nothing in his history to deter us from seceding from the Union should it fail to fulfil the objects for which it was instituted*:" which failure the speech averred—as others had averred for twenty years before: for secession was the off-shoot of nullification, and a favorite mode of dissolving the Union. With respect to Texas and New Mexico, it was the determination of the President that their boundaries should be settled by the political, or judicial authority of the United States, and not by arms.

In all these recommendations the message was wise, patriotic, temperate and firm; but it encountered great opposition, and from different quarters, and upon different grounds—from Mr. Clay, who wished a general compromise; from Mr. Calhoun, intent upon extending slavery; and holding the Union to be lost except by a remedy of his own which he ambiguously shadowed forth—a dual executive—two Presidents: one for the North, one for the South: which was itself disunion if accomplished. In his reference to Washington's warnings against geographical and sectional parties, there was a pointed rebuke to the daily attempts to segregate the South from the North, and to form political parties exclusively on the basis of an opposition of interest between the Southern and the Northern States. As a patriot, he condemned such sectionalism: as a President, he would have counteracted it.

After our duty to ourselves the President spoke of our duty to others—to our neighbors—and especially the Spanish possession of Cuba. An invasion of that island by adventurers from the United States had been attempted, and had been suppressed by an energetic proclamation, backed by a determination to carry it into effect upon the guilty. The message said:

"Having been apprised that a considerable number of adventurers were engaged in fitting out a military expedition, within the United States, against a foreign country, and believing, from the best information I could obtain, that it was destined to invade the island of Cuba, I deemed it due to the friendly relations existing between the United States and Spain; to the treaty between the two nations; to the laws of the United States; and, above all, to the American honor, to exert the lawful authority of this government in suppressing the expedition and preventing the invasion. To this end I issued a proclamation, enjoining it upon the officers of the United States, civil and military, to use all lawful means within their power. A copy of that proclamation is herewith submitted. The expedition has been suppressed. So long as the act of Congress of the 20th of April, 1818, which owes its existence to the law of nations and to the policy of Washington himself, shall remain on our statute book, I hold it to be the duty of the Executive faithfully to obey its injunctions."

This was just conduct, and just language, worthy of an upright magistrate of a Republic, which should set an example of justice and fairness towards its neighbors. The Spanish government had been greatly harassed by expeditions got up against Cuba in the United States, and put to enormous expense in ships and troops to hold herself in a condition to repulse them. Thirty thousand troops, and a strong squadron, were constantly kept on foot to meet this danger. A war establishment was kept up in time of peace in the island of Cuba to protect the island from threatened invasions. Besides the injury done to Spain by these aggravations, and the enormous expense of a war establishment to be kept in Cuba, there was danger of injury to ourselves from the number and constant recurrence of these expeditions, which would seem to speak the connivance of the people, or the negligence of the government. Fortunately for the peace of the countries during the several years that these expeditions were most undertaken, the Spanish government was long represented at Washington by a minister of approved fitness for his situation—Don Luis Calderon de la Barca: a fine specimen of the old Castilian character—frank, courteous, honorable, patriotic—whose amiable manners enabled him to mix intimately with American society, and to see that these expeditions were criminally viewed by the government and the immense majority of the citizens; and whose high character enabled him to satisfy his own government of that important fact, and to prevent from being viewed as the act of the nation, what was only that of lawless adventurers, pursued and repressed by our own laws.

188. Mr. Clay’s Plan Of Compromise

Early in the session Mr. Clay brought into the Senate a set of resolutions, eight in number, to settle and close up once and for ever, all the points of contestation in the slavery question, and to consolidate the settlement of the whole into one general and lasting compromise. He was placed at the head of a grand committee of thirteen members to whom his resolutions were to be referred, with a view to combine them all into one bill, and make that bill the final settlement of all the questions connected with slavery. Mr. Benton opposed this whole plan of pacification, as mixing up incongruous measures—making one measure dependent upon another—tacking together things which had no connection—as derogatory and perilous to the State of California to have the question of her admission confounded with the general slavery agitation in the United States—as being futile and impotent, as no such conglomeration of incongruities (though christened a compromise) could have any force:—as being a concession to the spirit of disunion—a capitulation to those who threatened secession—a repetition of the error of 1833:—and itself to become the fruitful source of more contentions than it proposed to quiet. His plan was to settle each measure by itself, beginning with the admission of California, settling every thing justly and fairly, in the spirit of conciliation as well as of justice—leaving the consequences to God and the country—and having no compromise with the threat of disunion. The majority of the Senate were of Mr. Benton’s opinion, which was understood also to be the plan of the President: but there are always men of easy or timid temperaments in every public body that delight in temporizations, and dread the effects of any firm and straightforward course; and so it was now, but with great difficulty—Mr. Clay himself only being elected by the aid of one vote, given to him by Mr. Webster after it was found that he lacked it. The committee were: Mr. Clay, chairman: Messrs. Cass, Dickinson, Bright, Webster, Phelps, Cooper, King, Mason, Downs, Mangum, Bell, and Berrien, members. Mr. Clay’s list of measures was referred to them; and as the committee was selected with a view to promote the mover’s object, a bill was soon returned embracing the comprehensive plan of compromise which he proposed. The admission of California, territorial governments for Utah and New Mexico, the settlement of the Texas boundary, slavery in the District of Columbia, a fugitive slave law—all—all were put together in one bill, to be passed or rejected by the same vote! and to be called a system. United they could not be. Their natures were too incongruous to admit of union or mixture. They were simply tied together—called one measure; and required to be voted on as such. They were not even bills drawn up by the committee, but existing bills in the Senate—drawn up by different members—occupying different places on the calendar—and each waiting its turn to be acted on separately. Mr. Clay had made an ample report in favor of his measure, and further enforced it by an elaborate speech: the whole of which Mr. Benton contested, and answered in an ample speech, some extracts from which constitute a future chapter.

189. Extension Of The Missouri Compromise Line To The Pacific Ocean: Mr. Davis, Of Mississippi, And Mr. Clay: The Wilmot Proviso

In the resolutions of compromise submitted by Mr. Clay there was one declaring the non-existence of slavery in the territory recently acquired from Mexico, and affirming the "inexpediency" of any legislation from Congress on that subject within the said territories. His resolution was in these words:

"*Resolved*, That as slavery does not exist by law, and is not likely to be introduced into any of the territory acquired by the United States from the Republic of Mexico, it is inexpedient for Congress to provide by law either for its introduction into or exclusion from any part of the said territory; and that appropriate territorial governments ought to be established by Congress in all of the said territory, not assigned as the boundaries of the proposed State of California, without the adoption of any restriction or condition on the subject of slavery."

This proposition, with some half-dozen others, formed the system of compromise with which Mr. Clay expected to pacify the slavery agitation in the United States. Mr. Davis, of Mississippi, did not perceive any thing of a compromise in a measure which gave nothing to the South in the settlement of the question, and required the extension of the Missouri compromise line to the Pacific ocean as the least that he would be willing to take. Thus:

"But, sir, we are called on to receive this as a measure of compromise! Is a measure in which we of the minority are to receive nothing, a measure of compromise? I look upon it as but a modest mode of taking that, the claim to which has been more boldly asserted by others; and that I may be understood upon this question, and that my position may go forth to the country in the same columns that convey the sentiments of the senator from Kentucky, I here assert that never will I take less than the Missouri compromise line extended to the Pacific ocean, with the specific recognition of the right to hold slaves in the territory below that line; and that, before such territories are admitted into the Union as States, slaves may be taken there from any of the United States at the option of their owners."

This was a manly declaration in favor of extending slavery into the new territories, and in the only way in which it could be done—that is to say, by act of Congress. Mr. Clay met it by a declaration equally manly, and in conformity to the principles of his whole life, utterly refusing to plant slavery in any place where it did not previously exist. He answered:

"I am extremely sorry to hear the senator from Mississippi say that he requires, first, the extension of the Missouri compromise line to the Pacific, and also that he is not satisfied with that, but requires, if I understood him correctly, a positive provision for the admission of slavery south of that line. And now, sir, coming from a slave State, as I do, I owe it to myself, I owe it to truth, I owe it to the subject, to say that no earthly power could induce me to vote for a specific measure for the introduction of slavery where it had not before existed, either south or north of that line. Coming as I do from a slave State, it is my solemn, deliberate and well matured determination that no power, no earthly power, shall compel me to vote for the positive introduction of slavery either south or north of that line. Sir, while you reproach, and justly too, our British ancestors for the introduction of this institution upon the continent of America, I am, for one, unwilling that the posterity of the present inhabitants of California and of New Mexico shall reproach us for doing just what we reproach Great Britain for doing to us. If the citizens of those territories choose to establish slavery, and if they come here with

constitutions establishing slavery, I am for admitting them with such provisions in their constitutions; but then it will be their own work, and not ours, and their posterity will have to reproach them, and not us, for forming constitutions allowing the institution of slavery to exist among them. These are my views, sir, and I choose to express them; and I care not how extensively or universally they are known."

These were manly sentiments, courageously expressed, and taking the right ground so much overlooked, or perverted by others. The Missouri compromise line, extending to New Mexico and California, though astronomically the same with that in Louisiana, was politically directly the opposite. One went through a territory all slave, and made one-half free; the other would go through territory all free, and make one-half slave. Mr. Clay saw this difference, and acted upon it, and declared his sentiments honestly and boldly; and none but the ignorant or unjust could reproach him with inconsistency in maintaining the line in the ancient Louisiana, where the whole province came to us with slavery, and refusing it in the new territories where all came to us free.

Mr. Seward, of New York, proposed the renewal of the Wilmot proviso:

"Neither slavery nor involuntary servitude, otherwise than by conviction for crime, shall ever be allowed in either of said territories of Utah and New Mexico."

Upon the adoption of which the yeas and nays were:

"Yeas.—Messrs. Baldwin, Bradbury, Bright, Chase, Clarke, Cooper, Corwin, Davis of Massachusetts, Dayton, Dodge of Wisconsin, Douglas, Felch, Greene, Hale, Hamlin, Miller, Norris, Seward, Shields, Smith, Upham, Whitcomb, and Walker—23.

"Nays.—Messrs. Atchison, Badger, Bell, Benton, Berrien, Butler, Cass, Clay, Clemens, Davis of Mississippi, Dawson, Dickinson, Dodge of Iowa, Downs, Foote, Houston, Hunter, Jones, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soulé, Spruance, Sturgeon, Turney, Underwood, Webster, and Yulee—33."

190. Mr. Calhoun's Last Speech: Dissolution Of The Union Proclaimed Unless The Constitution Was Amended, And A Dual Executive Appointed—One President From The Slave And One From The Free States

On the 4th of March Mr. Calhoun brought into the Senate a written speech, elaborately and studiously prepared, and which he was too weak to deliver, or even to read. Upon his request it was allowed to be read by his friend, Mr. James M. Mason of Virginia, and was found to be an amplification and continuation of the Southern manifesto of the preceding year; and, like it, occupied entirely with the subject of the dissolution of the Union, and making out a case to justify it. The opening went directly to the point, and presented the question of Union, or disunion with the formality and solemnity of an actual proposition, as if its decision was the business on which the Senate was convened. It opened thus:

"I have, senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measure, end in disunion. Entertaining this opinion, I have, on all proper occasions, endeavored to call the attention of each of the two great parties which divide the country to adopt some measure to prevent so great a disaster but without success. The agitation has been permitted to proceed, with almost no attempt to resist it, until it has reached a period when it can no longer be disguised or denied that the Union is in danger. You have thus had forced upon you the greatest and the gravest question that can ever come under your consideration: How can the Union be preserved?"

Professing to proceed like a physician who must find out the cause of a disease before he can apply a remedy, the speech went on to discover the reasons which now rendered disunion inevitable, unless an adequate remedy to prevent it should be administered. The first of these causes was the anti-slavery ordinance of 1787, which was adopted before the constitution was formed, and had its origin from the South, and the unanimous support of that section. The second was the Missouri compromise line, which also had its origin in the South, the unanimous support of the Southern senators, the majority of the Southern representatives, the unanimous support of Mr. Monroe's cabinet, of which Mr. Calhoun was a member; and his own approbation of it for about twenty-five years. The long continued agitation of the slave question was another cause of disunion, dating the agitation from the year 1835—which was correct; for in that year he took it up in the Senate, and gave the abolitionists what they wanted, and could not otherwise acquire—an antagonist to cope with, an elevated theatre for the strife, and a national auditory to applaud or censure. Before that time he said, and truly, the agitation was insignificant; since then it had become great; and (he might have added), that senators North and South told him that would be the case when he entered upon the business in 1835. Repeal of the slave sojournment laws by New York and Pennsylvania, was referred to, and with reason, except that these repeals did not take place until after his own conduct in the Senate had made the slavery agitation national, and given distinction and importance to the abolitionists. The progressive increase of the two classes of States, rapid in one, slow in the other, was adverted to as leading to disunion by destroying, what he called, the *equilibrium* of the States—as if that difference of progress was not mainly in the nature of things, resulting from climate and soil; and in some degree political, resulting from the slavery itself which he was so anxious to extend. The preservation of this equilibrium was to

be effected by acquiring Southern territory and opening it to slavery. The *equality* of the States was held to be indispensable to the continuance of the Union; and that equality was to be maintained by admitting slavery to be carried into all the territories—even Oregon—equivocally predicated on the right of all persons to carry their "*property*" with them to these territories. The phrase was an equivocation, and has been a remarkable instance of delusion from a phrase. Every citizen can carry his property now wherever he goes, only he cannot carry the State law with him which makes it property, and for want of which it ceases to be so when he gets to his new residence. The New Englander can carry his bank along with him, and all the money it contains, to one of the new territories; but he cannot carry the law of incorporation with him; and it ceases to be the property he had in New England. All this complaint about inequality in a slave-holder in not being allowed to carry his "*property*" with him to a territory, stript of the ambiguity of phraseology, is nothing but a complaint that he cannot carry the law with him which makes it property; and in that there is no inequality between the States. They are all equal in the total inability of their citizens to carry the State laws with them. The result of the whole, the speech went on to say, was that the process of disruption was then going on between the two classes of States, and could not be arrested by any remedy proposed—not by Mr. Clay's compromise plan, nor by President's plan, nor by the cry of "Union, Union, Glorious Union!" The speech continues:

"Instead of being weaker, all the elements in favor of agitation are stronger now than they were in 1835, when it first commenced, while all the elements of influence on the part of the South are weaker. Unless something decisive is done, I again ask what is to stop this agitation, before the great and final object at which it aims—the abolition of slavery in the States—is consummated? Is it, then, not certain that if something decisive is not now done to arrest it, the South will be forced to choose between abolition and secession? Indeed, as events are now moving, it will not require the South to secede to dissolve the Union."

The speech goes on to say that the Union could not be dissolved at a single blow: it would require many, and successive blows, to snap its cords asunder:

"It is a great mistake to suppose that disunion can be effected by a single blow. The cords which bind these States together in one common Union are far too numerous and powerful for that. Disunion must be the work of time. It is only through a long process, and successively, that the cords can be snapped, until the whole fabric falls asunder. Already the agitation of the slavery question has snapped some of the most important, and has greatly weakened all the others, as I shall proceed to show."

The speech goes on to show that cords have already been snapt, and others weakened:

"The cords that bind the States together are not only many, but various in character. Some are spiritual or ecclesiastical; some political; others social. Some appertain to the benefit conferred by the Union, and others to the feeling of duty and obligation.

"The strongest of those of a spiritual and ecclesiastical nature consisted in the unity of the great religious denominations, all of which originally embraced the whole Union. All these denominations, with the exception, perhaps, of the Catholics, were organized very much upon the principle of our political institutions; beginning with smaller meetings correspondent with the political divisions of the country, their organization terminated in one great central assemblage, corresponding very much with the character of Congress. At these meetings the principal clergymen and lay members of the respective denominations from all parts of the Union met to transact business relating to their common concerns. It was not confined to what appertained to the doctrines and discipline of the respective denominations, but extended to plans for disseminating the Bible, establishing missionaries, distributing tracts,

and of establishing presses for the publication of tracts, newspapers, and periodicals, with a view of diffusing religious information, and for the support of the doctrines and creeds of the denomination. All this combined, contributed greatly to strengthen the bonds of the Union. The strong ties which held each denomination together formed a strong cord to hold the whole Union together; but, as powerful as they were, they have not been able to resist the explosive effect of slavery agitation.

"The first of these cords which snapped, under its explosive force, was that of the powerful Methodist Episcopal Church. The numerous and strong ties which held it together are all broke, and its unity gone. They now form separate churches, and, instead of the feeling of attachment and devotion to the interests of the whole church which was formerly felt, they are now arrayed into two hostile bodies, engaged in litigation about what was formerly their common property.

"The next cord that snapped was that of the Baptists, one of the largest and most respectable of the denominations. That of the Presbyterian is not entirely snapped, but some of its strands have given way. That of the Episcopal Church is the only one of the four great Protestant denominations which remains unbroken and entire.

"The strongest cord of a political character consists of the many and strong ties that have held together the two great parties, which have, with some modifications, existed from the beginning of the government. They both extended to every portion of the Union, and strongly contributed to hold all its parts together. But this powerful cord has fared no better than the spiritual. It resisted for a long time the explosive tendency of the agitation, but has finally snapped under its force—if not entirely, in a great measure. Nor is there one of the remaining cords which have not been greatly weakened. To this extent the Union has already been destroyed by agitation, in the only way it can be, by snapping asunder and weakening the cords which bind it together."

The last cord here mentioned, that of political parties, founded upon principles not subject to sectional, or geographical lines, has since been entirely destroyed, snapped clean off by the abrogation of the Missouri compromise line, and making the extension, or non-extension of slavery, the foundation of political parties. After that cord should be snapped, the speech goes on to consider "*force*" the only bond of Union, and justly considers that as no Union where power and violence constitute the only bond.

"If the agitation goes on, the same force, acting with increased intensity, as has been shown, will finally snap every cord, when nothing will be left to hold the States together except force. But surely that can, with no propriety of language, be called a Union, when the only means by which the weaker is held connected with the stronger portion is *force*. It may, indeed, keep them connected; but the connection will partake much more of the character of subjugation, on the part of the weaker to the stronger, than the union of free, independent, and sovereign States, in one confederation, as they stood in the early stages of the government, and which only is worthy of the sacred name of Union."

The admission of the State of California, with her free constitution, was the exciting cause of this speech from Mr. Calhoun. The Wilmot proviso was disposed of. That cause of disunion no longer existed; but the admission of California excited the same opposition, and was declared to be the "*test*" question upon which all depended. The President had communicated the constitution of that State to Congress, which Mr. Calhoun strongly repulsed.

"The Executive has laid the paper purporting to be the Constitution of California before you, and asks you to admit her into the Union as a State; and the question is, will you or will you not admit her? It is a grave question, and there rests upon you a heavy responsibility. Much,

very much, will depend upon your decision. If you admit her, you endorse and give your sanction to all that has been done. Are you prepared to do so? Are you prepared to surrender your power of legislation for the territories—a power expressly vested in Congress by the constitution, as has been fully established? Can you, consistently with your oath to support the constitution, surrender the power? Are you prepared to admit that the inhabitants of the territories possess the sovereignty over them, and that any number, more or less, may claim any extent of territory they please, may form a constitution and government, and erect it into a State, without asking your permission? Are you prepared to surrender the sovereignty of the United States over whatever territory may be hereafter acquired to the first adventurers who may rush into it? Are you prepared to surrender virtually to the Executive Department all the powers which you have heretofore exercised over the territories? If not, how can you, consistently with your duty and your oaths to support the constitution, give your assent to the admission of California as a State, under a pretended constitution and government?"

Having shown that all the cords that held the Union together had snapped except one (political party principle), and that one weakened and giving way, the speech came to the solemn question: "*How can the Union be saved?*" and answered it (after some generalities) by coming to the specific point—

"*To provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this government.*"

The speech did not tell of what this amendment was to consist, which was to have the effect of saving the Union, by protecting the slave States, and restoring the equilibrium between the two classes of States; but an authentic publication soon after disclosed it, and showed it to be the election of two Presidents, one from the free and the other from the slave States, and each to approve of all the acts of Congress before they became laws. Upon this condition alone, the speech declared the Union could be saved! which was equivalent to pronouncing its dissolution. For, in the first place, no such amendment to the constitution could be made; in the second place, no such double-headed government could work through even one session of Congress, any more than two animals could work together in the plough with their heads yoked in opposite directions.

This last speech of Mr. Calhoun becomes important, as furnishing a key to his conduct, and that of his political friends, and as connecting itself with subsequent measures.

191. Death Of Mr. Calhoun: His Eulogium By Senator Butler

"Mr. President: Mr. Calhoun has lived in an eventful period of our Republic and has acted a distinguished part. I surely do not venture too much when I say, that his reputation forms a striking part of a glorious history. Since 1811 until this time, he has been responsibly connected with the federal government. As representative, senator, cabinet minister, and Vice President, he has been identified with the greatest events in the political history of our country. And I hope I may be permitted to say that he has been equal to all the duties which were devolved upon him in the many critical junctures in which he was placed. Having to act a responsible part, he always acted a decided part. It would not become me to venture upon the judgment which awaits his memory. That will be formed by posterity before the impartial tribunal of history. It may be that he will have had the fate, and will have given to him the judgment that has been awarded to Chatham.

"Mr. Calhoun was a native of South Carolina, and was born in Abbeville district, on the 18th March, 1782. He was of an Irish family. His father, Patrick Calhoun, was born in Ireland, and at an early age came to Pennsylvania, thence moved to the western part of Virginia, and after Braddock's defeat moved to South Carolina, in 1756. He and his family gave a name to what is known as the Calhoun settlement in Abbeville district. The mother of my colleague was a Miss Caldwell, born in Charlotte County, Virginia. The character of his parents had no doubt a sensible influence on the destiny of their distinguished son. His father had energy and enterprise, combined with perseverance and great mental determination. His mother belonged to a family of revolutionary heroes. Two of her brothers were distinguished in the Revolution. Their names and achievements are not left to tradition, but constitute a part of the history of the times.

"He became a student in Yale College, in 1802, and graduated two years afterwards with distinction—as a young man of great ability, and with the respect and confidence of his preceptors and fellows. What they have said and thought of him, would have given any man a high reputation. It is the pure fountain of a clear reputation. If the stream has met with obstructions, they were such as have only shown its beauty and majesty.

"Mr. Calhoun came into Congress at a time of deep and exciting interest—at a crisis of great magnitude. It was a crisis of peril to those who had to act in it, but of subsequent glory to the actors, and the common history of the country. The invincibility of Great Britain had become a proverbial expression, and a war with her was full of terrific issues. Mr. Calhoun found himself at once in a situation of high responsibility—one that required more than speaking qualities and eloquence to fulfil it. The spirit of the people required direction; the energy and ardor of youth were to be employed in affairs requiring the maturer qualities of a statesman. The part which Mr. Calhoun acted at this time, has been approved and applauded by contemporaries, and now forms a part of the glorious history of those times.

"The names of Clay, Calhoun, Cheves, and Lowndes, Grundy, Porter, and others, carried associations with them that reached the *heart of the nation*. Their clarion notes penetrated the army; they animated the people, and sustained the administration of the government. With such actors, and in such scenes—the most eventful of our history—to say that Mr. Calhoun did not play a second part, is no common praise. In debate he was equal with Randolph, and in council he commanded the respect and confidence of Madison. At this period of his life he had the quality of Themistocles—*to inspire confidence*—which, after all, is the highest of

earthly qualities: it is a mystical something which is felt, but cannot be described. The events of the war were brilliant and honorable to both statesmen and soldiers, and their history may be read with enthusiasm and delight. The war terminated with honor; but the measures which had to be taken, in a transition to a peace establishment, were full of difficulty and embarrassment. Mr. Calhoun, with his usual intrepidity, did not hesitate to take a responsible part. Under the influence of a broad patriotism, he acted with an uncalculating liberality to all the interests that were involved, and which were brought under review of Congress. His personal adversary at this time, in his admiration for his genius, paid Mr. Calhoun a beautiful compliment for his noble and national sentiments.

"At the termination of Mr. Madison's administration, Mr. Calhoun had acquired a commanding reputation; he was regarded as one of the sages of the Republic. In 1817 Mr. Monroe invited him to a place in his cabinet; Mr. Calhoun's friends doubted the propriety of his accepting it, and some of them thought he would put a high reputation at hazard in this new sphere of action. Perhaps these suggestions fired his high and gifted intellect; he accepted the place, and went into the War Department, under circumstances that might have appalled other men. His success has been acknowledged; what was complex and confused, he reduced to simplicity and order. His organization of the War Department, and his administration of its undefined duties, have made the impression of an *author*, having the interest of originality and the sanction of trial.

"While he was Vice-President he was placed in some of the most trying scenes of any man's life. I do not now choose to refer to any thing that can have the elements of controversy; but I hope I may be permitted to speak of my friend and colleague in a character in which all will join in paying him sincere respect. As a presiding officer of this body, he had the undivided respect of its members. He was punctual, methodical, and accurate, and had a high regard for the dignity of the Senate, which, as a presiding officer, he endeavored to preserve and maintain. He looked upon debate as an honorable contest of intellect for truth. Such a strife has its incidents and its trials; but Mr. Calhoun had, in an eminent degree, a regard for parliamentary dignity and propriety.

"Upon General Hayne's leaving the Senate to become Governor of South Carolina, Mr. Calhoun resigned the Vice-Presidency, and was elected in his place. All will now agree that such a position was environed with difficulties and dangers. His own State was under the ban, and he was in the national Senate to do her justice under his constitutional obligations. That part of his life posterity will review, and will do justice to it.

"After his senatorial term had expired, he went into retirement by his own consent. The death of Mr. Upshur—so full of melancholy association—made a vacancy in the State Department; and it was by the common consent of all parties, that Mr. Calhoun was called to fill it. This was a tribute of which any public man might well be proud. It was a tribute to truth, ability, and experience. Under Mr. Calhoun's counsels, Texas was brought into the Union. His name is associated with one of the most remarkable events of history—that of one Republic being annexed to another by the voluntary consent of both. Mr. Calhoun was but the agent to bring about this fraternal association. It is a conjunction under the sanction of his name, and by an influence exerted through his great and intrepid mind. Mr. Calhoun's connection with the Executive Department of the government terminated with Mr. Tyler's administration. As Secretary of State, he won the confidence and respect of foreign ambassadors, and his despatches were characterized by clearness, sagacity, and boldness.

"He was not allowed to remain in retirement long. For the last five years he has been a member of this body, and has been engaged in discussions that have deeply excited and agitated the country. He has died amidst them. I had never had any particular association with

Mr. Calhoun, until I became his colleague in this body. I had looked on his fame as others had done, and had admired his character. There are those here who know more of him than I do. I shall not pronounce any such judgment as may be subject to a controversial criticism. But I will say, as a matter of justice, from my own personal knowledge, that I never knew a fairer man in argument or a juster man in purpose. His intensity allowed of little compromise. While he did not qualify his own positions to suit the temper of the times, he appreciated the unmasked propositions of others. As a senator, he commanded the respect of the ablest men of the body of which he was a member; and I believe I may say, that where there was no political bias to influence the judgment, he had the confidence of his brethren. As a statesman, Mr. Calhoun's reputation belongs to the history of the country, and I commit it to his countrymen and posterity.

"In my opinion, Mr. Calhoun deserves to occupy the first rank as a parliamentary speaker. He had always before him the dignity of purpose, and he spoke to an end. From a full mind he expressed his ideas with clearness, simplicity, and force and in language that seemed to be the vehicle of his thoughts and emotions. His thoughts leaped from his mind, like arrows from a well-drawn bow. They had both the aim and force of a skilful archer. He seemed to have had little regard for ornament; and when he used figures of speech, they were only for illustration. His manner and countenance were his best language; and in these there was an exemplification of what is meant by action, in that term of the great Athenian orator and statesman. They served to exhibit the moral elevation of the man.

"In speaking of Mr. Calhoun as a man and a neighbor, I hope I may speak of him in a sphere in which all will like to contemplate him. Whilst he was a gentleman of striking deportment, he was a man of primitive tastes and simple manners. He had the hardy virtues and simple tastes of a republican citizen. No one disliked ostentation and exhibition more than he did. When I say he was a *good neighbor*, I imply more than I have expressed. It is summed up under the word *justice*. I will venture to say, that no one in his private relations could ever say that Mr. Calhoun treated him with injustice, or that he deceived him by professions. His private character was characterized by a beautiful propriety, and was the exemplification of truth, justice, temperance, and fidelity to his engagements."

192. Mr. Clay's Plan Of Slavery Compromise: Mr. Benton's Speech Against It: Extracts

Mr. Benton. It is a bill of thirty-nine sections—forty, save one—an ominous number; and which, with the two little bills which attend it, is called a compromise, and is pressed upon us as a remedy for the national calamities. Now, all this labor of the committee, and all this remedy, proceed upon the assumption that the people of the United States are in a miserable, distracted condition; that it is their mission to relieve this national distress, and that these bills are the sovereign remedy for that purpose. Now, in my opinion, all this is a mistake, both as to the condition of the country, the mission of the committee, and the efficacy of their remedy. I do not believe in this misery and distraction, and distress, and strife, of the people. On the contrary, I believe them to be very quiet at home, attending to their crops, such of them as do not mean to feed out of the public crib; and that they would be perfectly happy if the politicians would only permit them to think so. I know of no distress in the country, no misery, no strife, no distraction, none of those five gaping wounds of which the senator from Kentucky made enumeration on the five fingers of his left hand, and for the healing of which, all together, and all at once, and not one at a time, like the little Doctor Taylor, he has provided this capacious plaster in the shape of five old bills tacked together. I believe the senator and myself are alike, in this, that each of us has but five fingers on the left hand; and that may account for the limitation of the wounds. When the fingers gave out, they gave out; and if there had been five more fingers, there might have been more wounds—as many as fingers—and, toes also. I know nothing of all these "gaping wounds," nor of any distress in the country since we got rid of the Bank of the United States, and since we got possession of the gold currency. Since that time I have heard of no pecuniary or business distress, no rotten currency, no expansions and contractions, no deranged exchanges, no decline of public stocks, no laborers begging employment, no produce rotting upon the hands of the farmer, no property sacrificed at forced sales, no loss of confidence, no three per centum a month interest, no call for a bankrupt act. Never were the people—the business-doing and the working people—as well off as they are to-day. As for political distress, "*it is all in my eye*." It is all among the politicians. Never were the political blessings of the country greater than at present: civil and religious liberty eminently enjoyed; life, liberty, and property protected; the North and the South returning to the old belief that they were made for each other; and peace and plenty reigning throughout the land. This is the condition of the country—happy in the extreme; and I listen with amazement to the recitals which I have heard on this floor of strife and contention, gaping wounds and streaming blood, distress and misery. I feel mystified. The senator from Kentucky (Mr. Clay), chairman of the committee, and reporter of the bill, and its pathetic advocate, formerly delivered us many such recitals, about the times that the tariff was to be increased, the national bank charter to be renewed, the deposits to be restored, or a bankrupt act to be passed. He has been absent for some years; and, on returning among us, seems to begin where he left off. He treats us to the old dish of distress! Sir, it is a mistake. There is none of it; and if there was, the remedy would be in the hands of the people—in the hearts of the people—who love their country, and mean to take care of it—and not in the contrivances of politicians, who mistake their own for their country's distresses. It is all a mistake. It looks to me like a joke. But when I recollect the imposing number of the committee, and how "distinguished" they all were, and how they voted themselves free from instructions, and allowed the Senate to talk, but not to vote, while they were out, and how long they were deliberating: when I recollect all these things, I am

constrained to believe the committee are in earnest. And as for the senator himself, the chairman of the committee, the perfect gravity with which he brought forward his remedy—these bills and the report—the pathos with which he enforced them, and the hearty congratulations which he addressed to the Senate, to the United States, and all mankind on the appointment of his committee, preclude the idea of an intentional joke on his part. In view of all this, I find myself compelled to consider this proceeding as serious, and bound to treat it parliamentarily; which I now proceed to do. And, in the first place, let us see what it is the committee has done, and what it is that it has presented to us as the sovereign remedy for the national distempers, and which we are to swallow whole—in the lump—all or none—under the penalty of being treated by the organs as enemies to the country.

Here are a parcel of old bills, which have been lying upon our tables for some months, and which might have been passed, each by itself, in some good form, long ago; and which have been carried out by the committee, and brought back again, bundled into one, and altered just enough to make each one worse; and then called a compromise—where there is nothing to compromise—and supported by a report which cannot support itself. Here are the California State admission bill, reported by the committee on territories three months ago—the two territorial government bills reported by the same committee at the same time—the Texas compact bill, originated by me six years ago, and reproduced at the present session—the fugitive slave recovery bill, reported from the judiciary committee at the commencement of the session—and the slave trade suppression bill for this District of Columbia, which is nothing but a revival of an old Maryland law, in force before the District was created, and repealed by an old act of Congress. These are the batch—five bills taken from our files, altered just enough to spoil each, then tacked together, and christened a compromise, and pressed upon the Senate as a sovereign remedy for calamities which have no existence. This is the presentation of the case: and now for the case itself.

The committee has brought in five old bills, bundled into one, and requires us to pass them. Now, how did this committee get possession of these bills? I do not ask for the manual operation. I know that each senator had a copy on his table, and might carry his copy where he pleased; but these bills were in the possession of the Senate, on its calendar—for discussion, but not for decision, while the committee was out. Two sets of resolutions were referred to the committee—but not these bills. And I now ask for the law—the parliamentary law—which enables a committee to consider bills not referred to it? to alter bills not in their legal power or possession? to tack bills together which the Senate held separate on its calendar? to reverse the order of bills on the calendar? to put the hindmost before, and the foremost behind? to conjoin incongruities, and to conglomerate individualities? This is what I ask—for this is what the committee has done; and which, if a point of order was raised, might subject their bundle of bills to be ruled off the docket. Sir, there is a custom—a good-natured one—in some of our State legislatures, to convert the last day of the session into a sort of legislative saturnalia—a frolic—something like barring out the master—in which all officers are displaced, all authorities disregarded, all rules overturned, all license tolerated, and all business turned topsy-turvy. But then this is only done on the last day of the session, as a prelude to a general break-up. And the sport is harmless, for nothing is done; and it is relieved by adjournment, which immediately follows. Such license as this may be tolerated; for it is, at least, innocent sport—the mere play of those “children of a larger growth” which some poet, or philosopher, has supposed men to be. And it seems to me that our committee has imitated this play without its reason—taken the license of the saturnalia without its innocence—made grave work of their gay sport—produced a monster instead of a merry-andrew—and required us to worship what it is our duty to kill.

I proceed to the destruction of this monster. The California bill is made the scape-goat of all the sins of slavery in the United States—that California which is innocent of all these sins. It is made the scape-goat; and as this is the first instance of an American attempt to imitate that ancient Jewish mode of expiating national sins, I will read how it was done in Jerusalem, to show how exactly our committee have imitated that ancient expiatory custom. I read from an approved volume of Jewish antiquities:

"The goat being tied in the north-east corner of the court of the temple, and his head bound with scarlet cloth to signify sin; the high-priest went to him, and laid his hands on his head, and confessed over it all the iniquities of the children of Israel, and all their transgressions in all their sins, putting them all on the head of the goat. After which, he was given to the person appointed to lead him away, who, in the early ages of the custom, led him into the desert, and turned him loose to die; but as the goat sometimes escaped from the desert, the expiation, in such cases, was not considered complete; and, to make sure of his death, the after-custom was to lead him to a high rock, about twelve miles from Jerusalem, and push him off of it backwards, to prevent his jumping, the scarlet cloth being first torn from his head, in token that the sins of the people were taken away."

This was the expiation of the scape-goat in ancient Jerusalem: an innocent and helpless animal, loaded with sins which were not his own, and made to die for offences which he had never committed. So of California. She is innocent of all the evils of slavery in the United States, yet they are all to be packed upon her back, and herself sacrificed under the heavy load. First, Utah and New Mexico are piled upon her, each pregnant with all the transgressions of the Wilmot Proviso—a double load in itself—and enough, without further weight, to bear down California. Utah and New Mexico are first piled on; and the reason given for it by the committee is thus stated in their authentic report:

"The committee recommend to the Senate the establishment of those territorial governments; and, in order more effectually to secure that desirable object, they also recommend that the bill for their establishment be incorporated in the bill for the admission of California, and that, united together, they both be passed."

This is the reason given in the report: and the first thing that strikes me, on reading it, is its entire incompatibility with the reasons previously given for the same act. In his speech in favor of raising the committee, the senator from Kentucky [Mr. Clay] was in favor of putting the territories upon California for her own good, for the good of California herself—as the speedy way to get her into the Union, and the safe way to do it, by preventing an opposition to her admission which might otherwise defeat it altogether. This was his reason then, and he thus delivered it to the Senate:

"He would say now to those who desired the speedy admission of California, the shortest and most expeditious way of attaining the desired object was to include her admission in a bill giving governments to the territories. He made this statement because he was impelled to do so from what had come to his knowledge. If her admission as a separate measure be urged, an opposition is created which may result in the defeat of any bill for her admission."

These are the reasons which the senator then gave for urging the conjunction of the State and the territories—quickest and safest for California: her admission the supreme object, and the conjunction of the territories only a means of helping her along and saving her. And, unfounded as I deemed these reasons at the time, and now know them to be, they still had the merit of giving preference where it was due—to the superior object—to California herself, a State, without being a State of the Union, and suffering all the ills of that anomalous condition. California was then the superior object: the territories were incidental figures and

subordinate considerations, to be made subservient to her salvation. Now all this is reversed. The territories take the superior place. They become the object: the State the incident. They take the first—she the second place! And to make sure of their welfare—make more certain of giving governments to them—*innuendo*, such governments as the committee prescribe—the conjunction is now proposed and enforced. This is a change of position, with a corresponding change of reasons. Doubtless the senator from Kentucky has a right to change his own position, and to change his reasons at the same time; but he has no right to ask other senators to change with him, or to require them to believe in two sets of reasons, each contradictory to the other. It is my fortune to believe in neither. I did not believe in the first set when they were delivered; and time has shown that I was right. Time has disposed of the argument of speed. That reason has expired under the lapse of time. Instead of more speedy, we all now know that California has been delayed three months, waiting for this conjunction: instead of defeat if she remained single, we all know now that she might have been passed singly before the committee was raised, if the senator from Kentucky had remained on his original ground, on my side; and every one knows that the only danger to California now comes from the companionship into which she has been forced. I do not believe in either set of reasons. I do not admit the territorial governments to be objects of superior interest to the admission of California. I admit them to be objects of interest, demanding our attention, and that at this session; but not at the expense of California, nor in precedence of her, nor in conjunction with her, nor as a condition for her admission. She has been delayed long, and is now endangered by this attempt to couple with her the territories, with which she has no connection, and to involve her in the Wilmot Proviso question, from which she is free. The senator from Kentucky has done me the favor to blame me for this delay. He may blame me again when he beholds the catastrophe of his attempted conjunctions; but all mankind will see that the delay is the result of his own abandonment of the position which he originally took with me. The other reason which the senator gave in his speech for the conjunction is not repeated in the report—the one which addressed itself to our nervous system, and menaced total defeat to California if urged in a bill by herself. He has not renewed that argument to our fears, so portentously exhibited three months ago; and it may be supposed that that danger has passed by, and that Congress is now free. But California is not bettered by it, but worsted. Then it was only necessary to her salvation that she should be joined to the territories; so said the speech. Now she is joined to Texas also; and must be damned if not strong enough to save Texas, and Utah, and New Mexico, and herself into the bargain!

United together, the report says, the bills will be passed together. That is very well for the report. It was natural for it to say so. But, suppose they are rejected together, and in consequence of being together: what is, then, the condition of California? First, she has been delayed three months, at great damage to herself, waiting the intrusive companionship of this incongruous company. Then she is sunk under its weight. Who, then, is to blame—the senator from Kentucky or the senator from Missouri? And if opposition to this indefinite postponement shall make still further delay to California, and involve her defeat in the end, who then is to be blamed again? I do not ask these questions of the senator from Kentucky. It might be unlawful to do so: for, by the law of the land, no man is bound to criminate himself.

Mr. Clay (from his seat). I do not claim the benefit of the law.

Mr. Benton. No; a high-spirited man will not claim it. But the law gives him the privilege; and, as a law-abiding and generous man, I give him the benefit of the law whether he claims it or not. But I think it is time for him to begin to consider the responsibility he has incurred in quitting his position at my side for California single, and first, to jumble her up in this crowd, where she is sure to meet death, come the vote when it will. I think it is time for him

to begin to think about submitting to a mis-trial! withdraw a juror, and let a *venire facias de novo* be issued.

But I have another objection to this new argument. The territorial government bills are now the object; and to make more certain of these bills they are put into the California bill, to be carried safe through by it. This is the argument of the report; and it is a plain declaration that one measure is to be forced to carry the other. This is a breach of parliamentary law—that law upon the existence of which the senator from Kentucky took an issue with me, and failed to maintain his side of it. True, he made a show of maintaining it—ostentatiously borrowing a couple of my books from me, in open Senate, to prove his side of the case; and taking good care not to open them, because he knew they would prove my side of it. Then he quoted that bill for the "relief of John Thompson, and for other purposes," the reading of which had such an effect upon the risible susceptibilities of that part of our spectators which Shakspeare measures by the quantity, and qualifies as barren! Sir, if the senator from Kentucky had only read us Dr. Franklin's story of John Thompson and his hat-sign, it would have been something—a thing equally pertinent as argument, and still more amusing as anecdote. The senator, by doing that much, admitted his obligation to maintain his side of the issue: by doing no more, he confessed he could not. And now the illegality of this conjunction stands confessed, with the superaddition of an avowed condemnable motive for it. The motive is—so declared in the report—to force one measure to carry the other—the identical thing mentioned in all the books as the very reason why subjects of different natures should not be tacked together. I do not repeat what I have heretofore said on this point: it will be remembered by the Senate: and its validity is now admitted by the attempt, and the failure, to contest it. It is compulsory legislation, and a flagrant breach of parliamentary law, and of safe legislation. It is also a compliment of no equivocal character to a portion of the members of this Chamber. To put two measures together for the avowed purpose of forcing one to carry the other, is to propose to force the friends of the stronger measure to take the weak one, under the penalty of losing the stronger. It implies both that these members cannot be trusted to vote fairly upon one of the measures, or that an unfair vote is wanted from them; and that they are coercible, and ought to be coerced. This is the compliment which the compulsory process implies, and which is as good as declared in this case. It is a rough compliment, but such a one as "distinguished senators"—such as composed this committee—may have the prerogative to offer to the undistinguished ones: but then these undistinguished may have the privilege to refuse to receive it—may refuse to sanction the implication, by refusing to vote as required—may take the high ground that they are not coercible, that they owe allegiance, not to the committee, but to honor and duty; and that they can trust themselves for an honest vote, in a bill by itself, although the committee cannot trust them! But, stop! Is it *a* government or *the* government which the committee propose to secure by coercion? Is it *a* government, such as a majority of the Senate may agree upon? or is it *the* government, such as a majority of the committee have prescribed? If the former, why not leave the Senate to free voting in a separate bill? if the latter, will the Senate be coerced? will it allow a majority of the committee to govern the Senate?—seven to govern sixty? Sir! it is the latter—so avowed; and being the first instance of such an avowal, it should meet a reception which would make it the last.

Mr. President: all the evils of incongruous conjunctions are exemplified in this conjunction of the territorial government bills with the California State admission bill. They are subjects not only foreign to each other, but involving different questions, and resting upon principles of different natures. One involves the slavery and anti-slavery questions: the other is free from them. One involves constitutional questions: the other does not. One is a question of right, resting upon the constitution of the United States and the treaty with Mexico: the other is a

question of expediency, resting in the discretion of Congress. One is the case of a State, asking for an equality of rights with the other States: the other is a question of territories, asking protection from States. One is a sovereignty—the other a property. So that, at all points, and under every aspect, the subjects differ; and it is well known that there are senators here who can unite in a vote for the admission of California, who cannot unite in any vote for the territorial governments; and that, because these governments involve the slavery questions, from all which the California bill is free. That is the rock on which men and parties split here. Some deny the power of Congress *in toto* over the subject of slavery in territories: such as these can support no bill which touches that question one way or the other. Others admit the power, but deny the expediency of its exercise. Others again claim both the power and the exercise. Others again are under legislative instructions—some to vote one way, some the other. Finally, there are some opposed to giving any governments at all to these territories, and in favor of leaving them to grow up of themselves into future States. Now, what are the senators, so circumstanced, to do with these bills conjoined? Vote for all—and call it a compromise! as if oaths, duty, constitutional obligation, and legislative instructions, were subjects of compromise. No! rejection of the whole is the only course; and to begin anew, each bill by itself, the only remedy.

The conjunction of these bills illustrates all the evils of joining incoherent subjects together. It presents a revolting enormity, of which all the evils go to an innocent party, which has done all in its power to avoid them. But, not to do the Committee of Thirteen injustice, I must tell that they have looked somewhat to the interest of California in this conjunction, and proposed a compensating advantage to her; of which kind consideration they are entitled to the credit in their own words. This, then, is what they propose for her:

"As for California—far from feeling her sensibility affected by her being associated with other kindred measures—she ought to rejoice and be highly gratified that, in entering into the Union, she may have contributed to the tranquillity and happiness of the great family of States, of which it is to be hoped she may one day be a distinguished member."

This is the compensation proposed to California. She is to rejoice, and be highly gratified. She is to contribute to the tranquillity and happiness of the great family of States, and thereby become tranquil and happy herself. And she is one day, it is hoped, to become a distinguished member of this confederacy. This is to be her compensation—felicity and glory! Prospective felicity, and contingent glory. The felicity rural—rural felicity—from the geographical position of California—the most innocent and invigorating kind of felicity. The glory and distinction yet to be achieved. Whether California will consider these anticipations ample compensation for all the injuries of this conjunction—the long delay, and eventual danger, and all her sufferings at home in the mean time—will remain for herself to say. For my part, I would not give one hour's duration of actual existence in this Union for a whole eternity of such compensation; and such, I think, will be the opinion of California herself. Life, and present relief from actual ills, is what she wants. Existence and relief, is her cry! And for these she can find no compensation in the illusions of contributing to the tranquillity of States which are already tranquil, the happiness of people who are already happy, the settlement of questions in which she has no concern, and the formation of compromises which breed new quarrels in assuming to settle old ones.

With these fine reasons for tacking Utah and New Mexico to California, the committee proceed to pile a new load upon her back. Texas next appears in the committee's plan, crammed into the California bill, with all her questions of debt and boundary, dispute with New Mexico, division into future States, cession of territory to the United States, amount of compensation to be given her, thrust in along with her! A compact with one State put into a

law for the life of another! And a veto upon the admission of California given to Texas! This is a monstrosity of which there is no example in the history of our legislation, and for the production of which it is fair to permit the committee to speak for themselves.

These are the reasons of the committee, and they present grave errors in law, both constitutional and municipal, and of geography and history. They assume a controversy between New Mexico and Texas. No such thing. New Mexico belongs to the United States, and the controversy is with the United States. They assume there is no way to settle this controversy but by a compact with Texas. This is another great mistake. There are three ways to settle it: first, and best, by a compact; secondly, by a suit in the Supreme Court of the United States; thirdly, by giving a government to New Mexico according to her actual extent when the United States acquired her, and holding on to that until the question of title is decided, either amicably by compact, or legally by the Supreme Court. The fundamental error of the committee is in supposing that New Mexico is party to this controversy with Texas. No such thing. New Mexico is only the *John Doe* of the concern. That error corrected, and all the reasoning of the committee falls to the ground. For the judicial power of the United States extends to all controversies to which the United States are party; and the original jurisdiction of the Supreme Court extends to all cases to which a State is a party. This brings the case bang up at once within the jurisdiction of the Supreme Court, without waiting for the consent of Texas, or waiting for New Mexico to grow up into a State, so as to have a suit between two States; and so there is no danger of collision, as the committee suppose, and make an argument for their bill, in the danger there is to New Mexico from this apprehended collision. If any takes place it will be a collision with the United States, to whom the territory of New Mexico belongs; and she will know how to prevent this collision, first, by offering what is not only just, but generous to Texas; and next, in defending her territory from invasion, and her people from violence.

These are the reasons for thrusting Texas, with all her multifarious questions, into the California bill; and, reduced to their essence, they argue thus: Utah must go in, because she binds upon California; New Mexico must go in, because she binds upon Utah; and Texas must go in, because she binds upon New Mexico. And thus poor California is crammed and gorged until she is about in the condition that Jonah would have been in, if he had swallowed the whale, instead of the whale swallowing him. This opens a new chapter in legislative ratiocination. It substitutes contiguity of territory for congruity of matter, and makes geographical affinities the rule of legislative conjunctions. Upon that principle the committee might have gone on, cramming other bills into the California bill, all over the United States; for all our territory is binding in some one part upon another. Upon that principle, the District of Columbia slave trade suppression bill might have been interjected; for, though not actually binding upon Texas, yet it binds upon land that binds upon land that does bind upon her. So of the fugitive slave bill. For, let the fugacious slave run as far as he may, he must still be on land; and that being the case, the territorial contiguity may be established which justifies the legislative conjunction.

Mr. President, the moralist informs us that there are some subjects too light for reason—too grave for ridicule; and in such cases the mere moralist may laugh or cry, as he deems best. But not so with the legislator—his business is not laughing or crying. Whimpering, or simpering, is not his mission. Work is his vocation, and gravity his vein; and in that vein I proceed to consider this interjection of Texas, with all her multifarious questions, into the bowels of the California bill.

In the first place, this Texas bill is a compact, depending for its validity on the consent of Texas, and is put into the California bill as part of a compromise and general settlement of all

the slavery questions; and, of course, the whole must stand together, or fall together. This gives Texas a veto upon the admission of California. This is unconstitutional, as well as unjust; for by the constitution, new States are to be admitted by Congress, and not by another State; and, therefore, Texas should not have a veto upon the admission of California. In the next place, Texas presents a great many serious questions of her own—some of them depending upon a compact already existing with the United States, many of them concerning the United States, one concerning New Mexico, but no one reaching to California. She has a question of boundary nominally with New Mexico, in reality with the United States, as the owner of New Mexico; and that might be a reason for joining her in a bill, so far as that boundary is concerned, with New Mexico; but it can be no reason for joining her to California. The western boundary of Texas is the point of collision with New Mexico; and this plan of the committee, instead of proposing a suitable boundary between them adapted to localities, or leaving to each its actual possessions, disturbing no interest, until the decision of title upon the universal principle of *uti possidetis*; instead of these obvious and natural remedies, the plan of the committee cuts deep into the actual possessions of the United States in New Mexico—rousing the question which the committee professes to avoid, the question of extending slavery, and so disturbing the whole United States.

And here I must insist on the error of the committee in constitutional and municipal law, before I point out their mistakes in geography and history. They treat New Mexico as having a controversy with Texas—as being in danger of a collision with her—and that a compact with Texas to settle the boundary between them is the only way to settle that controversy and prevent that collision. Now, all this is a mistake. The controversy is not with New Mexico, but with the United States, and the judicial power of the United States has jurisdiction of it. Again, possession is title until the right is tried; and the United States having the possession, may give a government at once according to the possession; and then wait the decision of title.

I avoid all argument about right—the eventual right of Texas to any part of what was New Mexico before the existence of Texas. I avoid that question. Amicable settlement of contested claim, and not adjudication of title, is now my object. I need no argument from any quarter to satisfy me that the Texas questions ought to be settled. I happened to know that before Texas was annexed, and brought in bills and made speeches for that purpose at that time. I brought in such bills six years ago, and again at the present session; and whenever presented single, either by myself or any other person, I shall be ready to give it a generous consideration; but, as part of the California bill, I wash my hands of it.

I am against disturbing actual possession, either that of New Mexico or of Texas; and, therefore, am in favor of leaving to each all its population, and an ample amount of compact and homogeneous territory. With this view, all my bills and plans for a divisional line between New Mexico and Texas—whether of 1844 or 1850—left to each all its settlements, all its actual possessions, all its uncontested claim; and divided the remainder by a line adapted to the geography and natural divisions of the country, as well as suitable to the political and social condition of the people themselves. This gave a longitudinal line between them; and the longitude of 100 degrees in my bill of 1844, and 102 degrees in my bill of 1850—and both upon the same principle of leaving possessions intact, Texas having extended her settlements in the mean time. The proposed line of the committee violates all these conditions. It cuts deep and arbitrarily into the actual possessions of New Mexico, such as she held them before Texas had existence; and so conforms to no principle of public policy, private right, territorial affinity, or local propriety. It begins on the Rio del Norte, twenty miles in a straight line above El Paso, and thence, diagonally and northeastwardly, to the point where the Red River crosses the longitude of 100°. Now this beginning, twenty

miles above El Paso, is about three hundred miles in a straight line (near six hundred by the windings of the river) above the ancient line of New Mexico; and this diagonal line to the Red River cuts about four hundred miles in a straight line through the ancient New Mexican possessions, cutting off about seventy thousand square miles of territory from New Mexico, where there is no slavery, and giving it to Texas where there is. This constitutes a more serious case of *tacking* than even that of sticking incongruous bills together, and calls for a most considerate examination of all the circumstances it involves. I will examine these circumstances, first making a statement, and then sustaining it by proof.

El Paso, above which the Texas boundary is now proposed to be placed by the committee, is one of the most ancient of the New Mexican towns, and to which the Spaniards of New Mexico retreated in the great Indian revolt in 1680, and made their stand, and thence recovered the whole province. It was the residence of the lieutenant-governor of New Mexico, and the most southern town of the province, as Taos was the most northern. Being on the right bank of the river, the dividing line between the United States and the Republic of Mexico leaves it out of our limits, and consequently out of the present limits of New Mexico; but New Mexico still extends to the Rio del Norte at the Paso; and therefore this beginning line proposed by the committee cuts into the ancient possession of New Mexico—a possession dating from the year 1595. That line in its course to the Red River, cuts the river and valley of the Puerco (called Pecos in the upper part) into two parts, leaving the lower and larger part to Texas; the said Rio Puerco and its valley, from head to mouth, having always been a part of New Mexico, and now in its actual possession. Putting together what is cut from the Puerco, and from the Del Norte above and below El Paso, and it would amount to about seventy thousand square miles, to be taken by the committee's line from its present and ancient possessor, and transferred to a new claimant. This is what the new line would do, and in doing it would raise the question of the extension of slavery, and of its existence at this time, by law, in New Mexico as a part of Texas.

To avoid all misconception, I repeat what I have already declared, that I am not occupying myself with the question of title as it may exist and be eventually determined between New Mexico and Texas; nor am I questioning the power of Congress to establish any line it pleases in that quarter for the State of Texas, with the consent of the State, and any one it pleases for the territory of New Mexico without her consent. I am not occupying myself with the questions of title or power, but with the question of possession only—and how far the possession of New Mexico is to be disturbed, if disturbed at all, by the committee's line; and the effect of that disturbance in rousing the slavery question in that quarter. In that point of view the fact of possession is every thing: for the possessor has a right to what he holds until the question of title is decided—by law, in a question between individuals or communities in a land of law and order—or by negotiation or arms between independent Powers. I use the phrase, possession by New Mexico; but it is only for brevity, and to give locality to the term possession. New Mexico possesses no territory; she is a territory, and belongs to the United States; and the United States own her as she stood on the day of the treaty of peace and cession between the United States and the Republic of Mexico; and it is into that possession that I inquire, and all which I assert that the United States have a right to hold until the question of title is decided. And to save inquiry or doubt, and to show that the committee are totally mistaken in law in assuming the consent of Texas to be indispensable to the settlement of the title, I say there are three ways to settle it; the first and best by compact, as I proposed before Texas was annexed, and again by a bill of this year: next, by a suit in the Supreme Court, under that clause in the constitution which extends the judicial power of the United States to all controversies to which the United States is a party, and that other clause which gives the Supreme Court original jurisdiction of all cases to which a State is a party:

the third way is for the United States to give a government to New Mexico according to the territory she possessed when she was ceded to the United States. These are the three ways to settle the question—one of them totally dependent on the will of Texas—one totally independent of her will—and one independent of her will until she chooses to go into court. As to any thing that Texas or New Mexico may do in taking or relinquishing possession, it is all moonshine. New Mexico is a territory of the United States. She is the property of the United States; and she cannot dispose of herself, or any part of herself; nor can Texas take her or any part of her. She is to stand as she did the day the United States acquired her; and to that point all my examinations are directed.

And in that point of view it is immaterial what are the boundaries of New Mexico. The whole of the territory obtained from Mexico, and not rightfully belonging to a State, belongs to the United States; and, as such, is the property of the United States, and to be attended to accordingly. But I proceed with the possession of New Mexico, and show that it has been actual and continuous from the conquest of the country by Don Juan de Onate, in 1595 to the present time. That ancient actual possession has already been shown at the starting point of the line—at El Paso del Norte. I will now show it to be the same throughout the continuation of the line across the Puerco and its valley, and at some points on the left bank of the Del Norte below El Paso. And first, of the Puerco River. It rises in the latitude of Santa Fé, and in its immediate neighborhood, only ten miles from it, and running south, falls into the Rio del Norte, about three hundred miles on a straight line below El Paso, and has a valley of its own between the mountain range on the west, which divides it from the valley of the Del Norte, to which it is parallel, and the high arid table land on the east called El Llano Estacado—the Staked Plain—which divides it from the head waters of the Red River, the Colorado, the Brasos, and other Texian streams. It is a long river, its head being in the latitude of Nashville—its mouth a degree and a half south of New Orleans. It washes the base of the high table land, and receives no affluents, and has no valley on that side; on the west it has a valley, and many bold affluents, coming down from the mountain range (the Sierra Obscura, the Sierra Blanca, and the Sierra de los Organos), which divides it from the valley of the upper Del Norte. It is valuable for its length, being a thousand miles, following its windings—from its course, which is north and south—from the quality of its water, derived from high mountains—from its valley, timbered and grassy, part prairie, good for cultivation, for pasturage, and salt. It has two climates, cold in the north from its altitude (seven thousand feet)—mild in the south from its great descent, not less than five thousand feet, and with a general amelioration of climate over the valley of the Del Norte from its openness on the east, and mountain shelter on the west. It is a river of New Mexico, and is so classified in geography. It is an old possession of New Mexico and the most valuable part of it, and has many of her towns and villages upon it. Las Vegas, Gallinas, Tecolote Abajo, Cuesta, Pecos, San Miguel, Anton Chico, Salinas, Gran Quivira, are all upon it. Some of these towns date their origin as far back as the first conquest of the Taos Indians, about the year 1600, and some have an historical interest, and a special relation to the question of title between New Mexico and Texas. Pecos is the old village of the Indians of that name, famous for the sacred fire so long kept burning there for the return of Montezuma. Gran Quivira was a considerable mining town under the Spaniards before the year 1680, when it was broken up in the great Indian revolt of that year.

San Miguel, twenty miles from Santa Fé, is the place where the Texian expedition, under Colonel Cooke, were taken prisoners in 1841.

To all these evidences of New Mexican possession of the Rio Puerco and its valley, is to be added the further evidence resulting from acts of ownership in grants of land made upon its upper part, as in New Mexico, by the superior Spanish authorities before the revolution, and

by the Mexican local authorities since. The lower half was ungranted, and leaves much vacant land, and the best in the country, to the United States.

The great pastoral lands of New Mexico are in the valley of the Puerco, where millions of sheep were formerly pastured, now reduced to about two hundred thousand by the depredation of the Indians. The New Mexican inhabitants of the Del Norte send their flocks there to be herded by shepherds, on shares; and in this way, and by taking their salt there, and in addition to their towns and settlements, and grants of lands, the New Mexicans have had possession of the Puerco and its valley since the year 1600—that is to say, for about one hundred years before the shipwreck of La Salle, in the bay of San Bernardo, revealed the name of Texas to Europe and America.

These are the actual possessions of New Mexico on the Rio Puerco. On the Rio del Norte, as cut off by the committee's bill, there are, the little town of Frontera, ten miles above El Paso, a town begun opposite El Paso, San Eleazario, twenty miles below, and some houses lower down opposite El Presidio del Norte. Of all these, San Eleazario is the most considerable, having a population of some four thousand souls, once a town of New Biscay, now of New Mexico, and now the property of the United States by avulsion. It is an island; and the main river, formerly on the north and now on the south of the island, leaves it in New Mexico. When Pike went through it, it was the most northern town, and the frontier garrison of New Biscay; and there the then lieutenant-governor of New Mexico, who had escorted him from El Paso, turned him over to the authorities of a new province. It is now the most southern town of New Mexico, without having changed its place, but the river which disappeared from its channel in that place, in 1752, has now changed it to the south of the island.

I reiterate: I am not arguing title; I am only showing possession, which is a right to remain in possession until title is decided. The argument of title has often been introduced into this question; and a letter from President Polk, through Secretary Buchanan, has often been read on the Texian side. Now, what I have to say of that letter, so frequently referred to, and considered so conclusive, is this: that, however potent it may have been in inducing annexation, or how much soever it may be entitled to consideration in fixing the amount to be paid to Texas for her Mexican claim, yet as an evidence of title, I should pay no more regard to it than to a chapter from the life and adventures of Robinson Crusoe. Congress and the judiciary are the authorities to decide such claims to titles, and not Presidents and secretaries.

I rest upon the position, then, that the Rio Puerco, and its valley, is and was a New Mexican possession, as well as the left bank of the Del Norte, from above El Paso to below the mouth of the Puerco; and that this possession cannot be disturbed without raising the double question, first, of actual extension of slavery; and, secondly, of the present legal existence of slavery in all New Mexico east of the Rio Grande, as a part of Texas. These are the questions which the proposed line of the committee raise, and force us to face. They are not questions of my seeking, but I shall not avoid them. It is not a new question with me, this extension of slavery in that quarter. I met it in 1844, before the annexation of Texas. On the 10th day of June, of that year, and as part of a bill for a compact with Texas, and to settle all questions with her—the very ones which now perplex us—before she was annexed, I proposed, as article V. in the projected compact:

Art. V. "The existence of slavery to be for ever prohibited in that part of the annexed territory which lies west of the hundredth degree of longitude west from the meridian of Greenwich."

This is what I proposed six years ago, and as one in a series of propositions to be offered to Texas and Mexico for settling all questions growing out of the projected annexation beforehand. They were not adopted. Immediate annexation, without regard to consequences,

was the cry; and all temperate counsels were set down to British traitors, abolitionists, and whigs. Well! we have to regard consequences now—several consequences: one of which is this large extension of slavery, which the report and conglomerate bills of the Committee of Thirteen force us to face. I did so six years ago, and heard no outbreak against my opinions then. But my opposition to the extension of slavery dates further back than 1844—forty years further back; and as this is a suitable time for a general declaration, and a sort of general conscience delivery, I will say that my opposition to it dates from 1804, when I was a student at law in the State of Tennessee, and studied the subject of African slavery in an American book—a Virginia book—Tucker's edition of Blackstone's Commentaries. And here it is (holding up a volume and reading from the title-page): "*Blackstone's Commentaries, with notes of reference to the Constitution and laws of the Federal Government of the United States, and of the Commonwealth of Virginia, in five volumes, with an appendix to each volume containing short tracts, as appeared necessary to form a connected view of the laws of Virginia as a member of the Federal Union. By St. George Tucker, Professor of Law in the University of William and Mary, and one of the Judges of the General Court in Virginia.*" In this American book—this Virginia edition of an English work—I found my principles on the subject of slavery. Among the short tracts in the appendices, is one of fifty pages in the appendix to the first volume, second part, which treats of the subject of African slavery in the United States, with a total condemnation of the institution, and a plan for its extinction in Virginia. In that work—in that school—that old Virginia school which I was taught to reverence—I found my principles on slavery: and adhere to them. I concur in the whole essay, except the remedy—gradual emancipation—and find in that remedy the danger which the wise men of Virginia then saw and dreaded, but resolved to encounter, because it was to become worse with time: the danger to both races from so large an emancipation. The men of that day were not enthusiasts or fanatics: they were statesmen and philosophers. They knew that the emancipation of the black slave was not a mere question between master and slave—not a question of property merely—but a question of white and black—between races; and what was to be the consequence to each race from a large emancipation.[20] And there the wisdom, not the philanthropy, of Virginia balked fifty years ago; there the wisdom of America balks now. And here I find the largest objection to the extension of slavery—to planting it in new regions where it does not now exist—bestowing it on those who have it not. The incurability of the evil is the greatest objection to the extension of slavery. It is wrong for the legislator to inflict an evil which can be cured: how much more to inflict one that is incurable, and against the will of the people who are to endure it for ever! I quarrel with no one for supposing slavery a blessing: I deem it an evil: and would neither adopt it nor impose it on others. Yet I am a slaveholder, and among the few members of Congress who hold slaves in this District. The French proverb tells us that nothing is new but what has been forgotten. So of this objection to a large emancipation. Every one sees now that it is a question of races, involving consequences which go to the destruction of one or the other: it was seen fifty years ago, and the wisdom of Virginia balked at it then. It seems to be above human wisdom. But there is a wisdom above human! and to that we must look. In the mean time, not extend the evil.

In refusing to extend slavery into these seventy thousand square miles, I act in conformity not only to my own long-established principles, but also in conformity to the long-established

[20] "It may be asked why not retain the blacks among us, and incorporate them into the State. Deep-rooted prejudices entertained by the whites; ten thousand recollections of the blacks of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions, which will probably never end but in the extermination of one or the other race."—*Jefferson.*

practice of Congress. Five times in four years did Congress refuse the prayer of Indiana for a temporary suspension of the anti-slavery clause of the ordinance of ‘87. On the 2d of March, 1803, Mr. Randolph, of Roanoke, as chairman of the committee to which the memorial praying the suspension was referred, made a report against it, which was concurred in by the House. This is the report:

“That the rapid population of the State of Ohio, sufficiently evinces, in the opinion of your committee, that the labor of slaves is not necessary to promote the growth and settlement of colonies in that region. That this labor, demonstrably the dearest of any, can only be employed to advantage in the cultivation of products more valuable than any known to that quarter of the United States: that the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the north-western country, and to give strength and security to that extensive frontier. In the salutary operation of this sagacious and benevolent restraint, it is believed that the inhabitants of Indiana will, at no very distant day, find ample remuneration for a temporary privation of labor and of emigration.”

This report of Mr. Randolph was in 1803: the next year, March, 1804, a different report, on the same prayer, was made by a committee of which Mr. Rodney, of Delaware, was chairman. It recommended a suspension of the anti-slavery clause for ten years: it was not concurred in by the House. Two years afterwards, February, 1806, a similar report, recommending suspension for ten years, was made by a committee of which Mr. Garnett, of Virginia, was chairman: it met the same fate—non-concurrence. The next year, 1807, both Houses were tried. In February of that year, a committee of the House, of which Mr. Parke was chairman, reported in favor of the indefinite suspension of the clause: the report was not concurred in. And in November of that year, Mr. Franklin, of North Carolina, as chairman of a committee of the Senate, made a report against the suspension, which was concurred in by the Senate, and unanimously, as it would seem from the journal, there being no division called for. Thus, five times in four years, the respective Houses of Congress refused to admit even a temporary extension, or rather re-extension of slavery into Indiana territory, which had been before the ordinance of ‘87 a slave territory, holding many slaves at Vincennes. These five refusals to suspend the ordinance of ‘87, were so many confirmations of it. All the rest of the action of Congress on the subject, was to the same effect or stronger. The Missouri compromise line was a curtailment of slave territory; the Texas annexation resolutions were the same; the ordinance of ‘87 itself, so often confirmed by Congress, was a curtailment of slave territory—in fact, its actual abolition; for it is certain that slavery existed in fact in the French settlements of the Illinois at that time; and that the ordinance terminated it. I acted then in conformity to the long, uniformly established policy of Congress, as well as in conformity to my own principles, in refusing to vote the extension of slavery, which the committee’s line would involve.

And here, it does seem to me that we, of the present day, mistake the point of the true objection to the extension of slavery. We look at it as it concerns the rights, or interests, of the inhabitants of the States! and not as it may concern the people to whom it is to be given! and to whom it is to be an irrevocable gift—to them, and posterity! Mr. Randolph’s report, in the case of Indiana, took the true ground. It looked to the interests of the people to whom the slavery was to go, and refused them an evil, although they begged for it.

This is a consequence which the committee’s bill involves, and from which there is no escape but in the total rejection of their plan, and the adoption of the line which I propose—the longitudinal line of 102—which, corresponding with ancient title and actual possession, avoids the question of slavery in either country: which, leaving the population of each

untouched, disturbs no interest, and which, in splitting the high sterile table land of the Staked Plain, conforms to the natural division of the country, and leaves to each a natural frontier, and an ample extent of compact and homogeneous territory. To Texas is left all the territory drained by all the rivers which have their mouths within her limits, whether those mouths are in the Gulf of Mexico, the Mississippi, or the Rio Grande: to New Mexico is left the whole course of the Rio Puerco and all its valley: and which, added to the valley of the Del Norte, will make a State of the first class in point of territory, susceptible of large population and wealth, and in a compact form, capable of defence against Indians. The Staked Plain is the natural frontier of both countries. It is a dividing wall between systems of waters and systems of countries. It is a high, sterile plain, some sixty miles wide upon some five hundred long, running north and south, its western declivity abrupt, and washed by the Puerco at its base: its eastern broken into chasms—cañones—from which issue the myriad of little streams which, flowing towards the rising sun, form the great rivers—Red River, Brasos, Colorado, Nueces, which find their outlet in the Mississippi or in the Gulf of Mexico. It is a salient feature in North American geography—a table of land sixty miles wide, five hundred long, and some thousands of feet above the level of the sea—and sterile, level, without a shrub, a plant, or grass, and presenting to the traveller a horizon of its own like the ocean. Without a landmark to guide the steps of the traveller across it, the early hunters and herdsmen of New Mexico staked their course across it, and hence its name, *El Llano Estacado*—the Staked Plain. It is a natural frontier between New Mexico and Texas; and for such a line, quieting all questions between them, all with the United States, yielding near two hundred thousand square miles of territory to the United States and putting into her hands the means of populating and defending New Mexico by giving lands to settlers and defenders—I am ready to vote the fifteen millions which my bill fairly and openly proposes. For the line in this bill I would not give a copper. But it would be a great error to suppose I would give fifteen millions for the territory in dispute between New Mexico and Texas. That disputed territory is only a small part of what the Texian cession would be. It would embrace four degrees of latitude on the north of Texas, and a front of a thousand miles on the Arkansas, and would give to the United States territory indispensable to her—to the population and defence both of New Mexico and Utah, in front of both which this part of Texas lies.

The committee, in their report, and the senator from Kentucky [Mr. Clay], in his speech, are impressive in their representations in favor of giving governments to New Mexico and the remaining part of California. I join them in all they say in favor of the necessity of these governments, and the duty of Congress to give them. But this bill is not the way to give it. These governments are balked by being put into this bill. They not only impede California, but themselves. The conjunction is an injury to both. They mutually delay and endanger each other. And it is no argument in favor of the conjunction to say that the establishment of a government for New Mexico requires the previous settlement of her eastern boundary with Texas. That is no argument for tacking Texas, with all her multifarious questions, even to New Mexico, much less to California. It is indeed very desirable to settle that boundary, and to settle it at once, and for ever; but it is not an indispensability to the creation of a government for New Mexico. We have a right to a government according to her possession; and that we can give her, to continue till the question of title is decided. The *uti possidetis*—as you possess—is the principle to govern our legislation—the principle which gives the possessor a right to the possession until the question of title is decided. This principle is the same both in national and municipal law—both in the case of citizens or communities of the same government and between independent nations. The mode of decision only is different. Between independent nations it is done by negotiation or by arms: between citizens or communities of the same government, it is done by law. Independent nations may invade and fight each other for a boundary: citizens or communities of the same government cannot. And

the party that shall attempt it commits a violation of law and order; and the government which permits such violation is derelict of its duty.

I have now examined, so far as I propose to do it on a motion for indefinite postponement, the three bills which the committee have tacked together—the California, Utah, New Mexico and Texas bills. There are two other bills which I have not mentioned, because they are not tacked, but only hung on; but which belong to the system, as it is called, and without some mention of which, injustice would be done to the committee in the presentation of their scheme. The fugitive slave recovery bill, and the District of Columbia slave trade suppression bill, are parts of the system of measures which the committee propose, and which, taken together, are to constitute a compromise, and to terminate for ever and most fraternally all the dissensions of the slavery agitation in the United States. They apply to two out of the five gaping wounds which the senator from Kentucky enumerated on the five fingers of his left hand, and for healing up all which at once he had provided one large plaster, big enough to cover all, and efficacious enough to cure all; while the President only proposed to cure one, and that with a little plaster, and it of no efficacy. I do not propose to examine these two attendant or sequacious bills, which dangle at the tail of the other three.

This is the end of the committee's labor—five old bills gathered up from our table, tacked together, and christened a compromise! Now compromise is a pretty phrase at all times, and is a good thing in itself, when there happens to be any parties to make it, any authority to enforce it, any penalties for breaking it, or any thing to be compromised. The compromises of the constitution are of that kind; and they stand. Compromises made in court, and entered of record, are of that kind; and they stand. Compromises made by individuals on claims to property are likewise of that character; and they stand. I respect all such compromises. But where there happens to be nothing to be compromised, no parties to make a compromise, no power to enforce it, no penalty for its breach, no obligation on any one—not even its makers—to observe it, and when no two human beings can agree about its meaning, then a compromise becomes ridiculous and pestiferous. I have no respect for it, and eschew it. It cannot stand, and will fall; and in its fall will raise up more ills than it was intended to cure. And of this character I deem this farrago of incongruous matter to be, which has been gathered up and stuck together, and offered to us "all or none," like "fifty-four forty." It has none of the requisites of a compromise, and the name cannot make it so.

In the first place, there are no parties to make a compromise. We are not in convention, but in Congress; and I do not admit a geographical division of parties in this chamber, although the Committee of Thirteen was formed upon that principle—six from the South, half a dozen from the North, and one from the borders of both—sitting on a ridge-pole, to keep the balance even. The senator from Kentucky chairman of this committee of a baker's dozen and the illustrious progenitor of that committee, sits on that ridge-pole. It is a most critical position, and requires a most nice adjustment of balance to preserve the equilibrium—to keep the weight from falling on one side or the other—something like that of the Roman emperor, in his apotheosis, who was required to fix himself exactly in the middle of the heavens when he went up among the gods, lest, by leaning on one side or the other, he might overset the universe:

"Press not too much on any part the sphere,
Hard were the task thy weight divine to bear!
O'er the mid orb more equal shalt thou rise,
And with a juster balance fix the skies."
—Lucan.

I recognize no such parties—no two halves in this Union, separated by a ridge-pole, with a man, or a god, sitting upon it, to keep the balance even. I know no North, and I know no South; and I repulse and repudiate, as a thing to be for ever condemned, this first attempt to establish geographical parties in this chamber, by creating a committee formed upon that principle. In the next place, there is no sanction for any such compromise—no authority to enforce it—none to punish its violation. In the third place, there is nothing to be compromised. A compromise is a concession, a mutual concession of contested claims between two parties. I know of nothing to be conceded on the part of the slaveholding States in regard to their slave property. Their rights are independent of the federal government, and admitted in the constitution—a right to hold their slaves *as property*, a right to pursue and recover them *as property*, a right to it as a *political element* in the weight of these States, by making five count three in the national representation. These are our rights by an instrument which we are bound to respect, and I will concede none of them, nor purchase any of them. I never purchase as a concession what I hold as a right, nor accept an inferior title when I already hold the highest. Even if this congeries of bills was a compromise, in fact, I should be opposed to it for the reasons stated. But the fact itself is to me apocryphal. What is it but the case of five old bills introduced by different members as common legislative measures—caught up by the senator from Kentucky, and his committee, bundled together, and then called a compromise! Now, this mystifies me. The same bills were ordinary legislation in the hands of their authors; they become a sacred compromise in the hands of their new possessors. They seemed to be of no account as laws: they become a national panacea as a compromise. The difference seems to be in the change of name. The poet tells us that a rose will smell as sweet by any other name. That may be true of roses, but not of compromises. In the case of the compromise, the whole smell is in the name; and here is the proof. The senator from Illinois (Mr. Douglass) brought in three of these bills: they emitted no smell. The senator from Virginia (Mr. Mason) brought in another of them—no smell in that. The senator from Missouri, who now speaks to the Senate, brought in the fifth—*ditto*, no smell about it. The olfactory nerve of the nation never scented their existence. But no sooner are they jumbled together, and called a compromise, than the nation is filled with their perfume. People smell it all over the land, and, like the inhalers of certain drugs, become frantic for the thing. This mystifies me; and the nearest that I can come to a solution of the mystery is in the case of the two Dr. Townsends and their sarsaparilla root. They both extract from the same root, but the extract is a totally different article in the hands of the two doctors. Produced by one it is the universal panacea: by the other, it is of no account, and little less than poison. Here is what the old doctor says of this strange difference:

“We wish it understood, because it is the *absolute truth*, that S. P. Townsend’s article and Old Dr. Jacob Townsend’s sarsaparilla are *heaven-wide apart, and infinitely dissimilar*; that they are unlike in every particular, having not one single thing in common.”

And accounts for the difference thus:

“The sarsaparilla root, it is well known to medical men, contains many medicinal properties, and some properties which are inert or useless, and others which, if retained in preparing it for use, produce *fermentation and acid*, which is injurious to the system. Some of the properties of sarsaparilla are so *volatile* that they entirely evaporate, and are lost in the preparation, if they are not preserved by a *scientific process*, known only to the experienced in its manufacture. Moreover, those *volatile principles*, which fly off in vapor, or as an exhalation, under heat, are the very *essential medical properties* of the root, which give to it all its value.”

Now, all this is perfectly intelligible to me. I understand it exactly. It shows me precisely how the same root is either to be a poison or a medicine, as it happens to be in the hands of the old or the young doctor. This may be the case with these bills. To me it looks like a clue to the mystery; but I decide nothing, and wait patiently for the solution which the senator from Kentucky may give when he comes to answer this part of my speech. The old doctor winds up in requiring particular attention to his name labelled on the bottle, to wit, "Old Doctor Jacob Townsend," and not Young Doctor Samuel Townsend. This shows that there is virtue in a name when applied to the extract of sarsaparilla root; and there may be equal virtue in it when applied to a compromise bill. If so, it may show how these self-same bills are of no force or virtue in the hands of the young senator from Illinois (Mr. Douglass), and become omnipotently efficacious in the hands of the old senator from Kentucky.

This is the end of the grand committee's work—five old bills tacked together, and presented as a remedy for evils which have no existence, and required to be accepted under a penalty—the penalty of being gazetted as enemies of compromise, and played at by the organs! The old one, to be sure, is dreadfully out of tune—the strings all broken, and the screws all loose, and discoursing most woful music, and still requiring us to dance to it! And such dancing it would be!—nothing but turn round, cross over, set-to, and back out! Sir, there was once a musician—we have all read of him—who had power with his lyre (but his instrument was spelt *l y r e*)—not only over men, but over wild beasts also, and even over stones, which he could make dance into their places when the walls of Ilion were built. But our old organist was none of that sort, even in his best day; and since the injury to his instrument in playing the grand national symphony of the four F's—the fifty-four forty or fight—it is so out of tune that its music will be much more apt to scare off tame men than to charm wild beasts or stones.

No, sir! no more slavery compromises. Stick to those we have in the constitution, and they will be stuck to! Look at the four votes—those four on the propositions which I submitted. No abolition of slavery in the States: none in the forts, arsenals, navy-yards, and dock-yards: none in the District of Columbia: no interference with the slave trade between the States. These are the votes given on this floor, and which are above all Congress compromises, because they abide the compromises of the constitution.

The committee, besides the ordinary purpose of legislation, that of making laws for the government of the people, propose another object of a different kind, that of acting the part of national benefactors, and giving peace and happiness to a miserable and distracted people—*innuendo*, the people of the United States. They propose this object as the grand result and crowning mercy of their multifarious labors. The gravity with which the chairman of the committee has brought forward this object in his report, and the pathetic manner in which he has enforced it in his speech, and the exact enumeration he has made of the public calamities upon his fingers' ends, preclude the idea, as I have heretofore intimated, of any intentional joke to be practised upon us by that distinguished senator; otherwise I might have been tempted to believe that the eminent senator, unbending from his serious occupations, had condescended to amuse himself at our expense. Certain it is that the conception of this restoration of peace and happiness is most jocose. In the first place, there is no contention to be reconciled, no distraction to be composed, no misery to be assuaged, no lost harmony to be restored, no lost happiness to be recovered! And, if there was, the committee is not the party to give us these blessings. Their example and precept do not agree. They preach concord, and practise discord. They recommend harmony to others, and disagree among themselves. They propose the fraternal kiss to us, and give themselves rude rebuffs. They set us a sad example. Scarcely is the healing report read, and the anodyne bills, or pills, laid on our tables, than fierce contention breaks out in the ranks of the committee itself. They attack

each other. They give and take fierce licks. The great peacemaker himself fares badly—stuck all over with arrows, like the man on the first leaf of the almanac. Here, in our presence, in the very act of consummating the marriage of California with Utah, New Mexico, Texas, the fugacious slaves of the States, and the marketable slaves of this District—in this very act of consummation, as in a certain wedding feast of old, the feast becomes a fight—the festival a combat—and the amiable guests pummel each other.

When his committee was formed, and himself safely installed at the head of it, conqueror and pacificator, the senator from Kentucky appeared to be the happiest of mankind. We all remember that night. He seemed to ache with pleasure. It was too great for continence. It burst forth. In the fulness of his joy, and the overflowing of his heart, he entered upon that series of congratulations which we all remember so well, and which seemed to me to be rather premature, and in disregard of the sage maxim which admonishes the traveller never to halloo till he is out of the woods. I thought so then. I was forcibly reminded of it on Saturday last, when I saw that senator, after vain efforts to compose his friends, and even reminding them of what they were "threatened" with this day—*innuendo*, this poor speech of mine—gather up his beaver and quit the chamber, in a way that seemed to say, the Lord have mercy upon you all, for I am done with you! But the senator was happy that night—supremely so. All his plans had succeeded—Committee of Thirteen appointed—he himself its chairman—all power put into their hands—their own hands untied, and the hands of the Senate tied—and the parties just ready to be bound together for ever. It was an ecstatic moment for the senator, something like that of the heroic Pirithous when he surveyed the preparations for the nuptial feast—saw the company all present, the lapithæ on couches, the centaurs on their haunches—heard the *Io hymen* beginning to resound, and saw the beauteous Hippodamia, about as beauteous I suppose as California, come "glittering like a star," and take her stand on his left hand. It was a happy moment for Pirithous! and in the fulness of his feelings he might have given vent to his joy in congratulations to all the company present, to all the lapithæ and to all the centaurs, to all mankind, and to all horsekind, on the auspicious event. But, oh! the deceitfulness of human felicity. In an instant the scene was changed! the feast a fight—the wedding festival a mortal combat—the table itself supplying the implements of war!

"At first a medley flight,
Of bowls and jars supply the fight;
Once implements of feasts, but now of fate."

You know how it ended. The fight broke up the feast. The wedding was postponed. And so may it be with this attempted conjunction of California with the many ill-suited spouses which the Committee of Thirteen have provided for her.

Mr. President, it is time to be done with this comedy of errors. California is suffering for want of admission. New Mexico is suffering for want of protection. The public business is suffering for want of attention. The character of Congress is suffering for want of progress in business. It is time to put an end to so many evils; and I have made the motion intended to terminate them, by moving the indefinite postponement of this unmanageable mass of incongruous bills, each an impediment to the other, that they may be taken up one by one, in their proper order, to receive the decision which their respective merits require.

193. Death Of President Taylor

He died in the second year of his presidency, suddenly, and unexpectedly, of violent fever, brought on by long exposure to the burning heat of a fourth of July sun—noted as the warmest of the season. He attended the ceremonies of the day, sitting out the speeches, and omitting no attention which he believed the decorum of his station required. It cost him his life. The ceremony took place on Friday: on the Tuesday following, he was dead—the violent attack commencing soon after his return to the presidential mansion. He was the first President elected upon a reputation purely military. He had been in the regular army from early youth. Far from having ever exercised civil office, he had never even voted at an election, and was a major-general in the service, at the time of his election. Palo Alto, Resaca de la Palma, Monterey, and Buena Vista, were his titles to popular favor—backed by irreproachable private character, undoubted patriotism, and established reputation for judgment and firmness. His brief career showed no deficiency of political wisdom for want of previous political training. He came into the administration at a time of great difficulty, and acted up to the emergency of his position. The slavery agitation was raging; the Southern manifesto had been issued: California, New Mexico, Utah, were without governments: a Southern Congress was in process of being called, the very name of which implied disunion: a Southern convention was actually called, and met, to consult upon disunion. He met the whole crisis firmly, determined to do what was right among all the States, and to maintain the Federal Union at all hazards. His first, and only annual message, marked out his course. The admission of California as a State was recommended by him, and would avoid all questions about slavery. Leaving Utah and New Mexico to ripen into State governments, and then decide the question for themselves, also avoided the question in those territories where slavery was then extinct under the laws of the country from which they came to the United States. Texas had an unsettled boundary on the side of New Mexico. President Taylor considered that question to be one between the United States and New Mexico, and not between New Mexico and Texas; and to be settled by the United States in some legal and amicable way—as, by compact, by mutual legislation, or judicial decision. Some ardent spirits in Texas proposed to take possession of one half of New Mexico, in virtue of a naked pretension to it, founded in their own laws and constitution. President Taylor would have resisted that pretension, and protected New Mexico in its ancient actual possession until the question of boundary should have been settled in a legal way. His death was a public calamity. No man could have been more devoted to the Union, or more opposed to the slavery agitation; and his position as a Southern man, and a slave-holder—his military reputation, and his election by a majority of the people and of the States—would have given him a power in the settlement of these questions which no President without these qualifications could have possessed. In the political division he classed with the whig party, but his administration, as far as it went, was applauded by the democracy, and promised to be so to the end of his official term. Dying at the head of the government, a national lamentation bewailed his departure from life and power, and embalmed his memory in the affections of his country.

194. Inauguration And Cabinet Of Mr. Fillmore

Wednesday, July the tenth, witnessed the inauguration of Mr. Fillmore, Vice-President of the United States, become President by the death of President Taylor. It took place in the Hall of the House of Representatives, in the presence of both Houses of Congress, in conformity to the wish of the new President, communicated in a message. The constitution requires nothing of the President elect, before entering on the duties of his station, except to take the oath of office, *faithfully to execute his duties, and do his best to preserve, protect, and defend the constitution*; and that oath might be taken any where, and before any magistrate having power to administer oaths, and then filed in the department of State; but propriety and custom have made it a ceremony to be publicly performed, and impressively conducted. A place on the great eastern portico of the Capitol, where tens of thousands could witness it, and the Chief Justice of the Supreme Court of the United States to administer the oath, have always been the place and the magistrate for this ceremony, in the case of Presidents elected to the office—giving the utmost display to it—and very suitably as in such cases there is always a feeling of general gratification and exultation. Mr. Fillmore, with great propriety, reduced the ceremony of his inauguration to an official act, impressively done in Congress, and to be marked by solemnity without joy. A committee of the two Houses attended him—Messrs. Soulé, of Louisiana, Davis, of Massachusetts, and Underwood, of Kentucky, on the part of the Senate; Messrs. Winthrop, of Massachusetts, Morse, of Louisiana, and Morehead, of Kentucky, on the part of the House; and he was accompanied by all the members of the late President's cabinet. The Chief Justice of the Circuit Court of the District of Columbia, the venerable William Cranch, appointed fifty years before, by President John Adams, administered the oath; which being done, the President, without any inaugural address, bowed, and retired; and the ceremony was at an end.

The first official act of the new President was an immediate message to the two Houses, recommending suitable measures to be taken by them for the funeral of the deceased President—saying:

"A great man has fallen among us, and a whole country is called to an occasion of unexpected, deep, and general mourning.

"I recommend to the two Houses of Congress to adopt such measures as in their discretion they may deem proper, to perform with due solemnities the funeral obsequies of ZACHARY TAYLOR, late President of the United States; and thereby to signify the great and affectionate regard of the American people for the memory of one whose life has been devoted to the public service; whose career in arms has not been surpassed in usefulness or brilliancy; who has been so recently raised by the unsolicited voice of the people to the highest civil authority in the government—which he administered with so much honor and advantage to his country; and by whose sudden death, so many hopes of future usefulness have been blighted for ever.

"To you, senators and representatives of a nation in tears, I can say nothing which can alleviate the sorrow with which you are oppressed. I appeal to you to aid me, under the trying circumstances which surround me, in the discharge of the duties, from which, however much I may be oppressed by them, I dare not shrink; and I rely upon Him, who holds in his hands the destinies of nations, to endow me with the requisite strength for the task, and to avert from our country the evils apprehended from the heavy calamity which has befallen us.

“I shall most readily concur in whatever measures the wisdom of the two Houses may suggest, as befitting this deeply melancholy occasion.”

The two Houses readily complied with this recommendation, and a solemn public funeral was unanimously voted, and in due time, impressively performed. All the members of the late President’s cabinet gave in their resignations immediately, but were requested by President Fillmore to retain their places until successors could be appointed; which they did. In due time, the new cabinet was constituted: Daniel Webster, of Massachusetts, Secretary of State; Thomas Corwin, of Ohio, Secretary of the Treasury; Alexander H. H. Stuart, of Virginia, Secretary of the Interior; Charles M. Conrad, of Louisiana, Secretary at War; William A. Graham, of North Carolina, Secretary of the Navy (succeeded by John P. Kennedy, of Maryland); John J. Crittenden, of Kentucky, Attorney-General; Nathan K. Hall, of New York (succeeded by Samuel D. Hubbard, of Connecticut).

195. Rejection Of Mr. Clay’s Plan Of Compromise

The Committee of Thirteen had reported in favor of Mr. Clay’s plan. It was a committee so numerous, almost a quarter of the Senate, that its recommendation would seem to insure the senatorial concurrence. Not so the fact. The incongruities were too obvious and glaring to admit of conjunction. The subjects were too different to admit of one vote—yea or nay—upon all of them together. The injustice of mixing up the admission of California, a State which had rejected slavery for itself, with all the vexations of the slave question in the territories, was too apparent to subject her to the degradation of such an association. It was evident that no compromise, of any kind whatever, on the subject of slavery, under any one of its aspects separately, much less under all put together, could possibly be made. There was no spirit of concession—no spirit in which there could be giving and taking—in which a compromise could be made. Whatever was to be done, it was evident would be done in the ordinary spirit of legislation, in which the majority gives law to the minority. The only case in which there was even forbearance, was in that of rejecting the Wilmot proviso. That measure was rejected again as heretofore, and by the votes of those who were opposed to extending slavery into the territories, because it was unnecessary and inoperative—irritating to the slave States without benefit to the free States—a mere work of supererogation, of which the only fruit was to be discontent. It was rejected, not on the principle of non-intervention—not on the principle of leaving to the territories to do as they pleased on the question; but because there had been intervention! because Mexican law and constitution had intervened! had abolished slavery by law in those dominions! which law would remain in force, until repealed by Congress. All that the opponents to the extension of slavery had to do then, was to do nothing. And they did nothing.

The numerous measures put together in Mr. Clay’s bill were disconnected and separated. Each measure received a separate and independent consideration, and with a result which showed the injustice of the attempted conjunction. United, they had received the support of the majority of the committee: separated, and no two were passed by the same vote: and only four members of the whole grand committee that voted alike on each of the measures.

196. The Admission Of The State Of California: Protest Of Southern Senators: Remarks Upon It By Mr. Benton

This became the "*test*" question in the great slavery agitation which disturbed Congress and the Union, and as such was impressively presented by Mr. Calhoun in the last and most intensely considered speech of his life—read for him in the Senate by Mr. Mason of Virginia. In that speech, and at the conclusion of it, and as the resulting consequence of the whole of it, he said:

"It is time, senators, that there should be an open and manly avowal on all sides, as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle them on the broad principle of justice and duty, say so; and let the States we both represent agree to separate and part in peace. If you are unwilling that we should part in peace, tell us so, and we shall know what to do, when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case, California will become the *test* question. If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying irretrievably the equilibrium between the two sections. We would be blind not to perceive, in that case, that your real objects are power and aggrandizement, and infatuated not to act accordingly."

Mr. Calhoun died before the bill for the admission of California was taken up: but his principles did not die with him: and the test question which he had proclaimed remained a legacy to his friends. As such they took it up, and cherished it. The bill was taken up in the Senate, and many motions made to amend, of which the most material was by Mr. Turney of Tennessee, to limit the southern boundary of the State to the latitude of 36° 30', and to extend the Missouri line through to the Pacific, so as to authorize the existence of slavery in all the territory south of that latitude. On this motion the yeas and nays were:

"Yeas—Messrs. Atchison, Badger, Barnwell, Bell, Berrien, Butler, Clemens, Davis of Mississippi, Dawson, Downs, Foote, Houston, Hunter, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soulé, Turney, and Yulee—24.

"Nays—Messrs. Baldwin, Benton, Bradbury, Bright, Cass, Clarke, Cooper, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Douglass, Ewing, Felch, Greene, Hale, Hamlin, Jones, Norris, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, Wales, Walker, Whitcomb, and Winthrop—32."

The amendments having all been disposed of, the question was taken upon the passage of the bill, and resulted in its favor, 34 yeas to 18 nays. The vote was:

"Yeas—Messrs. Baldwin, Bell, Benton, Bradbury, Bright, Cass, Chase, Cooper, Davis of Massachusetts, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Douglass, Ewing, Felch, Greene, Hale, Hamlin, Houston, Jones, Miller, Norris, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, Wales, Walker, Whitcomb, and Winthrop—34.

“Nays—Messrs. Atchison, Barnwell, Berrien, Butler, Clemens, Davis of Mississippi, Dawson, Foote, Hunter, King, Mason, Morton, Pratt, Rusk, Sebastian, Soulé, Turney, and Yulee—18.”

Immediately upon the passage of the bill through the Senate, ten of the senators opposed to it offered a protest against it, which was read at the secretary’s table, of which the leading points were these:

“We, the undersigned senators, deeply impressed with the importance of the occasion, and with a solemn sense of the responsibility under which we are acting, respectfully submit the following protest against the bill admitting California as a State into this Union, and request that it may be entered upon the Journal of the Senate. We feel that it is not enough to have resisted in debate alone a bill so fraught with mischief to the Union and the States which we represent, with all the resources of argument which we possessed; but that it is also due to ourselves, the people whose interest have been intrusted to our care, and to posterity, which even in its most distant generations may feel its consequences, to leave in whatever form may be most solemn and enduring, a memorial of the opposition which we have made to this measure, and of the reasons by which we have been governed, upon the pages of a journal which the constitution requires to be kept so long as the Senate may have an existence. We desire to place the reasons upon which we are willing to be judged by generations living and yet to come, for our opposition to a bill whose consequences may be so durable and portentous as to make it an object of deep interest to all who may come after us.

“We have dissented from this bill because it gives the sanction of law, and thus imparts validity to the unauthorized action of a portion of the inhabitants of California, by which an odious discrimination is made against the property of the fifteen slaveholding States of the Union, who are thus deprived of that position of equality which the constitution so manifestly designs, and which constitutes the only sure and stable foundation on which this Union can repose.

“Because the right of the slaveholding States to a common and equal enjoyment of the territory of the Union has been defeated by a system of measures which, without the authority of precedent, of law, or of the constitution, were manifestly contrived for that purpose, and which Congress must sanction and adopt, should this bill become a law.

“Because to vote for a bill passed under such circumstances would be to agree to a principle, which may exclude for ever hereafter, as it does now, the States which we represent from all enjoyment of the common territory of the Union; a principle which destroys the equal rights of their constituents, the equality of their States in the Confederacy, the equal dignity of those whom they represent as men and as citizens in the eye of the law, and their equal title to the protection of the government and the constitution.

“Because all the propositions have been rejected which have been made to obtain either a recognition of the rights of the slaveholding States to a common enjoyment of all the territory of the United States, or to a fair division of that territory between the slaveholding and non-slaveholding States of the Union—every effort having failed which has been made to obtain a fair division of the territory proposed to be brought in as the State of California.

“But, lastly, we dissent from this bill, and solemnly protest against its passage, because, in sanctioning measures so contrary to former precedent, to obvious policy, to the spirit and intent of the constitution of the United States, for the purpose of excluding the slaveholding States from the territory thus to be erected into a State, this government in effect declares, that the exclusion of slavery from the territory of the United States is an object so high and important as to justify a disregard not only of all the principles of sound policy, but also of

the constitution itself. Against this conclusion we must now and for ever protest, as it is destructive of the safety and liberties of those whose rights have been committed to our care, fatal to the peace and *equality* of the States which we represent, and must lead, if persisted in, to the *dissolution* of that confederacy, in which the slaveholding States have never sought more than *equality*, and in which they will not be content to *remain* with less."

This protest was signed by Messrs. Mason and Hunter, senators from Virginia; Messrs. Butler and Barnwell, senators from South Carolina; Mr. Turney, senator from Tennessee; Mr. Pierre Soulé, senator from Louisiana; Mr. Jefferson Davis, senator from Mississippi; Mr. Atchison, senator from Missouri; and Messrs. Morton and Yulee, senators from Florida. It is remarkable that this protest is not on account of any power exercised by Congress over the subject of slavery in a territory, but for the non-exercise of such power, and especially for not extending the Missouri compromise line to the Pacific Ocean; and which non-extension of that line was then cause for the dissolution of the Union.

Mr. Winthrop, newly appointed senator from Massachusetts, in place of Mr. Webster, appointed Secretary of State, immediately raised the question of reception upon this protest, for the purpose of preventing it from going upon the Journal, where, he alleged, the only protest that could be entered by a senator (and that was a sufficient one) was his peremptory "no:" and then said:

"Sir, does my honorable friend from Virginia (Mr. Hunter), know that there is but one parliamentary body in the world—so far as my own knowledge, certainly, goes—which acknowledges an inherent right in its members to enter their protests upon the Journals? That body is the British House of Lords. It is the privilege of every peer, as I understand it, to enter upon the Journals his protest against any measure which may have been passed contrary to his own individual views or wishes. But what has been the practice in our own country? You, yourself, Mr. President, have read to us an authority upon this subject. It seems that in the earliest days of our history, when there may have been something more of a disposition than I hope prevails among us now, to copy the precedents of the British government, a rule was introduced into this body for the purpose of securing to the senators of the several States this privilege which belongs to the peers of the British Parliament. That proposition was negatived. I know not by what majority, for you did not read the record; I know not by whose votes; but that rule was rejected. It was thus declared in the early days of our history that this body should not be assimilated to the British House of Lords in this respect, however it may be in any other; and that individual senators should not be allowed this privilege which belongs to British peers, of spreading upon the Journals the reasons which may have influenced their votes."

Mr. Benton spoke against the reception of the protest, denying the right of senators to file any reasons upon the Journal for their vote; and said:

"In the British House of Lords, Mr. President, this right prevails, but not in the House of Commons; and I will show you before I have done that the attempt to introduce it into the House of Commons gave rise to altercation, well-nigh led to bloodshed on the floor of the House, and caused the member who attempted to introduce it, though he asked leave to do so, to be committed to the Tower for his presumption. And I will show that we begin the practice here at a point at which the British Parliament had arrived, long after they commenced the business of entering the dissents. It will be my business to show that, notwithstanding the British House of Lords in the beginning entered the protestor's name under the word 'dissent,' precisely as our names are entered here under the word 'nay,' it went on until something very different took place, and which ended in authorizing any member who pleased to arraign the sense of the House, and to reproach the House whenever he pleased.

Now, how came the lords to possess this right? It is because every lord is a power within himself. He is his own constituent body. He represents himself; and in virtue of that representation of himself, he can constitute a representative, and can give a proxy to any lord to vote for him on any measure not judicial. Members of the House of Commons cannot do it, because they are themselves nothing but proxies and representatives of the people. The House of Lords, then, who have this privilege and right of entering their dissent, have it by virtue of being themselves, each one, a power within himself, a constituent body to himself, having inherent rights which he derives from nobody, but which belong to him by virtue of being a peer of the realm; and by virtue of that he enters his protest on the Journal, if he pleases. It is a privilege belonging to every lord, each for himself, and is an absolute privilege; and although the form is to ask leave of the House, yet the House is bound to grant the leave."

Mr. Benton showed that there was no right of protest in the members of the British House of Commons—that the only time it was attempted there was during the strifes of Charles the First with the Parliament, and by Mr. Hyde (afterwards Lord Clarendon), who was committed prisoner to the Tower for presuming to insult the House, by proposing to set up his judgment against the act of the House after the House had acted. Having spoken against the right of the senators to enter a protest on the Journal against an act of the Senate, Mr. Benton proceeded to speak against the protest itself, and especially the concluding part of it, in which a dissolution of the Union was hypothetically predicated upon the admission of California.

"I now pass over what relates to the body or matter of the protest, and come to the concluding sentence, where, sir, I see a word which I am sorry to see, or hear used even in the heat of debate in this chamber. It is one which I believe I have not pronounced this session, not even hypothetically or historically, in speaking of every thing which has taken place. But I find it here, and I am sorry to see it. It is qualified, it is true; yet I am sorry to see it any where, and especially in a paper of such solemn import. It is in the concluding sentence:

'Against this conclusion we must now and for ever *protest*, as it is destructive of the safety and liberties of those whose rights have been committed to our care, fatal to the peace and *equality* of the States which we represent, and must lead, if persisted in, to the *dissolution* of that confederacy in which the slaveholding States have never sought more than an *equality*, and in which they will not be content to *remain* with less.'

"I grieve to see these words used with this deliberation; still more do I grieve to see an application made to enter them on the Journal of the Senate. Hypothetically they use the words; but we all know what this word "if" is—a great peacemaker, the poet tells us, between individuals, but, as we all know, a most convenient introduction to a positive conclusion. The language here is used solemnly, and the word protest is one of serious import. Protest is a word known to the law, and always implies authority, and one which is rarely used by individuals at all. It is a word of grave and authoritative import in the English language, which implies the testification of the truth! and a right to testify to it! and which is far above any other mode of asseveration. It comes from the Latin—*testari*, to be a witness—*protestari*, to be a public witness, to publish, avouch, and testify the truth; and can be only used on legal or on the most solemn occasions. It has given a name to a great division of the Christian family, who took the title from the fact of their '*protesting*' against the imperial edicts of Charles V., which put on a level with the Holy Scriptures the traditions of the church and the opinions of the commentators. It was a great act of *protesting*, and an act of conscience and duty. It was a proper occasion to use the word *protest*; and it was used in the face of power, and maintained through oceans and seas of blood, until it has found an immortality in the name of one division of the Christian family.

"I have read to you from British history—history of 1640—the most eventful in the British annals—to show the first attempt to introduce a protest in the House of Commons—to show you how the men of that day—men in whose bosoms the love of liberty rose higher than love of self—the Puritans whose sacrifices for liberty were only equalled by their sacrifices to their religion—these men, from whom we learned so much, refused to suffer themselves to be arraigned by a minority—refused to suffer an indictment to be placed on their own Journals against themselves. I have shown you that a body in which were such men as Hampden, and Cromwell, and Pym, and Sir Harry Vane, would not allow themselves to be arraigned by a minority, or to be impeached before the people, and that they sent the man to the Tower who even asked leave to do it. This period of British history is that of the civil wars which deluged Great Britain with blood; and, sir, may there be no analogy to it in our history!—may there be no omen in this proceeding—nothing ominous in this attempted imitation of one of the scenes which preceded the outbreak of civil war in Great Britain. Sir, this protest is treated by some senators as a harmless and innocent matter; but I cannot so consider it. It is a novelty, but a portentous one, and connects itself with other novelties, equally portentous. The Senate must bear with me for a moment. I have refrained hitherto from alluding to the painful subject, and would not now do it if it was not brought forward in such a manner as to compel me. This is a novelty, and it connects itself with other novelties of a most important character. We have seen lately what we have never before seen in the history of the country—sectional meetings of members of Congress, sectional declarations by legislative bodies, sectional meetings of conventions, sectional establishment of a press here! and now the introduction of this protest, also sectional, and not only connecting itself in time and circumstances, but connecting itself by its arguments, by its facts, and by its conclusions, with all these sectional movements to which I have referred. It is a sectional protest.

"All of these sectional movements are based upon the hypothesis, that, if a certain state of things is continued, there is to be a dissolution of the Union. The Wilmot proviso, to be sure, is now dropped, or is not referred to in the protest. That cause of dissolution is dead; but the California bill comes in its place, and the system of measures of which it is said to be a part. Of these, the admission of California is now made the prominent, the salient point in that whole system, which hypothetically it is assumed may lead to a dissolution of the Union. Sir, I cannot help looking upon this protest as belonging to the series of novelties to which I have referred. I cannot help considering it as part of a system—as a link in a chain of measures all looking to one result, hypothetically, to be sure, but all still looking to the same result—that of a dissolution of the Union. It is afflicting enough to witness such things out of doors; but to enter a solemn protest on our Journals, looking to the contingent dissolution of the Union, and that for our own acts—for the acts of a majority—to call upon us of the majority to receive our own indictment, and enter it, without answer, upon our own Journals—is certainly going beyond all the other signs of the times, and taking a most alarming step in the progress which seems to be making in leading to a dreadful catastrophe. '*Dissolution*' to be entered on our Journal! What would our ancestors have thought of it? The paper contains an enumeration of what it characterizes as unconstitutional, unjust, and oppressive conduct on the part of Congress against the South, which, if persisted in, must lead to a dissolution of the Union, and names the admission of California as one of the worst of these measures. I cannot consent to place that paper on our Journals. I protest against it—protest in the name of my constituents. I have made a stand against it. It took me by surprise; but my spirit rose and fought. I deem it my sacred duty to resist it—to resist the entrance upon our Journal of a paper hypothetically justifying disunion. If defeated, and the paper goes on the Journal, I still wish the present age and posterity to see that it was not without a struggle—not without a stand against the portentous measure—a stand which should mark one of those eras in the history of nations from which calamitous events flow."

The reception of the protest was refused, and the bill sent to the House of Representatives, and readily passed; and immediately receiving the approval of the President, the senators elect from California, who had been long waiting (Messrs. William M. Gwinn and John Charles Frémont), were admitted to their seats; but not without further and strenuous resistance. Their credentials being presented, Mr. Davis, of Mississippi, moved to refer them to the Committee on the Judiciary, to report on the law and the facts of the case; which motion led to a discussion, terminated by a call for the yeas and nays. The yeas were 12 in number; to wit: Messrs. Atchison, Barnwell, Berrien, Butler, Davis of Mississippi, Hunter, Mason, Morton, Pratt, Sebastian, Soulé, Turney. Only 12 voting for the reference, and 36 against it; the two senators elect were then sworn in, and took their seats.

197. Fugitive Slaves—Ordinance Of 1787: The Constitution: Act Of 1793: Act Of 1850

It is of record proof that the anti-slavery clause in the ordinance of 1787, could not be passed until the fugitive slave recovery clause was added to it. That anti-slavery clause, first prepared in the Congress of the confederation by Mr. Jefferson in 1784, and rejected, remained rejected for three years—until 1787; when receiving the additional clause for the recovery of fugitives, it was unanimously passed. This is clear proof that the first clause, prohibiting slavery in the Northwest territory, could not be obtained without the second, authorizing the recovery of slaves which should take refuge in that territory. It was a compromise between the slave States and the free States, unanimously agreed to by both parties, and founded on a valuable consideration—one preventing the spread of slavery over a vast extent of territory, the other retaining the right of property in the slaves which might flee to it. Simultaneously with the adoption of this article in the ordinance of 1787 was the formation of the constitution of the United States—both formed at the same time, in neighboring cities, and (it may be said) by the same men. The Congress sat in New York—the Federal Convention in Philadelphia—and, while the most active members of both were members of each, as Madison and Hamilton, yet, from constant interchange of opinion, the members of both bodies may be assumed to have worked together for a common object. The right to recover fugitive slaves went into the constitution, as it went into the ordinance, simultaneously and unanimously; and it may be assumed upon the facts of the case, and all the evidence of the day, that the constitution, no more than the ordinance, could have been formed without the fugitive slave recovery clause contained in it. A right to recover slaves is not only authorized by the constitution, but it is a right without which there would have been no constitution, and also no anti-slavery ordinance.

One of the early acts of Congress, as early as February, ‘93, was a statute to carry into effect the clause in the constitution for the reclamation of fugitives from justice, and fugitives from labor; and that statute, made by the men who made the constitution, may be assumed to be the meaning of the constitution, as interpreted by men who had a right to know its meaning. That act consisted of four sections, all brief and clear, and the first two of which exclusively applied to fugitives from justice. The third and fourth applied to fugitives from labor, embracing apprentices as well as slaves, and applying the same rights and remedies in each case: and of these two, the third alone contains the whole provision for reclaiming the fugitive—the fourth merely containing penalties for the obstruction of that right. The third section, then, is the only one essential to the object of this chapter, and is in these words:

“That when a person held to labor in any of the United States, or in either of the territories on the north-west, or south of Ohio, under the laws thereof, shall escape into any other of said States or territories, the person to whom such labor is due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony, or affidavit taken before and certified by a magistrate of any such State or territory, that the person so seized and arrested, doth under the laws of the State or territory from which he or she fled, owe service to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or

attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the State or territory from which he or she fled."

This act was passed on the recommendation of President Washington, in consequence of a case having arisen between Pennsylvania and Virginia, which showed the want of an act of Congress to carry the clause in the constitution into effect. It may be held to be a fair interpretation of the constitution, and by it the party claiming the service of the fugitive in any State or territory, had the right to seize his slave wherever he saw him, and to carry him before a judicial authority in the State; and upon affidavit, or oral testimony, showing his right, he was to receive a certificate to that effect, by virtue of which he might carry him back to the State from which he had fled. This act, thus fully recognizing the right of the claimant to seize his slave by mere virtue of ownership, and then to carry him out of the State upon a certificate, and without a trial, was passed as good as unanimously by the second Congress which sat under the constitution—the proceedings of the Senate showing no division, and in the House only seven voting against the bill, there being no separate vote on the two parts of it, and two of these seven from slave States (Virginia and Maryland). It does not appear to what part these seven objected—whether to the fugitive slave sections, or those which applied to fugitives from justice. Such unanimity in its passage, by those who helped to make the constitution, was high evidence in its favor: the conduct of the States, and both judiciaries, State and federal, were to the same effect. The act was continually enforced, and the courts decided that this right of the owner to seize his slave, was just as large in the free State to which he had fled as in the slave State from which he had run away—that he might seize, by night as well as by day, of Sundays as well as other days; and, also, in a house, provided no breach of the peace was committed. The penal section in the bill was clear and heavy, and went upon the ground of the absolute right of the master to seize his slave by his own authority wherever he saw him, and the criminality of any obstruction or resistance in the exercise of that right. It was in these words:

"That any person who shall knowingly and wilfully obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney, when so arrested pursuant to the authority herein given or declared; or shall harbor or conceal such person after notice that he or she was a fugitive from labor as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt in any court proper to try the same, saving moreover to the person claiming such labor or service his right of action for or on account of the said injuries, or either of them."

State officers, the magistrates and judges, though not bound to act under the law of Congress, yet did so; and State jails, though not obligatory under a federal law, were freely used for the custody of the re-captured fugitive. This continued till a late day in most of the free States—in all of them until after the Congress of the United States engaged in the slavery agitation—and in the great State of Pennsylvania until the 20th of March, 1847: that is to say, until a month after the time that Mr. Calhoun brought into the Senate the slavery resolutions, stigmatized by Mr. Benton as "fire-brand," at the moment of their introduction, and which are since involving the Union in conflagration. Then Pennsylvania passed the act forbidding her judicial authorities to take cognizance of any fugitive slave case—granted a habeas corpus remedy to any fugitive arrested—denying the use of her jails to confine any one—and repealing the six months' slave sojourning law of 1780.

Some years before the passage of this harsh act, and before the slavery agitation had commenced in Congress, to wit, 1826 (which was nine years before the commencement of

the agitation), Pennsylvania had passed a most liberal law of her own, done upon the request of Maryland, to aid the recovery of fugitive slaves. It was entitled, "*An act to give effect to the Constitution of the United States in reclaiming fugitives from justice*." Such had been the just and generous conduct of Pennsylvania towards the slave States until up to the time of passing the harsh act of 1847. Her legal right to pass that act is admitted; her magistrates were not bound to act under the federal law—her jails were not liable to be used for federal purposes. The sojourning law of 1780 was her own, and she had a right to repeal it. But the whole act of '47 was the exercise of a mere right, against the comity which is due to States united under a common head, against moral and social duty, against high national policy, against the spirit in which the constitution was made, against her own previous conduct for sixty years; and injurious and irritating to the people of the slave States, and parts of it unconstitutional. The denial of the intervention of her judicial officers, and the use of her prisons, though an inconvenience, was not insurmountable, and might be remedied by Congress; the repeal of the act of 1780 was the radical injury and for which there was no remedy in federal legislation.

That act was passed before the adoption of the constitution, and while the feelings of conciliation, good will, and entire justice, prevailed among the States; it was allowed to continue in force near sixty years after the constitution was made; and was a proof of good feeling towards all during that time. By the terms of this act, a discrimination was established between sojourners and permanent residents, and the element of time—the most obvious and easy of all arbiters—was taken for the rule of discrimination. Six months was the time allowed to discriminate a sojourner from a resident; and during that time the rights of the owner remained complete in his slave; after the lapse of that time, his ownership ceased. This six months was equally in favor of all persons; but there was a further and indefinite provision in favor of members of Congress, and of the federal government, all of whom, coming from slave States, were allowed to retain their ownership as long as their federal duties required them to remain in the State. Such an act was just and wise, and in accordance with the spirit of comity which should prevail among States formed into a Union, having a common general government, and reciprocating the rights of citizenship. It is to be deplored that any event ever arose to occasion the repeal of that act. It is to be wished that a spirit would arise to re-enact it; and that others of the free States should follow the example. For there were others, and several which had similar acts, and which have repealed them in like manner, as Pennsylvania—under the same unhappy influences, and with the same baleful consequences. New York, for example—her law of discrimination between the sojourner and the resident, being the same in principle, and still more liberal in detail, than that of Pennsylvania—allowing nine months instead of six, to determine that character.

This act of New York, like that of Pennsylvania, continued undisturbed in the State, until the slavery agitation took root in Congress; and was even so well established in the good opinion of the people of that State, as late as thirteen years after the commencement of that agitation, as to be boldly sustained by the candidates for the highest offices. Of this an eminent instance will be given in the canvass for the governorship of the State, in the year 1838. In that year Mr. Marcy and Mr. Seward were the opposing candidates, and an anti-slavery meeting, held at Utica, passed a resolve to have them interrogated (among other things) on the point of repealing the slave sojournment act. Messrs. Gerritt Smith, and William Jay, were nominated a committee for that purpose, and fulfilled their mission so zealously as rather to overstate the terms of the act, using the word "importation" as applied to the coming of these slaves with their owners, thus: "Are you in favor of the repeal of the law which now authorizes the importation of slaves into this State, and their detention here as such for the time of nine months?" Objecting to the substitution of the term importation, and stating the act correctly,

both the candidates answered fully in the negative, and with reasons for their opinion. The act was first quoted in its own terms, as follows:

"Any person, not being an inhabitant of this State, who shall be travelling to or from, or passing through this State, may bring with him any person lawfully held by him in slavery, and may take such person with him from this State; but the person so held in slavery shall not reside or continue in this State more than nine months; and if such residence be continued beyond that time, such person shall be free."

Replying to the interrogatory, Mr. Marcy then proceeds to give his opinion and reasons in favor of sustaining the act, which he does unreservedly:

"By comparing this law with your interrogatory, you will perceive at once that the latter implies much more than the former expresses. The discrepancy between them is so great, that I suspected, at first, that you had reference to some other enactment which had escaped general notice. As none, however, can be found but the foregoing, to which the question is in any respect applicable, there will be no mistake, I presume, in assuming it to be the one you had in view. The deviation, in putting the question, from what would seem to be the plain and obvious course of directing the attention to the particular law under consideration, by referring to it in the very terms in which it is expressed, or at least in language showing its objects and limitations, I do not impute to an intention to create an erroneous impression as to the law, or to ascribe to it a character of odiousness which it does not deserve; yet I think that it must be conceded that your question will induce those who are not particularly acquainted with the section of the statute to which it refers, to believe that there is a law of this State which allows a free importation of slaves into it, without restrictions as to object, and without limitation as to the persons who may do so; yet this is very far from being true. This law does not permit any inhabitant of this State to bring into it any person held in slavery, under any pretence or for any object whatsoever; nor does it allow any person of any other State or country to do so, except such person is actually travelling to or from, or passing through this State. This law, in its operation and effect, only allows persons belonging to States or nations where domestic slavery exists, who happen to be travelling in this State, to be attended by their servants whom they lawfully hold in slavery when at home, provided they do not remain within our territories longer than nine months. The difference between it and the one implied by your interrogatory is so manifest, that it is perhaps fair to presume, that if those by whose appointment you act in this matter had not misapprehended its character, they would not have instructed you to make it the subject of one of your questions. It is so restricted in its object, and that is so unexceptionable, that it can scarcely be regarded as obnoxious to well-founded objections when viewed in its true light. Its repeal would, I apprehend, have an injurious effect upon our intercourse with some of the other States, and particularly upon their business connection with our commercial emporium. In addition to this, the repeal would have a tendency to disturb the political harmony among the members of our confederacy, without producing any beneficial results to compensate for these evils. I am not therefore in favor of it."

This is an explicit answer, meeting the interrogatory with a full negative, and impliedly rebuking the phrase "importation," by supposing it would not have been used if the Utica convention had understood the act. Mr. Seward answered in the same spirit, and to the same effect, only giving a little more amplitude to his excellent reasons. He says:

"Does not your inquiry give too broad a meaning to the section? It certainly does not confer upon any citizen of a State, or of any other country, or any citizen of any other State, except the owner of slaves in another State by virtue of the laws thereof, the right to bring slaves into this State or detain them here under any circumstances as such. I understand your inquiry,

therefore to mean, whether I am in favor of a repeal of the law which declares, in substance, that any person from the southern or south-western States, who may be travelling to or from or passing thrugh the State, may bring with him and take with him any person lawfully held by him in slavery in the State from whence he came, provided such slaves do not remain here more than nine months. The article of the constitution of the United States which bears upon the present question, declares that no person held to service or labor in one State, under the laws thereof, escaping to another State, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but such persons shall be delivered up on claim of the party to whom such service or labor may be due. I understand that, in the State of Massachusetts, this provision of the constitution has been decided by the courts not to include the case of a slave brought by his master into the State, and escaping thence. But the courts of law in this State have uniformly given a different construction to the same article of the constitution, and have always decided that it does embrace the case of a slave brought by his master into this State, and escaping from him here. Consequently, under this judicial construction of the constitution, and without, and in defiance of any law or regulation of this State, if the slave escape from his master in this State, he must be restored to him, when claimed at any time during his master's temporary sojournment within the State, whether that sojournment be six months, nine months, or longer. It is not for me to say that this decision is erroneous, nor is it for our legislature. Acting under its authority, they passed the law to which you object, for the purpose, not of conferring new powers or privileges on the slave-owner, but to prevent his abuse of that which the constitution of the United States, thus expounded, secures to him. The law, as I understand it, was intended to fix a period of time as a test of transient passage through, or temporary residence in the State, within the provisions of the constitution. The duration of nine months is not material in the question, and if it be unnecessarily long, may and ought to be abridged. But, if no such law existed, the right of the master (under the construction of the constitution before mentioned) would be indefinite, and the slave must be surrendered to him in all cases of travelling through, or passage to or from the State. If I have correctly apprehended the subject, this law is not one conferring a right upon any person to import slaves into the State, and hold them here as such; but is an attempt at restriction upon the constitutional right of the master; a qualification, or at least a definition of it, and is in favor of the slave. Its repeal, therefore, would have the effect to put in greater jeopardy the class of persons you propose to benefit by it. While the construction of the constitution adopted here is maintained, the law, it would seem, ought to remain upon our statute book, not as an encroachment upon the rights of man, but a protection for them.

"But, gentlemen, being desirous to be entirely candid in this communication, it is proper I should add, that I am not convinced it would be either wise, expedient or humane, to declare to our fellow-citizens of the southern and south-western States, that if they travel to or from, or pass through the State of New York, they shall not bring with them the attendants whom custom, or education, or habit, may have rendered necessary to them. I have not been able to discover any good object to be attained by such an act of inhospitality. It certainly can work no injury to us, nor can it be injurious to the unfortunate beings held in bondage, to permit them, once perhaps in their lives, and at most, on occasions few and far between, to visit a country where slavery is unknown. I can even conceive of benefits to the great cause of human liberty, from the cultivation of this intercourse with the South. I can imagine but one ground of objection, which is, that it may be regarded as an implication that this State sanctions slavery. If this objection were well grounded, I should at once condemn the law. But, in truth, the law does not imply any such sanction. The same statute which, in necessary obedience to the constitution of the United States as expounded, declares the exception, condemns, in the most clear and definite terms, all human bondage. I will not press the considerations flowing from the nature of our Union, and the mutual concessions on which it

was founded, against the propriety of such an exclusion as your question contemplates, apparently for the purpose only of avoiding an implication not founded in fact, and which the history of our State so nobly contradicts. It is sufficient to say that such an exclusion could have no good effect practically, and would accomplish nothing in the great cause of human liberty."

These answers do not seem to have affected the election in any way. Mr. Seward was elected, each candidate receiving the full vote of his party. Since that time the act has been repealed, and no voice has yet been raised to restore it. Just and meritorious as were the answers of Messrs. Marcy and Seward in favor of sustaining the sojourning act, their voice in favor of its restoration would be still more so now. It was a measure in the very spirit of the constitution, and in the very nature of a union, and in full harmony with the spirit of concession, deference and good-will in which the constitution was founded. Several other States had acts to the same effect, and the temper of the people in all the free States was accordant. It was not until after the slavery question became a subject of *political* agitation, in the national legislature, that these acts were repealed, and this spirit destroyed. Political agitation has done all the mischief.

The act of Pennsylvania, of March 3d, 1847, besides repealing the slave sojournment act of 1780—(an act made in the time of Dr. Franklin, and which had been on her statute-book near seventy years), besides repealing her recent act of 1826, and besides forbidding the use of her prisons, and the intervention of her officers in the recovery of fugitive slaves—besides all this, went on to make positive enactments to prevent the exercise of the rights of forcible reception of fugitive slaves, as regulated by the act of Congress, under the clause in the constitution; and for that purpose contained this section:

"That if any person or persons claiming any negro or mulatto, as fugitive from servitude or labor, shall, under any pretence of authority whatever, violently and tumultuously seize upon and carry away in a riotous, violent, and tumultuous manner, and so as to disturb and endanger the public peace, any negro or mulatto within this commonwealth, either with or without the intention of taking such negro or mulatto before any district or circuit judge, the person or persons so offending against the peace of this commonwealth, shall be deemed guilty of a misdemeanor; and on conviction thereof, shall be sentenced to pay a fine of not less than one hundred nor more than two thousand dollars; and, further, be confined in the county jail for any period not exceeding three months, at the discretion of the court."

The granting of the *habeas corpus* writ to any fugitive slave completed the enactments of this statute, which thus carried out, to the full, the ample intimations contained in its title, to wit: "*An act to prevent kidnapping, preserve the public peace, prohibit the exercise of certain powers heretofore exercised by judges, justices of the peace, aldermen, and jailers in this commonwealth; and, to repeal certain slave laws.*" This act made a new starting-point in the anti-slavery movements North, as the resolutions of Mr. Calhoun, of the previous month, made a new starting-point in the pro-slavery movements in the South. The first led to the new fugitive slave recovery act of 1850—the other has led to the abrogation of the Missouri Compromise line; and, between the two, the state of things has been produced which now afflicts and distracts the country, and is working a sectional divorce of the States.

A citizen of Maryland, acting under the federal law of '93, in recapturing his slave in Pennsylvania, was prosecuted under the State act of 1826—convicted—and sentenced to its penalties. The constitutionality of this enactment was in vain plead in the Pennsylvania court; but her authorities acted in the spirit of deference and respect to the authorities of the Union, and concurred in an "*agreed case*," to be carried before the Supreme Court of the United States, to test the constitutionality of the Pennsylvania law. That court decided fully and

promptly all the points in the case, and to the full vindication of all the rights of a slaveholder, under the recaption clause in the constitution. The points decided cover the whole ground, and, besides, show precisely in what particular the act of 1793 required to be amended, to make it work out its complete effect under the constitution, independent of all extrinsic aid. The points were these:

"The provisions of the act of 12th of February, 1793, relative to fugitive slaves, is clearly constitutional in all its leading provisions, and, indeed, with the exception of that part which confers authority on State magistrates, is free from reasonable doubt or difficulty. As to the authority so conferred on State magistrates, while a difference of opinion exists, and may exist on this point, in different States, whether State magistrates are bound to act under it, none is entertained by the court, that State magistrates may, if they choose, exercise that authority, unless forbid by State legislation." "The power of legislation in relation to fugitives from labor is exclusive in the national legislature." "The right to seize and retake fugitive slaves, and the duty to deliver them up, in whatever State of the Union they may be found, is under the constitution recognized as an absolute, positive right and duty, pervading the whole Union with an equal and supreme force, uncontrolled and uncontrollable by State sovereignty or State legislation. The right and duty are co-extensive and uniform in remedy and operation throughout the whole Union. The owner has the same exemption from State regulations and control, through however many States he may pass with the fugitive slaves in his possession *in transitu* to his domicil." "The act of the legislature of Pennsylvania, on which the indictment against Edward Prigg was founded, for carrying away a fugitive slave, is unconstitutional and void. It purports to punish, as a public offence against the State, the very act of seizing and removing a slave by his master, which the constitution of the United States was designed to justify and uphold." "The constitutionality of the act of Congress (1793), relating to fugitives from labor, has been affirmed by the adjudications of the State tribunals, and by those of the courts of the United States."

This decision of the Supreme Court—so clear and full—was further valuable in making visible to the legislative authority what was wanting to give efficacy to the act of 1793; it was nothing but to substitute federal commissioners for the State officers forbidden to act under it; and that substitution might have been accomplished in an amendatory bill of three or four lines—leaving all the rest of the act as it was. Unfortunately Congress did not limit itself to an amendment of the act of 1793; it made a new law—long and complex—and striking the public mind as a novelty. It was early in the session of 1849-'50 that the Judiciary Committee of the Senate reported a bill on the subject; it was a bill long and complex, and distasteful to all sides of the chamber, and lay upon the table six months untouched. It was taken up in the last weeks of a nine months' session, and substituted by another bill, still longer and more complex. This bill also was very distasteful to the Senate (the majority), and had the singular fate of being supported in its details, and passed into law, with less than a quorum of the body in its favor, and without ever receiving the full senatorial vote of the slave States. The material votes upon it, before it was passed, were on propositions to give the fugitive a jury trial, if he desired it, upon the question of his condition—free or slave; and upon the question of giving him the benefit of the writ of *habeas corpus*. The first of these propositions originated with Mr. Webster, but was offered in his absence by Mr. Dayton, of New Jersey. He (Mr. Webster) drew up a brief bill early in the session, to supply the defect found in the working of the act of '93; it was short and simple; but it contained a proviso in favor of a jury trial when the fugitive denied his servitude. That would have been about always; and this jury trial, besides being incompatible with the constitution, and contradictory to all cases of proceeding against fugitives, would have been pretty sure to have been fatal to the pursuer's claim; and certainly both expensive and troublesome to him. It was contrary to the act of

1793, and contrary to the whole established course of reclaiming fugitives, which is always to carry them back to the place from which they fled to be tried. Thus, if a man commits an offence in one country, and flies to another, he is carried back; so, if he flies from one State to another; and so in all the extradition treaties between foreign nations. All are carried back to the place from which they fled, the only condition being to establish the flight and the probable cause; and that in the case of fugitives from labor, as well as from justice, both of which classes are put together in the constitution of the United States, and in the fugitive act of 1793. The proposition was rejected by a vote of eleven to twenty-seven. The yeas were: Messrs. Davis of Massachusetts, Dayton, Dodge of Wisconsin, Greene, Hamlin, Phelps, Smith, Upham, Walker of Wisconsin, and Winthrop. The nays were: Messrs. Atchison, Badger, Barnwell, Bell, Benton, Berrien, Butler, Cass, Davis of Mississippi, Dawson, Dodge of Iowa, Downs, Houston, Jones of Iowa, King, Mangum, Mason, Morton, Pratt of Maryland, Rusk, Sebastian, Soulé, Sturgeon, Turney, Underwood, Wales, Yulee. The motion in favor of granting the benefit of the writ of habeas corpus to the fugitive was made by Mr. Winthrop, and rejected by the same vote of eleven yeas and twenty-seven nays. Other amendments were offered and disposed of, and the question coming on the passing of the bill, Mr. Cass, in speaking his own sentiments in favor of merely amending the act of 1793, also spoke the sentiments of many others, saying:

"When this subject was before the compromise committee, there was a general wish, and in that I fully concurred, that the main features of the act of 1793 upon this subject, so far as they were applicable, should be preserved, and that such changes as experience has shown to be necessary to a fair and just enforcement of the provisions of the constitution for the surrender of fugitive slaves, should be introduced by way of amendment. That law was approved by Washington, and has now been in force for sixty years, and lays down, among others, four general principles, to which I am prepared to adhere: 1. The right of the master to arrest his fugitive slave wherever he may find him. 2. His duty to carry him before a magistrate in the State where he is arrested, and that claim may be adjudged by him. 3. The duty of the magistrate to examine the claim, and to decide it, like other examining magistrates, without a jury, and then to commit him to the custody of the master. 4. The right of the master then to remove the slave to his residence. At the time this law was passed, every justice of the peace throughout the Union was required to execute the duties under it. Since then, as we all know, the Supreme Court has decided that justices of the peace cannot be called upon to execute this law, and the consequence is, that they have almost every where refused to do so. The master seeking his slave found his remedy a good one at the time, but now very ineffectual; and this defect is one that imperiously requires a remedy. And this remedy I am willing to provide, fairly and honestly, and to make such other provisions as may be proper and necessary. But I desire for myself that the original act should remain upon the statute book, and that the changes shown to be necessary should be made by way of amendment."

The vote on the passing of the bill was 27 to 12, the yeas being: Messrs. Atchison, Badger, Barnwell, Bell, Berrien, Butler, Davis of Miss., Dawson, Dodge of Iowa, Downs, Foote, Houston, Hunter, Jones of Iowa, King, Mangum, Mason, Pearce, Rusk, Sebastian, Soulé, Spruance, Sturgeon, Turney, Underwood, Wales, and Yulee. The nays were: Messrs. Baldwin, Bradbury, Cooper, Davis of Mass., Dayton, Dodge of Wisconsin, Greene of Rhode Island, Smith, Upham, Walker, and Winthrop. Above twenty senators did not vote at all upon the bill, of whom Mr. Benton was one. Nearly the whole of these twenty would have voted for an amendment to the act of 1793, supplying federal officers in place of the State officers who were to assist in its execution. Some three or four lines would have done that; but instead of this brief enactment to give effect to an ancient and well-known law, there was a long bill

of ten sections, giving the aspect of a new law; and with such multiplied and complex provisions as to render the act inexecutable, except at a cost and trouble which would render the recovery of little or no value; and to be attended with an array and machinery which would excite disturbance, and scenes of force and violence, and render the law odious. It passed the House, and became a law, and has verified all the objections taken to it.

Mr. Benton did not speak upon this bill at the time of its passage; he had done that before, in a previous stage of the question, and when Mr. Clay proposed to make it a part of his compromise measures. He (Mr. Benton) was opposed to confounding an old subject of constitutional obligation with new and questionable subjects, and was ready to give the subject an independent consideration, and to vote for any bill that should be efficient and satisfactory. He said:

"We have a bill now—an independent one—for the recovery of these slaves. It is one of the oldest on the calendar, and warmly pressed at the commencement of the session. It must be about ripe for decision by this time. I am ready to vote upon it, and to vote any thing under the constitution which will be efficient and satisfactory. It is the only point, in my opinion, at which any of the non-slaveholding States, as States, have given just cause of complaint to the slaveholding States. I leave out individuals and societies, and speak of States in their corporate capacity; and say, this affair of the runaway slaves is the only case in which any of the non-slaveholding States, in my opinion, have given just cause of complaint to the slaveholding States. But, how is it here? Any refusal on the part of the northern members to legislate the remedy? We have heard many of them declare their opinions; and I see no line of east and west dividing the north from the south in these opinions. I see no geographical boundary dividing northern and southern opinions. I see no diversity of opinion but such as occurs in ordinary measures before Congress. For one, I am ready to vote at once for the passage of a fugitive slavery recovery bill; but it must be as a separate and independent measure."

Mr. Benton voted upon the amendments, and to make the bill efficient and satisfactory; but failed to make it either, and would neither vote for it nor against it. It has been worth but little to the slave States in recovering their property, and has been annoying to the free States from the manner of its execution, and is considered a new act, though founded upon that of '93, which is lost and hid under it. The wonder is how such an act came to pass, even by so lean a vote as it received—for it was voted for by less than the number of senators from the slave States alone. It is a wonder how it passed at all, and the wonder increases on knowing that, of the small number that voted for it, many were against it, and merely went along with those who had constituted themselves the particular guardians of the rights of the slave States, and claimed a lead in all that concerned them.

Those self-constituted guardians were permitted to have their own way; some voting with them unwillingly, others not voting at all. It was a part of the plan of "compromise and pacification," which was then deemed essential to save the Union: and under the fear of danger to the Union on one hand, and the charms of pacification and compromise on the other, a few heated spirits got the control, and had things their own way. Under other circumstances—in any season of quiet and tranquillity—the vote of Congress would have been almost general against the complex, cumbersome, expensive, annoying, and ineffective bill that was passed, and in favor of the act (with the necessary amendment) which Washington recommended and signed—which State and Federal judiciaries had sanctioned—which the people had lived under for nearly sixty years, and against which there was no complaint until slavery agitation had become a political game to be played at by parties from both sides of the Union. All public men disavow that game. All profess patriotism. All

applaud the patriotic spirit of our ancestors. Then imitate that spirit. Do as these patriotic fathers did—the free States by reviving the sojournment laws which gave safety to the slave property of their fellow-citizens of other States passing through them—the slave States by acting in the spirit of those who enacted the anti-slavery ordinance of 1787, and the Missouri Compromise line of 1820. New York and Pennsylvania are the States to begin, and to revive the sojournment laws which were in force within them for half a century. The man who would stand up in each of these States and propose the revival of these acts, for the same reasons that Messrs. Marcy and Seward opposed their repeal, would give a proof of patriotism which would entitle him to be classed with our patriotic ancestors.

198. Disunion Movements: Southern Press At Washington: Southern Convention At Nashville: Southern Congress Called For By South Carolina And Mississippi

"*When the future historian shall address himself to the task of portraying the rise, progress, and decline of the American Union, the year 1850 will arrest his attention, as denoting and presenting the first marshalling and arraying of those hostile forces and opposing elements which resulted in dissolution; and the world will have another illustration of the great truth, that forms and modes of government, however correct in theory, are only valuable as they conduce to the great ends of all government—the peace, quiet, and conscious security of the governed.*"

So wrote a leading South Carolina paper on the first day of January, 1850—and not without a knowledge of what it was saying. All that was said was attempted, and the catastrophe alone was wanting to complete the task assigned to the future historian.

The manifesto of the forty-two members from the slave States, issued in 1849, was not a *brutum fulmen*, nor intended to be so. It was intended for action, and was the commencement of action; and regular steps for the separation of the slave from the free States immediately began under it. An organ of disunion, entitled "The Southern Press," was set up at Washington, established upon a contribution of $30,000 from the signers to the Southern manifesto, and their ardent adherents—its daily occupation to inculcate the advantages of disunion, to promote it by inflaming the South against the North, and to prepare it by organizing a Southern concert of action. Southern cities were to recover their colonial superiority in a state of sectional independence; the ships of all nations were to crowd their ports to carry off their rich staples, and bring back ample returns; Great Britain was to be the ally of the new "United States South;" all the slave States were expected to join, but the new confederacy to begin with the South Atlantic States, or even a part of them; and military preparation was to be made to maintain by force what a Southern convention should decree. That convention was called—the same which had been designated in the first manifesto, entitled The Crisis, published in the Charleston Mercury in 1835; and the same which had been repulsed from Nashville in 1844. Fifteen years of assiduous labor produced what could not be started in 1835, and what had been repulsed in 1844. A disunion convention met at Nashville! met at the home of Jackson, but after the grave had become his home.

This convention (assuming to represent seven States) took the decisive step, so far as it depended upon itself, towards a separation of the States. It invited the assembling of a "Southern Congress." Two States alone responded to that appeal—South Carolina and Mississippi; and the legislatures of these two passed solemn acts to carry it into effect—South Carolina absolutely, by electing her quota of representatives to the proposed congress; Mississippi provisionally, by subjecting her law to the approval of the people. Of course, each State gave a reason, or motive for its action. South Carolina simply asserted the "aggressions" of the slaveholding States to be the cause, without stating what these aggressions were; and, in fact, there were none to be stated. For even the repeal of the slave sojournment law in some of them, and the refusal to permit the State prisons to be used for the detention of fugitives from service, or State officers to assist in their arrest, though acts of

unfriendly import, and a breach of the comity due to sister States, and inconsistent with the spirit of the constitution, were still acts which the States, as sovereign within their limits upon the subjects to which they refer, had a right to pass. Besides, Congress had readily passed the fugitive slave recovery bill, just as these Southern members wished it; and left them without complaint against the national legislature on that score. All other matters of complaint which had successively appeared against the free States were gone—Wilmot Proviso, and all. The act of Mississippi gave two reasons for its action:

"*First*. That the legislation of Congress, at the last session, was controlled by a dominant majority regardless of the constitutional rights of the slaveholding States: and,

"*Secondly*. That the legislation of Congress, such as it was, affords alarming evidence of a settled purpose on the part of said majority to destroy the institution of slavery, not only in the State of Mississippi, but in her sister States, and to subvert the sovereign power of that and other slaveholding States."

Waiving the question whether these reasons, if true, would be sufficient to justify this abrupt attempt to break up the Union, an issue of fact can well be taken on their truth: and first, of the dominant majority of the last session, ending September 1850: that majority, in every instance, was helped out by votes from the slave States, and generally by a majority of them. The admission of California, which was the act of the session most complained of, most resisted, and declared to be a "test" question, was supported by a majority of the members from the slave States: so that reason falls upon the trial of an issue of fact. The second set of reasons have for their point, an assertion that the majority in Congress have a settled purpose to destroy the institution of slavery in the State of Mississippi, and in the other slave States, and to subvert the sovereignty of all the slave States. It is the duty of history to deal with this assertion, thus solemnly put in a legislative act as a cause for the secession of a State from the Union—and to say, that it was an assertion without evidence, and contrary to the evidence, and contrary to the fact. There was no such settled purpose in the majority of Congress, nor in a minority of Congress, nor in any half-dozen members of Congress—if in any one at all. It was a most deplorable assertion of a most alarming design, calculated to mislead and inflame the ignorant, and make them fly to disunion as the refuge against such an appalling catastrophe. But it was not a new declaration. It was part and parcel of the original agitation of slavery commenced in 1835, and continued ever since. To destroy slavery in the States has been the design attributed to the Northern States from that day to this, and is necessary to be kept up in order to keep alive the slavery agitation in the slave States. It has received its constant and authoritative contradiction in the conduct of those States at home, and in the acts of their representatives in Congress, year in and year out; and continues to receive that contradiction, continually; but without having the least effect upon its repetition and incessant reiteration. In the mean time there is a fact visible in all the slave States, which shows that, notwithstanding these twenty years' repetition of the same assertion, there is no danger to slavery in any slave State. Property is timid! and slave property above all: and the market is the test of safety and danger to all property. Nobody gives full price for anything that is insecure, either in title or possession. All property, in danger from either cause, sinks in price when brought to that infallible test. Now, how is it with slave property, tried by this unerring standard? Has it been sinking in price since the year 1835? since the year of the first alarm manifesto in South Carolina, and the first of Mr. Calhoun's twenty years' alarm speeches in the Senate? On the contrary, the price has been constantly rising the whole time—and is still rising, although it has attained a height incredible to have been predicted twenty years ago.

But, although the slavery alarm does not act on property, yet it acts on the feelings and passions of the people, and excites sectional animosity, hatred for the Union, and desire for

separation. The Nashville convention, and the call for the Southern Congress, were natural occasions to call out these feelings; and most copiously did they flow. Some specimens, taken from the considered language of men in high authority, and speaking advisedly, and for action, will show the temper of the whole—the names withheld, because the design is to show a danger, and not to expose individuals.

In the South Carolina Legislature, a speaker declared:

"We must secede from a Union perverted from its original purpose, and which has now become an engine of oppression to the South. He thought our proper course was for this legislature to proceed directly to the election of delegates to a Southern Congress. He thought we should not await the action of all the Southern States; but it is prudent for us to await the action of such States as Alabama, Georgia, Mississippi, and Florida; because these States have requested us to wait. If we can get but one State to unite with us, then we must act. Once being independent, we would have a strong ally in England. But we must prepare for secession."

Another:

"The friends of the Southern movement in the other States look to the action of South Carolina; and he would make the issue in a reasonable time, and the only way to do so is by secession. There would be no concert among the Southern States until a blow is struck. And if we are sincere in our determination to resist, we must give the South some guarantee that we are in earnest. He could not concur with the gentleman from Greenville in his expressions of attachment to the Union. He hated and detested the Union, and was in favor of cutting the connection. He avowed himself a disunionist—a disunionist *per se*. If he had the power, he would crush this Union to-morrow."

Another:

"Denied the right or the power of the general government to coerce the State in case of secession. This State is sovereign and independent, so soon as she sees proper to assert that sovereignty. And when can we be stronger than we are now? If we intend to wait until we become superior to the federal government in numerical strength, we will wait for ever. In the event of an attempt to coerce her, sacrifices might be made, but we are willing and ready to make those sacrifices. But he did not believe one gun would be fired in this contest. South Carolina would achieve a bloodless victory. But, should there be a war, all the nations of Europe would be desirous of preserving their commercial intercourse with the Southern States, and would make the effort to do so. He thought there never would be a union of the South until this State strikes the blow, and makes the issue."

Another:

"Would not recapitulate the evils which had been perpetrated upon the South. Great as they have been, they are comparatively unimportant, when compared with the evils to which they would inevitably lead. We must not consider what we have borne, but what we must bear hereafter. There is no remedy for these evils in the government; we have no alternative left us, then, but to come out of the government."

Another:

"He was opposed to calling a convention, because he thought it would impede the action of this State on the questions now before the country. He thought it would impede our progress towards disunion. All his objections to a convention of the people applied only to the proposition to call it now. He thought conventions dangerous things, except when the necessities of the country absolutely demand them. He said that he had adopted the course he

had taken on these weighty matters simply and entirely with the view of hastening the dissolution of this Union."

Another:

"Would sustain the bill for electing delegates to a Southern Congress, because he thought it would bring about a more speedy dissolution of the Union."

In the Nashville convention a delegate said:

"I shall enumerate no more of the wrongs that we have suffered, or the dangers with which we are threatened. If these, so enormous and so atrocious, are not sufficient to arouse the Southern mind, our case is desperate. But, supposing that we shall be roused, and that we shall act like freemen, and, knowing our rights and our wrongs, shall be prepared to sustain the one and redress the other, what is the remedy? I answer secession—united secession of the slaveholding States, or a large number of them. Nothing else will be wise—nothing else will be practicable. The Rubicon is passed. The Union is already dissolved. Instead of wishing the perpetuity of any government over such vast boundaries, the rational lover of liberty should wish for its speedy dissolution, as dangerous to all just and free rule. Is not all this exemplified in our own case? In nine months, in one session of Congress, by a great *coup d'etat*, our constitution has been completely and for ever subverted. Instead of a well balanced government, all power is vested in one section of the country, which is in bitter hostility with the other. And this is the glorious Union which we are to support, for whose eternal duration we are to pray, and before which the once proud Southron is to bow down. He ought to perish rather."

"They have not, however, been satisfied with taking all (the territory). They have made that all a wicked instrument for the abolition of the constitution, and of every safeguard of our property and our lives. I have said they have made the appropriation of this territory an instrument to abolish the constitution. There is no doubt that they have abolished the constitution. The carcass may remain, but the spirit has left it. It is now a fetid mass, generating disease and death. It stinks in our nostrils."

"A constitution means *ex vi termini*, a guarantee of the rights, liberty, and security of a free people, and can never survive in the shape of dead formalities. It is a thing of life, and just and fair proportions; not the *caput mortuum* which the so-called Constitution of the United States has now become. Is there a Southern man who bears a soul within his ribs, who will consent to be governed by this vulgar tyranny," &c.

From public addresses:

"Under the operation of causes beyond the scan of man, we are rapidly approaching a great and important crisis in our history. The shadow of the sun has gone back upon the dial of American liberty, and we are rapidly hastening towards the troubled sea of revolution. A dissolution of the Union is our inevitable destiny, and it is idle for man to raise his puny arm to stem the tide of events," &c.

Another:

"We must form a separate government. The slaveholding States must all yet see that their only salvation consists in uniting, and that promptly too, in organizing a Southern confederacy. Should we be wise enough thus to unite, all California, with her exhaustless treasures, would be ours; all New Mexico also, and the sun would never shine upon a country so rich, so great and so powerful, as would be our Southern republic."

Another:

”By our physical power,” said one of the foremost of those leaders, in a late speech to his constituents, “we can protect ourselves against foreign nations, whilst by our productions we can command their peace or support. The keys of their wealth and commerce are in our hands, which we will freely offer to them by a system of free trade, making our prosperity their interest—our security their care. The lingering or decaying cities of the South, which before our Revolution carried on all their foreign commerce, buoyant with prosperity and wealth, but which now are only provincial towns, sluggish suburbs of Boston and New York, will rise up to their natural destiny, and again enfold in their embraces the richest commerce of the world. Wealth, honor, and power, and one of the most glorious destinies which ever crowned a great and happy people, awaits the South, if she but control her own fate; but, controlled by another people, what pen shall paint the infamous and bloody catastrophe which must mark her fall?”

From fourth of July toasts:

“The Union: A splendid failure of the first modern attempt, by people of different institutions, to live under the same government.

“The Union: For it we have endured much; for it we have sacrificed much. Let us beware lest we endure too much; lest we sacrifice too much.

“Disunion rather than degradation.

“South Carolina: She struck for the Union when it was a blessing; when it becomes a curse, she will strike for herself.

“The Compromise: ‘The best the South can get.’ A cowardly banner held out by the *spoilsman* that would sell his country for a mess of pottage.

“The American Eagle: In the event of a dissolution of the Union, the South claims as her portion, the heart of the noble bird; to the Yankees we leave the feathers and carcass.

“The South: Fortified by right, she considers neither threats nor consequences.

“The Union: Once a holy alliance, now an accursed bond.”

Among the multitude of publications most numerous in South Carolina and Mississippi, but also appearing in other slave States, all advocating disunion, there were some (like Mr. Calhoun’s letter to the Alabama member which feared the chance might be lost which the Wilmot Proviso furnished) also that feared agitation would stop in Congress, and deprive the Southern politicians of the means of uniting the slave States in a separate confederacy. Of this class of publications here is one from a leading paper:

“The object of South Carolina is undoubtedly to dissolve this Union, and form a confederacy of slaveholding States. Should it be impossible to form this confederacy, then her purpose is, we believe conscientiously, to disconnect herself from the Union, and set up for an independent Power. Will delay bring to our assistance the slaveholding States? If the slavery agitation, its tendencies and objects, were of recent origin, and not fully disclosed to the people of the South, delay might unite us in concerted action. We have no indication that Congress will soon pass obnoxious measures, restricting or crippling directly the institution of slavery. Every indication makes us fear that a pause in fanaticism is about to follow, to allow the government time to consolidate her late acquisitions and usurpations of power. Then the storm will be again let loose to gather its fury, and burst upon our heads. We have no hopes that the agitation in Congress, this or next year, will bring about the union of the South.”

Enough to show the spirit that prevailed, and the extraordinary and unjustifiable means used by the leaders to mislead and exasperate the people. The great effort was to get a "Southern Congress" to assemble, according to the call of the Nashville convention. The assembling of that "Congress" was a turning point in the progress of disunion. It failed. At the head of the States which had the merit of stopping it, was Georgia—the greatest of the South-eastern Atlantic States. At the head of the presses which did most for the Union, was the National Intelligencer at Washington City, long edited by Messrs. Gales & Seaton, and now as earnest against Southern disunion in 1850 as they were against the Hartford convention disunion of 1814. The Nashville convention, the Southern Congress, and the Southern Press established at Washington, were the sequence and interpretation (so far as its disunion-design needed interpretation), of the Southern address drawn by Mr. Calhoun. His last speech, so far as it might need interpretation, received it soon after his death in a posthumous publication of his political writings, abounding with passages to show that the Union was a mistake—the Southern States ought not to have entered into it, and should not now re-enter it, if out of it, and that its continuance was impossible as things stood: Thus:

"All this has brought about a state of things hostile to the continuance of this Union, and the duration of the government. Alienation is succeeding to attachment, and hostile feelings to alienation; and these, in turn, will be followed by revolution, or a disruption of the Union, unless timely prevented. But this cannot be done by restoring the government to its *federal* character—however necessary that may be as a first step. What has been done cannot be undone. The equilibrium between the two sections has been permanently destroyed by the measures above stated. The Northern section, in consequence, will ever concentrate within itself the two majorities of which the government is composed; and should the Southern be excluded from all the territories, now acquired, *or to be hereafter acquired*, it will soon have so decided a preponderance in the government and the Union, as to be able to mould the constitution to its pleasure. Against this the restoration of the *federal* character of the government can furnish no remedy. So long as it continues there can be no safety for the weaker section. It places in the hands of the stronger and the *hostile* section, the power to crush her and her *institutions*; and leaves no alternative but to *resist*, or sink down into a colonial condition. This must be the consequence, if some effectual and appropriate remedy is not applied.

"The nature of the disease is such, that nothing can reach it, short of some organic change—a change which will so modify the constitution as to give to the weaker section, in some one form or another, a *negative* on the action of the government. Nothing short of this can protect the weaker, and restore harmony and tranquillity to the Union by arresting effectually the tendency of the dominant section to oppress the weaker. When the constitution was formed, the impression was strong that the tendency to conflict would be between the larger and smaller States; and effectual provisions were accordingly made to guard against it. But experience has proved this to be a mistake; and that instead of being as was then supposed, the conflict is between the two great sections which are so strongly distinguished by their institutions, geographical character, productions and pursuits. Had this been then as clearly perceived as it now is, the same jealousy which so vigilantly watched and guarded against the danger of the larger States oppressing the smaller, would have taken equal precaution to guard against the same danger between the two sections. It is for *us*, who see and feel it, to do, what the framers of the constitution would have done, had they possessed the knowledge, in this respect, which experience has given to us; that is, to provide against the dangers which the system has practically developed; and which, had they been foreseen at the time, and left without guard, would undoubtedly have *prevented* the States forming the *Southern* section of the confederacy, from ever *agreeing* to the constitution; and which, under like circumstances,

were they now out of, would for ever *prevent* them *entering* into the Union. How the constitution could best be modified, so as to effect the object, can only be authoritatively determined by the amending power. It may be done in various ways. Among others, it might be effected through a re-organization of the Executive Department; so that its powers, instead of being vested, as they now are, in a single officer, should be vested in two, to be so elected, as that the two should be constituted the special organs and representatives of the respective sections in the Executive Department of the government; and requiring each to *approve* of all the acts of Congress before they become laws. One might be charged with the administration of matters connected with the foreign relations of the country; and the other, of such as were connected with its domestic institutions: the selection to be decided by lot. Indeed it may be doubted, whether the framers of the constitution did not commit a great *mistake*, in constituting a single, instead of a plural executive. Nay, it may even be doubted whether a single magistrate, invested with all the powers properly appertaining to the Executive Department of the government, as is the President, is compatible with the *permanence* of a popular government; especially in a wealthy and populous community, with a large revenue, and a numerous body of officers and employées. Certain it is, that there is no instance of a popular government so constituted which has long endured. Even ours, thus far, furnishes no evidence in its favor, and not a little against it: for, to it the present disturbed and dangerous state of things, which threaten the country with *monarchy* or *disunion*, may be justly attributed."

The observing reader, who may have looked over the two volumes of this View, in noting the progress of the slavery agitation, and its successive alleged causes for disunion, must have been struck with the celerity with which these causes, each in its turn, as soon as removed, has been succeeded by another, of a different kind; until, at last, they terminate in a cause which ignores them all, and find a new reason for disunion in the constitution itself! in that constitution, the protection of which had been invoked as sufficient, during the whole period of the alleged "aggressions and encroachments." In 1835, when the first agitation manifesto and call for a Southern convention, and invocation to unity and concert of action, came forth in the Charleston Mercury, entitled "*The Crisis*," the cause of disunion was then in the abolition societies established in some of the free States, and which these States were required to suppress. Then came the abolition petitions presented in Congress; then the mail transmission of incendiary publications; then the abolition of slavery in the District of Columbia; then the abolition of the slave trade between the States; then the exclusion of slavery from Oregon; then the Wilmot Proviso; then the admission of California with a free constitution. Each of these, in its day, was a cause of disunion, to be effected through the instrumentality of a Southern convention, forming a sub-confederacy, in flagrant violation of the constitution, and effecting the disunion by establishing a commercial non-intercourse with the free States. After twenty years' agitation upon these points, they are all given up. The constitution, and the Union, were found to be a "mistake" from the beginning—an error in their origin, and an impossibility in their future existence, and to be amended into another impossibility, or broken up at once.

The regular inauguration of this slavery agitation dates from the year 1835; but it had commenced two years before, and in this way: nullification and disunion had commenced in 1830 upon complaint against protective tariff. That being put down in 1833 under President Jackson's proclamation and energetic measures, was immediately substituted by the slavery agitation. Mr. Calhoun, when he went home from Congress in the spring of that year, told his friends, *That the South could never be united against the North on the tariff question—that the sugar interest of Louisiana would keep her out—and that the basis of Southern union must be shifted to the slave question.* Then all the papers in his interest, and especially the one

at Washington, published by Mr. Duff Green, dropped tariff agitation, and commenced upon slavery; and, in two years, had the agitation ripe for inauguration on the slavery question. And, in tracing this agitation to its present stage, and to comprehend its rationale, it is not to be forgotten that it is a mere continuation of old tariff disunion; and preferred because more available.

In June, 1833, at the first transfer of Southern agitation from tariff to slavery, Mr. Madison wrote to Mr. Clay:

"*It is painful to see the unceasing efforts to alarm the South, by imputations against the North of unconstitutional designs on the subject of slavery. You are right, I have no doubt, in believing that no such intermeddling disposition exists in the body of our Northern brethren. Their good faith is sufficiently guaranteed by the interest they have as merchants, as ship-owners, and as manufacturers in preserving a union with the slaveholding States. On the other hand, what madness in the South to look for greater safety in disunion. It would be worse than jumping into the fire for fear of the frying-pan. The danger from the alarms is, that pride and resentment excited by them may be an overmatch for the dictates of prudence; and favor the project of a Southern convention, insidiously revived, as promising by its counsels the best security against grievances of every kind from the North.*"

Nullification, secession, and disunion were considered by Mr. Madison as Synonymous terms, dangerous to the Union as fire to powder, and the danger increasing in all the Southern States, even Virginia. "*Look at Virginia herself, and read in the Gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago.*" Mr. Madison solaced himself with the belief that this heresy would not reach a majority of the States; but he had his misgivings, and wrote them down in the same paper, entitled, "Memorandum on nullification," written in his last days and published after his death. "*But a susceptibility of the contagion in the Southern States is visible, and the danger not to be concealed, that the sympathy arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the North and the South, may put it in the power of popular leaders, aspiring to the highest stations, to unite the South on some critical occasion, in a course that will end in creating a theatre of great though inferior extent. In pursuing this course, the first and most obvious step is nullification—the next, secession—and the last, a farewell separation. How near has this course been lately exemplified! and the danger of its recurrence, in the same or some other quarter, may be increased by an increase of restless aspirants, and by the increasing impracticability of retaining in the Union a large and cemented section against its will.*"—So wrote Mr. Madison in the year 1836, in the 86th year of his age, and the last of his life. He wrote with the pen of inspiration, and the heart of a patriot, and with a soul which filled the Union, and could not be imprisoned in one half of it. He was a Southern man! but his Southern home could not blind his mental vision to the origin, design, and consequences of the slavery agitation. He gives to that agitation, a Southern origin—to that design, a disunion end—to that end, disastrous consequences both to the South and the North.

Mr. Calhoun is dead. Peace to his manes. But he has left his disciples who do not admit of peace! who "*rush in*" where their master "*feared to tread*." He recoiled from the disturbance of the Missouri compromise: they expunge it. He shuddered at the thought of bloodshed in civil strife: they demand three millions of dollars to prepare arms for civil war.

199. The Supreme Court: Its Judges, Clerk, Attorney-Generals, Reporters And Marshals During The Period Treated Of In This Volume

Chief Justice:—Roger Brooke Taney, of Maryland, appointed in 1836: continues, 1850.

Justices:—Joseph Story, of Massachusetts, appointed, 1811: died 1845.—John McLean, of Ohio, appointed, 1829: continues, 1850.—James M. Wayne, of Georgia, appointed, 1835: continues, 1850.—John Catron, of Tennessee, appointed, 1837: continues, 1850.—Levi Woodbury, of New Hampshire, appointed, 1845: continues, 1850.—Robert C. Grier, of Pennsylvania, appointed, 1846: continues, 1850.

Attorney-Generals:—Henry D. Gilpin, of Pennsylvania, appointed, 1840.—John J. Crittenden, of Kentucky, appointed, 1841.—Hugh S. Legare, of South Carolina, appointed, 1841.—John Nelson, of Maryland, appointed, 1843.—John Y. Mason, of Virginia, appointed, 1846.—Nathan Clifford, of Maine, appointed, 1846.—Isaac Toucey, of Connecticut, appointed, 1848.—Reverdy Johnson, of Maryland, appointed, 1849.—John J. Crittenden, of Kentucky, appointed, 1850.

Clerk:—William Thomas Carroll, of the District of Columbia, appointed, 1827: continues, 1850.

Reporters of Decisions:—Richard Peters, jr., of Pennsylvania, appointed, 1828.—Benjamin C. Howard, appointed, 1843: continues, 1850.

Marshals:—Alexander Hunter, appointed, 1834.—Robert Wallace, appointed, 1848.—Richard Wallach, appointed, 1849.

200. Conclusion

I have finished the View which I proposed to take of the Thirty Years' working of the federal government during the time that I was a part of it—a task undertaken for a useful purpose and faithfully executed, whether the object of the undertaking has been attained or not. The preservation of what good and wise men gave us, has been the object; and for that purpose it has been a duty of necessity to show the evil, as well as the good, that I have seen, both of men and measures. The good, I have exultingly exhibited! happy to show it, for the admiration and imitation of posterity: the evil, I have stintedly exposed, only for correction, and for the warning example.

I have seen the capacity of the people for self-government tried at many points, and always found equal to the demands of the occasion. Two other trials, now going on, remain to be decided to settle the question of that capacity. 1. The election of President! and whether that election is to be governed by the virtue and intelligence of the people, or to become the spoil of intrigue and corruption? 2. The sentiment of political nationality! and whether it is to remain co-extensive with the Union, leading to harmony and fraternity; or, divide into sectionalism, ending in hate, alienation, separation and civil war?

An irresponsible body (chiefly self-constituted, and mainly dominated by professional office-seekers and office-holders) have usurped the election of President (for the nomination is the election, so far as the party is concerned); and always making it with a view to their own profit in the monopoly of office and plunder.

A sectional question now divides the Union, arraying one-half against the other, becoming more exasperated daily—which has already destroyed the benefits of the Union, and which, unless checked, will also destroy its form.

Confederate republics are short-lived—the shortest in the whole family of governments. Two diseases beset them—corrupt election of the chief magistrate, when elective; sectional contention, when interest or ambition are at issue. Our confederacy is now laboring under both diseases: and the body of the people, now as always, honest in sentiment and patriotic in design, remain unconscious of the danger—and even become instruments in the hands of their destroyers.

If what is written in these chapters shall contribute to open their eyes to these dangers, and rouse them to the resumption of their electoral privileges and the suppression of sectional contention, then this View will not have been written in vain. If not, the writer will still have one consolation—the knowledge of the fact that he has labored in his day and generation, to preserve and perpetuate the blessings of that Union and self-government which wise and good men gave us.

THE END

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